

Hon Julie Anne Genter
Associate Minister of Transport

Amendments to the Driver Licensing Rule:

Date of issue: 21 March 2019

Description: On 18 February 2019, Cabinet agreed to undertake public consultation on proposed amendments to the Land Transport (Driver Licensing) Rule 1999.

The following documents have been proactively released:

- Cabinet paper: *Public Consultation: Amendments to the Driver Licensing Rule* (considered by the Cabinet Economic Development Committee on 13 February 2019) continued below.
- [Cabinet Economic Development Committee Minute DEV-19-MIN-0009](#)

Agency for key advice: [Ministry of Transport](#)

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In Confidence

Office of the Associate Minister of Transport
Chair, Cabinet Economic Development Committee

PUBLIC CONSULTATION: AMENDMENTS TO THE DRIVER LICENSING RULE

Proposal

1. This paper seeks agreement to proceed to public consultation on amendments to the Land Transport (Driver Licensing) Rule 1999 (the Rule), to improve the efficiency of the driver licensing system and support a more productive commercial driving sector, while maintaining road safety.

Executive Summary

2. In 2014, the Ministry of Transport and the NZ Transport Agency (NZTA) reviewed the driver licensing regulatory system in response to the then government's commitment to achieve a more efficient transport regulatory system and better public services. The review concluded that the current driver licensing system is working adequately but there are opportunities for further improvement while maintaining road safety.
3. Early in 2016, the Ministry and the NZTA consulted the public on proposed amendments to the Rule to:
 - 3.1. reduce the frequency of vision testing to enable online driver licensing transactions;
 - 3.2. streamline the progression between heavy vehicle licence classes;
 - 3.3. remove licence endorsements for 'special-type' vehicles;
 - 3.4. standardise requirements for 'special-type' vehicles and reduce compliance costs; and
 - 3.5. increase the powers of the NZTA to manage approved course providers.
4. Public consultation showed that submitters were generally supportive of the changes but the proposal to reduce vision testing requirements to enable online licensing was controversial.
5. In December 2016, Cabinet agreed to proceed with the proposed amendments to the Rule, including a modified proposal for reduced vision testing that responded to the concerns raised during public consultation [CAB-16-MIN-0707 refers].
6. The Parliamentary Counsel Office (PCO) drafted the amendments to the Rule but there was insufficient time before the General Election in 2017 to undertake the required public consultation¹, finalise the amendments and promulgate the changes.

¹ Public consultation on draft 'ordinary' rules is required under section 161(2) of the Land Transport Act 1998.

7. This paper seeks Cabinet agreement to undertake public consultation on the draft Land Transport (Driver Licensing) Amendment Rule 2019 (the Amendment Rule) attached to this paper as **Annex One**. Consultation does not bind the Government to make the amendments agreed by the previous Government but does provide an opportunity to gauge public support for them.
8. I propose to report back to Cabinet on the results of the public consultation on the Amendment Rule in June 2019.

Background

9. There are around 3.6 million driver licence holders on the New Zealand driver licence register. Each year there are around 250,000 new licence applications, 270,000 licence renewals and around 40,000 licence reinstatements². Approximately \$59 million was paid in licence and test fees in the 2017/18 financial year.
10. The previous Government initiated a review of the driver licensing regulatory system in December 2014. The purpose of the review was to achieve a more efficient transport regulatory system and better public services. The review concluded that the current system is working adequately but there are opportunities for improvement while maintaining road safety.
11. Following consideration of the review's findings, Cabinet agreed to the release of a discussion paper on 18 April 2016 [CAB-16-MIN-0164) refers], which proposed a number of improvements to the driver licensing system. These were predominantly aimed at supporting commercial sector productivity and reducing unnecessary prescription or compliance costs. Public consultation took place between 19 April 2016 and 2 June 2016.
12. Seventy-seven submissions were received which were generally supportive of the proposed changes but some submitters were concerned about proposed changes to the frequency of vision testing to enable online licensing.
13. On 20 December 2016, Cabinet agreed to proceed with amendments to the Rule [CAB-16-MIN-0707 refers]. PCO drafted the Amendment Rule to progress the amendments but there was insufficient time before the General Election in 2017 to undertake the required public consultation, finalise the amendments and implement the changes. PCO has reviewed and updated the Amendment Rule for the purposes of this consultation.
14. I have reviewed the proposals and recommend that we proceed to undertake public consultation on the Amendment Rule. This does not bind the Government to make

² A licence reinstatement generally occurs when a driver licence disqualification or suspension has ended and the licence is reinstated to the licence holder.

the proposed amendments but does provide an opportunity to gauge public support for them.

Proposed amendments to the Driver Licensing Rule

Reduce the frequency of vision testing to enable online driver licensing transactions

15. With rapidly changing technological advancements, customers expect to be able to carry out virtually all transactions online. Driver licensing procedures lag behind this increasing demand for digital processes.
16. One of the requirements for getting a licence and for licence renewal is satisfactory completion of a vision test. The Rule currently requires a vision check at each application to progress through the graduated driver licensing system, which means that drivers can be tested up to three times in as few as nine months. This imposes costs on drivers, with limited evidence of additional safety benefit. The Rule also requires a vision check at licence renewal (every 10 years) and when a licence being reinstated has expired or is about to expire (after a period of disqualification or suspension).

Study of crash data found no safety benefit in repeated eyesight testing

17. Good vision is essential for driving safely. However, an analysis of crash data conducted by the NZTA suggested that there is little discernible safety benefit to be gained from repeated eyesight testing as part of the driver licensing process.
18. Two studies were undertaken³. The first looked at the crash rates of 7,400 drivers who failed a vision check at a licensing agent between 1 January 2005 and 31 December 2011 and were then required to wear corrective lenses while driving. The crash rates of these drivers in the three years before failing the vision check were virtually the same as the crash rates of the drivers after failing the vision check and being required to wear corrective lenses.
19. The second study looked at the crash rates of drivers in the three-year period before they renewed their licences. The crash rates of drivers who failed the eyesight check at renewal and drivers who passed were the same. The studies show that drivers with eyesight that requires correcting are no more likely to crash before they obtain corrective lenses than after.
20. Limitations on the data available (7,400 records) prevented NZTA from undertaking a crash study with a larger sample, over a longer period than 8 years. However, a member of the Waikato University's Traffic and Road Safety Research Group reviewed the analysis and confirmed the methodology was sound, based on the data available.

³ <http://www.transport.govt.nz/assets/Uploads/Land/Documents/Driver-Licensing-Review-Crash-Studies-Impacts-of-Vision-Testing.pdf>

21. Using 2014 as a sample, NZTA data showed that 1.8 percent of all applicants or first-time driver licences failed a vision test, 1.5 percent of all applicants renewing licences failed and 1.6 percent of drivers over 45 years of age renewing their licence failed a vision test.

International research on vision testing

22. A review of international research on vision testing found limited evidence of a relationship between driving safety and the measures of vision that are tested in most international jurisdictions, and in New Zealand⁴. These are 'visual acuity' (clarity of vision) and 'visual field' (peripheral vision). Over half of the drivers in New Zealand who fail the current visual acuity/visual field test at a licensing agent are later found by a medical professional to be fit to drive without corrective lenses.
23. There is developing research showing that testing a driver's 'useful field of view', which tests the visual area over which information can be extracted at a brief glance without eye or head movements, is a better predictor of crash risk. A test has been developed to test 'visual field of view', but it needs to be administered by a health professional, which would increase costs for drivers if it was introduced in New Zealand. The 'useful field of view' test is considered appropriate for clinical settings when a high level of risk has already been identified (for example, the testing of older drivers), not for screening the general population of drivers.

Development of an online tool

24. There is currently no facility for carrying out satisfactory vision testing independently online, so the need for vision testing is a barrier to future online licensing transactions. The Driver Licensing Review considered whether it would be feasible to develop an online tool for vision testing. Concerns were that the type of testing that could be developed for independent use at home would be based on 'visual acuity', which research indicates has limited benefits. A second concern was the possibility of an increased risk of fraud associated with an independent online test.

Vision testing requirements in other jurisdictions

25. A number of international jurisdictions test vision at entry into the driver licensing system and then not again until 70 to 80 years of age, recognising that vision is more likely to be impacted as people age. This is the case in Ontario and British Columbia, Canada, and in most states in Australia. Sweden has no age-related controls.
26. In Victoria, Australia, vision is only tested if a driver reports a vision deficiency. The Australian Capital Territory, tests vision at entry into the licensing system, at age 50, and every five years until age 75. Finland tests at entry into the licensing system, at age 45, and then every five years after age 70.

Stakeholder feedback

⁴ Vision and Driver Licensing: Cross-jurisdictional comparison of standards and policies and evidence from international research. Ministry of transport & NZTA. June 2015.

27. The preferred option during the public consultation process undertaken for the Driver Licensing Review in 2014/15 was for vision testing for first-time driver licence applicants and drivers over 75 years of age. At licence renewal, drivers would be required to make a declaration that they are not aware that their vision has deteriorated since their last renewal, or any deterioration is being managed by wearing corrective or contact lenses.
28. This was supported by 39 percent of submitters. Submissions from the Insurance Council of New Zealand, Police, medical associations and optometrists strongly rejected any move from the status quo, arguing that self-assessment and self-reporting is unreliable.
29. Police, medical associations and optometrists were also critical of the methodology and statistical validity of the NZTA's supporting research, while acknowledging its limitations (sample size and length of study) were outside the NZTA's control. Some submitters noted that while it is not the purpose of the vision test, it does have wider health benefits in supporting early intervention for some conditions that can affect vision.
30. The NZ Automobile Association was in favour of online licensing but wanted vision testing retained. They proposed that drivers be required to obtain an optometrists certificate, which could be scanned and submitted through an online licensing process. However, this would have introduced additional costs for drivers as certificates cost, on average, over \$50, not including the time and cost of travelling to obtain them.

Cabinet's agreed option was developed following stakeholder feedback

31. The proposal finally agreed by Cabinet was developed after the public consultation undertaken for the Driver Licensing Review, in response to feedback from submitters. The revised proposal was for vision testing at first time entry into the driver licensing system, at first renewal or reinstatement after 45 years of age and then at 75 years onwards⁵. At all other licence renewals or reinstatements, drivers would be required to make a personal declaration that their eyesight is fit for driving or is being managed by corrective lenses. It is an offence under the Land Transport Act 1998, punishable by a maximum fine of \$10,000, to knowingly provide information that is false or misleading. This proposal took into account research that suggests that most age-related vision deterioration starts at around 45 years of age.

Agency feedback on the revised proposal

32. As the proposal agreed by Cabinet was not included in the consultation document, we do not know whether the public is supportive of the new option. Public consultation on the Amendment Rule will enable support for the revised proposal to be assessed.

⁵ The proposal does not apply to commercial drivers who are subject to more stringent requirements.

33. Police does not support the revised proposal as good vision is an essential component of driving performance. Police believes that reducing the frequency of mandated eyesight testing relies heavily on drivers proactively managing their eyesight. However, drivers often do not notice gradual eyesight degradation. Without the prompt associated with the licence renewal process, drivers will not necessarily get their eyesight checked. Consequently, the validity of the proposed personal declaration is also questionable.
34. Police notes that the original impetus for reducing the frequency of vision testing to facilitate a move to digital licensing was the previous government's commitment to achieving 'Better Public Services'. In contrast, the current government has prioritised road safety, and a commitment to explore a 'Vision Zero' approach. Police consider that this change in focus weighs against reducing the frequency of vision testing.
35. Police is also concerned that reducing vision testing now may limit the opportunity to increase it again, if new approaches to vision testing that are suitable for use in New Zealand subsequently become available.
36. The Ministry of Social Development notes that there is growing evidence of vision degradation, across all ages, from prolonged computer use (Computer Vision Syndrome) and this increases the risks associated with reducing vision testing for driver licensing.

Response to feedback

37. Good vision is important for safe driving, however, approaches to vision testing in the driver licensing system can only reflect technology that is available and accessible, taking into account its road safety benefits, the costs it imposes on drivers, and the constraints it imposes on the licensing system. In 2014, the Driver Licensing Review found that there was no alternative technology that could practically be used for vision testing in New Zealand. This remains the case.
38. Research shows that New Zealand's current vision testing regime has limited safety benefits, and the NZTA studies show that its removal would have no impact on road safety. Under current settings, drivers have an individual responsibility to manage any eyesight deterioration in the 10-year gap between licence renewals. Extending that responsibility to a longer period is not a major shift in policy.

Streamline the progression between heavy vehicle licence classes

39. Heavy vehicle licensing is split into licence classes based on vehicle weight and type (a single (rigid) vehicle or a multiple-vehicle combination). A person must be licensed to drive a lower class of heavy vehicle before obtaining a licence to drive a heavier vehicle. This progression helps to make sure a driver has first demonstrated competence and experience in a vehicle that requires a lower class of licence.
40. There are currently four licence classes for heavy vehicle drivers, each with its own learner phase and entry prerequisites:

- 40.1. Class 2L and 2 - medium rigid vehicles (lightest)
 - 40.2. Class 3L and 3 - medium combination vehicles
 - 40.3. Class 4L and 4 - heavy rigid vehicles
 - 40.4. Class 5L and 5 - heavy combination vehicles (heaviest).
41. The road transport industry argued that this system added unnecessary cost and time to the progression from the lowest licence class (Class 2) to the highest class (Class 5). The industry's view is that this discourages new drivers from entering the industry and contributes to a shortage of heavy vehicle drivers. To address this, while maintaining road safety, Cabinet agreed that:
- 41.1. the learner licence for Class 4 and Class 5 be removed;
 - 41.2. Class 3 licences be removed (Class 3L and Class 3) and the current weight limits in Class 3 be moved into Class 5;
 - 41.3. full licence holders in lower classes be allowed to drive in the next class up if supervised, e.g. a Class 2 driver can drive a Class 4 vehicle if supervised by someone who holds a Class 4 licence;
 - 41.4. the minimum 6 months wait time before sitting each practical test for all drivers be removed so that it aligns with the approved course pathway timing;
 - 41.5. the minimum wait time of 3 months in each of the full licence classes before moving to the next learner licence class be removed for drivers over 25 years of age, so that it aligns with the approved course pathway timing;
 - 41.6. a theory test to obtain a Class 5 licence be introduced, in light of the proposed removal of Class 3;
 - 41.7. courses and practical testing for Classes 2 to 5 be strengthened, regardless of the pathway taken;
 - 41.8. because the Accelerated Licensing Process (aimed at increasing the supply of heavy vehicle drivers) was seldom used, the process be removed from the Rule and associated regulations.

Stakeholder views

- 42. Most submitters to the public consultation favoured the options that were agreed by Cabinet, however the Road Transport Forum (RTF) presented an alternative option, supported by Federated Farmers of New Zealand, Civil Contractors New Zealand and National Road Carriers.
- 43. The RTF option aimed to enable drivers under 19 to obtain a Class 5 licence, produce shorter wait times (depending on traffic history), separate assessment from training, and remove Class 4 as well as Class 3.

44. The RTF proposal was considered by officials to be costlier and potentially less safe. The justifications for this view were included in the Regulatory Impact Statement provided to Cabinet.

Remove licence endorsements for 'special-type' vehicles

45. A licence endorsement is an entitlement to drive 'special-type vehicles' or to drive in certain occupational settings. A special-type vehicle is defined in the Rule as any motor vehicle that is a forklift, runs on rollers, runs on self-laying tracks (e.g. a bulldozer), or runs on wheels but is not a passenger vehicle (e.g. a combine harvester), a trade vehicle, a tractor, a fire engine, or a vehicle recovery service vehicle. A person who drives a special-type vehicle on a road must hold an appropriate licence endorsement.
46. In 2016, the Health and Safety in Employment Act 1992 was replaced by the Health and Safety at Work Act 2015 (the HSWA). The HSWA defines vehicles as a 'workplace' where they are used to carry out work, or are customarily used to carry out work, and places a responsibility on employers to ensure that their employees are provided with appropriate training to operate safely any vehicles they will be using in the workplace. The introduction of the HSWA meant there were two regulatory systems governing the operation and safety of special-type vehicles. It would be simple and clearer to have just one system.
47. As the rate of fatalities and serious injuries involving special-type vehicles on the road is extremely low and they are rarely used on roads and almost always used in occupational settings, the safe operation of the vehicles is more of an occupational issue than a land transport issue. Cabinet agreed to remove the requirements for special-type vehicle endorsements for forklifts, rollers, tracked vehicles, and wheeled vehicles from the Rule and associated regulations.

Stakeholder views

48. Most submitters supported the removal of special-type vehicle endorsements. The most common reasons given were that workplace training is adequate, making the endorsements an unnecessary duplication of regulatory requirements, and workplace training is more appropriate because they are rarely used on roads.
49. Those who opposed the removal of the endorsements expressed concern about the creation of regulatory gaps and that there is currently no agreed framework for guiding the use of rollers, tracked vehicles and wheeled vehicles.

Standardise requirements for 'special-type' vehicles and reduce compliance costs

50. Schedule 3 of the Rule has seven driver licensing requirements for special-type vehicles that can travel up to or more than 30 km/h and four for vehicles that can travel up to 40 km/h. There are also seven different regulatory categories for tractors that can be driven on a Class 1 licence, depending on licence stage (learner,

restricted, full), vehicle use (agricultural, non-agricultural), vehicle weight, speed limit, and whether the vehicle has a trailer attached.

51. As the number of fatalities associated with agricultural vehicle crashes is low and there is no evidence that these vehicles have a different safety profile when used for agricultural or non-agricultural purposes, Cabinet agreed to:
 - 51.1. remove the speed mismatch between the variety of special-type vehicles and set a single limit of 40 km/h;
 - 51.2. remove the regulatory differences between agricultural and non-agricultural tractors that can be driven on a Class 1 licence.
52. To reduce compliance costs for endorsement holders, Cabinet also agreed that when drivers renew P (Passenger), I (Driving Instructor), O (Testing Officer) or D (Dangerous Goods) endorsements, they be required to have a photograph taken so they can also qualify for an automatic licence renewal of their existing general licences.

Stakeholder views

53. The large majority of submitters who commented on these proposals supported them.

Increase the powers of NZTA to manage approved course providers

54. The Rule authorises approved course providers to offer approved courses for most driver licensing classes and endorsements, either as a requirement of gaining a licence or endorsement, or as an alternative to minimum time requirements. There are around 360 course providers nationwide.
55. During the review of the driver licensing regulatory system, it was found that there are gaps in the Rule around managing approved course providers and NZTA has limited capacity to ensure that course provider services are being delivered to the required standards. To ensure the NZTA is empowered to better manage risks related to approved course providers, Cabinet agreed to enable NZTA to:
 - 55.1. impose conditions on existing individual course providers in addition to the current Statement of Approval Conditions;
 - 55.2. immediately suspend or revoke approved course provider status where a provider has acted inappropriately, illegally or contrary to the conditions under which they were approved;
 - 55.3. allow consideration, during the approval process, of information on the history of an applicant seeking to be an approved course provider;
 - 55.4. seek additional information from applicants seeking to become approved course providers.

Stakeholder views on the proposals

56. Almost every submitter on this issue was in favour of the proposal, commenting that it would improve the integrity of course providers, and therefore road safety.

Consultation

57. The proposals underwent an extensive engagement process with key stakeholders and participants in the transport sector commencing in December 2014. This included workshops with reference groups and specific discussions with some stakeholders leading up to the release of a public discussion paper in April 2016.

Consultation with departments

58. The New Zealand Police, the Ministries of Justice, Social Development, Business Innovation and Employment, Health, the Accident Compensation Corporation, the Department of Internal Affairs, Te Puni Kōkiri, WorkSafe NZ and the Treasury have been consulted in the preparation of this paper. The Department of Prime Minister and Cabinet and the Parliamentary Counsel Office have been informed.

Report back

59. I propose to report back to Cabinet on the results of the public consultation on the Amendment Rule, together with proposals for progressing the amendments, in June 2019.

Financial Implications

60. Further work will be required in 2019 to identify any changes to the Land Transport (Driver Licensing and Driver Testing Fees) Regulations 1999 to ensure they continue to fund the revised driver licensing and testing services [CAB-16-MIN-0707 refers].

Legislative Implications

61. The proposed changes will require amendments to the Land Transport (Driver Licensing) Rule 1999. The Land Transport (Driver Licensing) Amendment Rule 2019 will be made available for public consultation in March 2019. Subject to Cabinet agreement to proceed with some or all of the proposals following feedback from public consultation, I expect to make amendments to the Rule in September 2019.
62. The proposed changes to the Rule will require consequential changes to the Land Transport (Driver Licensing and Driver Testing Fees) Regulations 1999 and the Land Transport (Offences and Penalties) Regulations 1999. These involve removing the redundant fees, and offences and penalties as a result of the amendments to the Rule.

Impact Analysis

63. A Regulatory Impact Analysis (RIA) was completed and attached to the Cabinet paper considered in December 2016. It is attached to this paper as **Annex Two**.
64. The Treasury Regulatory Quality Team has determined that the proposals in this paper are exempt from the Regulatory Impact Analysis requirements on the basis that the relevant issues have been addressed by existing Impact Analysis (refer the Regulatory Impact Statement accompanying the Cabinet paper considered by Cabinet on 20 December 2016).

Human Rights

65. There are no human rights implications from the proposals in this paper.

Gender Implications

66. There are no gender implications from the proposals in this paper.

Disability Perspective

67. There are no disability implications from the proposals in this paper.

Publicity

68. Following Cabinet's consideration, I propose to issue a press release in early 2019 announcing Cabinet's decision to consult on changes to the Rule. I have asked the Ministry of Transport and the NZ Transport Agency to develop appropriate messaging to ensure understanding of the reasons for the changes and in particular the vision testing requirements.

Proactive Release

69. I propose to release this Cabinet paper proactively, with the accompanying Regulatory Impact Statement.

Recommendations

70. The Acting Associate Minister of Transport recommends that the Committee:
1. **note** that in 2014 the Ministry of Transport and the NZ Transport Agency reviewed the driver licensing regulatory system and found that the current driver licensing system is working adequately but there are opportunities for further improvement while maintaining road safety;
 2. **note** that early in 2016, the Ministry of Transport and the NZ Transport Agency consulted the public on proposed amendments to the Land Transport (Driver Licensing) Rule 1999 to:
 - 2.1. reduce the frequency of vision testing to enable online driver licensing transactions;
 - 2.2. streamline the progression between heavy vehicle licence classes;
 - 2.3. remove licence endorsements for 'special-type' vehicles;

- 2.4. standardise requirements for 'special-type' vehicles and reduce compliance costs;
- 2.5. increase the powers of the NZTA) to manage approved course providers.
3. **note** that public consultation showed that submitters were generally supportive of the changes but the proposal to reduce vision testing requirements to enable online licensing was controversial with the NZ Police, medical associations and optometrists;
4. **note** that in December 2016, following public consultation, Cabinet agreed to proceed with the proposed amendments to the Land Transport (Driver Licensing) Rule 1999, including a modified proposal for reduced vision testing that responded to the concerns raised during public consultation [CAB-16-MIN-0707 refers];
5. **agree** to proceed to undertake public consultation on the proposed amendments to the Land Transport (Driver Licensing) Rule 1999, pursuant to section 161 of the Land Transport Act 1998.
6. **note** that I propose to report back to Cabinet on the results of the public consultation, together with proposals for progressing the amendments, in June 2019.

Authorised for lodgement

Hon Julie Anne Genter
Associate Minister of Transport
(__ / __ / 2019)