

Regulatory Impact Statement

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry of Transport.

It provides an analysis of options to clarify and improve the practical application of existing provisions of the Land Transport Rule: Work Time and Logbooks 2007 (the Rule); and to reduce the compliance burden for some drivers, in particular drivers of tractors and self-propelled agricultural machinery who will be exempt from the need to use a logbook, provided their vehicles travel no more than 50 kilometres in a day.

Nine of the 10 proposals in this Amendment Rule covered by this statement are: of a minor nature; impact on only small numbers of drivers; will enhance the application of current requirements; and will have minor cost implications (beyond the cost of developing, consulting on, and making the Amendment Rule).

In respect to the proposal to exempt drivers of tractors and self-propelled agricultural machinery operated by agricultural contractors, the key assumption is that the estimated 3,000 vehicles covered by the proposal are all currently subject to logbooks and work time restrictions.

None of the policy options are likely to have effects that the government considers will require a particularly strong case before regulation is considered – namely that they could:

- impose additional costs on businesses
- impair private property rights, market competition, or the incentives on businesses to innovate and invest
- override fundamental common law principles.

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1. This Regulatory Impact Statement relates to proposals contained in the Land Transport Rule: Work Time and Logbooks Amendment (the Amendment Rule) which, when made, will amend the Land Transport Rule: Work Time and Logbooks 2007 (the Work Time and Logbooks Rule).
2. The objective of the Amendment Rule is to enhance the effectiveness of the Work Time and Logbooks Rule, by clarifying how existing provisions are to be applied, and by reducing the compliance burden on certain drivers subject to work time requirements. The Work Time and Logbooks Rule, along with provisions in the Land Transport Act 1998, set up a legislative framework to manage the road safety risks of driver fatigue for drivers of heavy motor vehicles and commercial vehicles.

Regulatory Impact Analysis

Problem, status quo and preferred option for the minor changes contained in the proposed Amendment Rule

3. Practical experience with the Work Time and Logbooks Rule has highlighted a number of concerns and issues with it. These have been raised by industry groups and the New Zealand Police (NZ Police), and were not apparent when the Work Time and Logbooks Rule was first drafted. Therefore, these were not highlighted in submissions on the Work Time and Logbooks Rule. These make parts of the Work Time and Logbooks Rule difficult to apply or unclear, and add unnecessary compliance costs to industry.
4. The Amendment Rule focuses on addressing these concerns and makes changes to the way that variations of work time requirements are dealt with in particular situations.
5. The preferred option is to make a number of amendments to the Work Time and Logbooks Rule that will address the concerns raised, clarify certain aspects, and reduce compliance costs where appropriate.
6. The Amendment Rule accordingly contains eleven proposals:
 - Provide a logbook exemption for drivers of tractors and self-propelled agricultural machinery, which will place rural contractors on an equal footing to farmers and reduce their compliance burden.
 - Provide greater clarity for drivers and operators when applying the existing special ferry provision.
 - Provide ambulance and fire service drivers with greater flexibility to extend work time limits (for example, delaying the need to have a rest break) when attending a priority call.
 - Extend the definition of essential service drivers to include drivers working on restoring rail service access, or clearing roads when requested to do so by the NZ Police. This will allow these drivers to extend their work time limits to complete the task at hand, where necessary.
 - Assist the New Zealand Defence Forces (NZDF) by clarifying that current NZDF work time variations approved by the NZ Transport Agency (NZTA) also apply to visiting military forces; and providing a partial variation to minimum rest hour breaks for Territorial Force (Reserve) members participating in weekend training.

- Allow organisers of special events (for example Special Rigs for Special Kids) and operators who are not transport service licence holders to apply for short-term work time variations, and make a minor correction to an example on how to apply these provisions.
- Clarify for drivers requirements for properly completing a logbook.
- Set up a process to reduce compliance costs by:
 - allowing drivers to record, on a single logbook page, days worked that involved no driving of vehicles subject to work time requirements, rather than the current need for each of these days to be recorded on a separate logbook page.
 - clarifying that, for tow truck drivers, a tow authority is an acceptable substitute for a logbook.
- Make a minor correction to an explanatory note.
- Allow greater flexibility in the identification code required on a logbook.
- Amend some definitions; including the definition of a priority call.

Tractor and self-propelled agricultural machinery logbook exemption

7. The most significant proposed change is considered to be the extension of a logbook exemption to drivers of tractors and self-propelled agricultural machinery operated by agricultural contractors, when travelling a distance on a road of less than 50 kilometres per day. This will not apply to goods service vehicles (trucks). Currently drivers of these vehicle types are exempt from logbook use under a general logbook exemption. This applies when the vehicles are being driven by a farmer, a farm manager, or a farm employee within a 50 kilometre radius of a farm for purposes associated with that farm.
8. There are estimated to be around 3,000 of these vehicles (including tractors, mobile crop sprayers, and harvester machines), the drivers of which will become eligible for this exemption. A logbook costs around \$9.50 (wholesale price to members of the Agricultural Contractor's Federation, GST inclusive) and it would be expected that a driver of these vehicles working during harvest time would use about three logbooks a year (each logbook can record 50 days). This proposal will result in a direct saving from not having to purchase 9,000 logbooks, estimated at \$85,500 per annum. This assumes that no driver will drive more than 50 kilometres on a road in any day, and in respect to tractors that none of them are operated at a speed greater than 30 km/h (in which case, they can be driven on a class one driver licence and are not subject to work time limits or logbooks). In addition to the purchase prices, there are also costs to a driver for the time taken to complete their logbook, and an operator for the time taken to obtain, check, and retain a logbook. Applying a value of \$24.50 per hour for a driver and operator's time¹ and using an estimate of 30 seconds per driver to complete a logbook page and 60 seconds for an employer to check and retain a logbook page², the estimated maximum benefit of this proposal is \$251,125 per annum in time savings. This makes the same assumptions as the estimation around logbook purchase cost savings. The total maximum possible benefit of this

¹ NZTA's Economic Evaluation Manual Volume 1 (2008).

² LTSA Preferred Policy Proposals: Driving Hours and Logbooks, Appendix 2 (2001)

proposal is therefore \$336,625 per annum, which would accrue to both drivers and operators.

9. There should be no negative safety implications. Drivers covered by the above exemption will continue to be subject to work time limits. These vehicle types spend most of their time operating in an off-road environment and prior to October 2007 none of these vehicles were subject to logbooks. For the period 1998 to 2008, crash statistics disclose there were only two non-injury crashes involving these types of vehicles likely to have been operated by a rural contractor, where the driver was considered at fault and fatigue had been identified as a crash cause.

10. The other ten proposals are summarised in the following table:

Change proposed	Who is affected?	More prescriptive than current requirements?	Effect of change
(section 2.2) Ferry Variation: Rule will state that drivers need to show actual time of ferry departure in their logbooks.	Drivers using the Cook Straight ferries, whose rest times begin during a sailing.	Equivalent.	Rule would clarify that a driver using this variation must record the actual ferry timings (where this is different from the scheduled timings). Example of how to show this in a logbook has also been added to the Rule for this purpose.
(section 2.2) Emergency services' rest breaks: an emergency services driver who has not been able to take the required rest break because of a priority call, must do so as soon as is practicable after the priority call is completed.	Ambulance and Fire Service drivers.	Equivalent.	Designed to reduce ambiguity as to how this was to be applied; resolves different interpretations between ambulance drivers and their representatives, and management.
(section 2.2) Essential services' variation: -include persons controlling traffic and providing hazard warning. -extend the current variation so that it covers: <ul style="list-style-type: none"> a situation where risk to persons exists, not just risk to property drivers whose attendance has been requested by NZ Police but their services cannot be described as being "under contract" to the NZ Police drivers engaged in restoring rail service access. 	Drivers and other workers who undertake work associated with the repair and restoration of roads and bridges, including traffic control or providing warning of hazards. Persons involved in emergency works if directed by a council or NZ Police. Mobile crane operators, tow truck drivers, etc. Places drivers engaged in work restoring rail service access on same footing as those restoring road access.	Extends flexibility.	Removes situation where some workers at an incident have flexibility while others at the same site do not. Risk to persons as well as property is a valid ground; aligns better with civil defence situations.

Change proposed	Who is affected?	More prescriptive than current requirements?	Effect of change
<p>(section 2.4) New Zealand Defence Force variation</p> <p>New variation for Reserve Forces.</p> <p>Extend approved variations to include visiting forces.</p>	<p>Territorial Force and other reserve force personnel who undertake weekend training subject to work time limits.</p> <p>Drivers who belong to overseas forces who are on exercise in New Zealand.</p>	<p>Much more flexible.</p> <p>Less prescriptive.</p>	<p>Allows persons who are at weekend training until Sunday afternoon to recommence regular driving work on Monday morning by reducing 24-hour break; not on consecutive weekends.</p> <p>Restores the initial policy intention which was to treat visiting forces in the same way as New Zealand units.</p>
<p>(section 2.5) Short-term variations of working hours allow persons who are not transport service operators to apply for short-term variations to meet operational requirements.</p>	<p>Persons who are not operators such as organisers of a public event, vintage rallies or trials involving heavy vehicles.</p>	<p>Extends flexibility.</p>	<p>Allows the NZ Transport Agency to consider applications from event organisers, so that drivers can contribute to one-off community events without adverse impact on their livelihoods.</p>
<p>(section 3.2) Simpler logbook entries for non-driving days: specifies that less detail needs to be recorded on "non-driving days".</p> <p>(section 4.5) Clarify that a tow authority is an effective substitute record for a logbook.</p>	<p>Persons who are not driving full time but who undertake other duties during a cumulative work period.</p> <p>Tow truck drivers.</p>	<p>Less prescriptive.</p> <p>Maintains status quo.</p>	<p>Reduces need to keep detailed records for persons involved in mixed work situations.</p> <p>Tow authorities are an acceptable substitute for a logbook for tow truck drivers. A question has arisen whether a tow authority is an "equivalent record" to a logbook. To remove any ambiguity the Rule will remove the word "equivalent".</p>
<p>(Part 3) Changes to logbooks schedule:</p> <ol style="list-style-type: none"> 1. Change book code requirement. 2. Align description of work day with Act. 3. Existing approved logbooks (under this Rule) continue in effect. 	<p>Printers and all persons who are required to use logbooks.</p>	<ol style="list-style-type: none"> 1. Less prescriptive. 2. Equivalent. 3. Maintains status quo. 	<ol style="list-style-type: none"> 1. Allow the combination of a printer code with either numbers or letters that designate the book. This proposal would bring the Rule into line with the existing practice and prevent printers having to incur extra costs of \$5 - \$10 per logbook. 2. Reduces possible confusion. 3. Existing logbooks can continue in use and do not have to be replaced.
<p>(Part 2) New definitions</p> <p>Priority call: the word "serious" will be substituted for the current word "imminent".</p>	<p>Ambulance and Fire Service drivers.</p>	<p>Less prescriptive.</p>	<p>Allow a slightly wider use of the term priority call while retaining the element of time-critical response.</p>

Consultation

11. The Amendment Rule's 'Notification of Intention to make the Rule' was published in daily newspapers on 21 January 2009 and in the Gazette on 22 January 2009. Submissions closed on 27 February 2009, 36 days after the *Gazette* notice was published.
12. On 16 January 2009, the NZTA sent details of the amendment proposals by letter or email to approximately 700 groups and individuals who had registered an interest in the Work Time and Logbooks Rule. Those consulted included key transport-related industry organisations, government agencies and interested community groups, and individuals. The draft Amendment Rule was made available through the NZTA Contact Centre and, together with Questions and Answers, was also available through the NZTA website.
13. The NZTA received 29 public submissions on the draft Amendment Rule. The submissions were considered and, where appropriate, changes were made to the Rule. The two most significant changes made were to add drivers engaged in activities to restore rail access to the essential services category, and to provide a rest time variation for Territorial Force personnel.
14. The majority of submissions supported the proposals. However, the NZ Police and Automobile Association (NZAA) were concerned about the proposal to extend the logbook exemption to drivers of tractors and self-propelled agricultural machinery operated by agricultural contractors. Both submitters believed that doing so would allow these operations to more readily exceed work time limits and become fatigued, and that this was not a good safety outcome.
15. These concerns were carefully considered but did not change the policy for the reasons outlined in paragraph 9 of this paper, and, in addition, because the NZTA retains a reserve power under section 30ZA(3) of the Land Transport Act 1998 to revoke an individual's logbook exemption and require them to use a logbook. This would be used where the NZTA received information that an individual operator or driver was work time limits. It does not require a conviction to activate this power and it would be expected to be used in the types of situations which the NZ Police and NZAA raised.
16. The NZ Police and one other submitter also expressed concern about the simpler logbook entries proposal. Both submitters considered additional detail needed to be recorded to ensure non-driving work time on one day did not negatively affect driving on the next. After considering this, it was considered the proposal did not need to be changed as the situation highlighted could be prevented, as non-driving work time had to show a start and finish time. In addition, there remains the legal need to show a minimum 10-hour rest between work days. Both requirements should assist enforcement staff in ensuring suitable rest was available to a driver.

Other matters raised during consultation

17. Tourism groups wished to making special provision for tour guides to extend their continuous work period beyond 5 ½ hours, before taking a 30 minute rest. Guides drive their tour groups to the point where a tour activity commences and then accompany the group during the activity. While the

guide's involvement may be limited, all the time spent accompanying the group is regarded as work time. This means the required 30 minute rest often needs to be taken between the tour group completing its activity and commencing their return journey. This is inconvenient for operators and creates issues around adequate supervision of the tour group during the guide's 30 minute rest.

18. The suggested solution was to create a new category of time for when a guide was accompanying a tour group. This would remove the need for the 30 minute rest. This is not able to be actioned through the Rule, but would require amendment to the Land Transport Act 1998. The alternative considered was to treat guides as taxi drivers (who are allowed 7 hours work time before having a 30 minute rest). This was not proceeded with due to difficulties in defining a tour guide for this purpose.
19. Crane operators submitted that a logbook exemption should be provided for drivers of trucks carrying equipment to support a mobile crane (for example, counterweights and crane boom extensions). Mobile crane drivers are now exempt from logbook use. This was not able to be advanced due to a concern that the exemption could not be restricted solely to trucks carrying that sort of equipment, without creating enforcement difficulties where other truck drivers claimed they too were carrying such equipment.
20. A NZ Police constable made a very substantial submission on the Amendment Rule, pointing out a considerable number of apparent shortcomings in the wording of the work time provisions, and offence provisions in the Land Transport Act 1998. These relate to the Act and could not be considered or actioned as part of this Amendment Rule. A number of the matters raised had already been identified and amendments to the Land Transport Act are proposed. Other matters raised are being considered and, where appropriate, separate advice will be provided to government on possible solutions at the next available opportunity.

Implementation

21. All these provisions will come into force from 1 April 2010. Because they will affect a relatively small number of drivers there will be very little publicity, other than with organisations which represent operators who will be affected by them. It is also expected that trade-related publications will highlight the changes. Factsheets and other information on the NZTA and NZ Police websites will be updated from 1 April 2010.
22. NZ Police and NZTA compliance staff will enforce the new proposals as part of their existing functions. There will be a need to advise these staff of the changes but this is not expected to require significant efforts.

Monitoring, evaluation and review

23. As these are largely minor adjustments to the Work Time and Logbooks Rule, there are no plans to actively monitor or evaluate the effectiveness of these proposals.
24. In respect to the proposal to extend the logbook exemption to tractors and self-propelled agricultural machinery, crash reports relating to these vehicles will be reviewed annually, to ensure that at-fault fatigue crashes have not increased.