



Land Transport Management (Regional Fuel Tax) Amendment Regulations (No 2) 2018

Patsy Reddy, Governor-General

Order in Council

At Wellington this 17th day of December 2018

Present:

The Right Hon Jacinda Ardern presiding in Council

These regulations are made under section 65ZK(1)(b) and (d)(iii) of the Land Transport Management Act 2003—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Transport made in accordance with section 65ZK(2) of that Act.

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Regulations

1 Title

These regulations are the Land Transport Management (Regional Fuel Tax) Amendment Regulations (No 2) 2018.

2 Commencement

These regulations come into force on 21 December 2018.

3 Principal regulations

These regulations amend the Land Transport Management (Regional Fuel Tax) Regulations 2018 (the **principal regulations**).

4 Regulation 5 amended (Exempt uses of fuel)

(1) Replace regulation 5(1) with:

(1) For the purposes of paragraph (e) of the definition of exempt use in section 65A of the Act, the following uses are exempt from regional fuel tax:

- (a) use of fuel for a purpose that falls within regulation 5(1)(a) or (c) to (e) of the Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Regulations 2004:
- (b) use of diesel in the generation of electricity by a body corporate or an unincorporated body (but not by a private individual):
- (c) use of diesel for home heating or home water heating, if the diesel is delivered by a commercial provider to a fixed tank connected to the home heating or home water heating system.

(2) In regulation 5(2), replace “subclause (1)” with “subclause (1)(a)”.

5 Regulation 8A amended (Rebate for exported fuel)

(1) In the heading to regulation 8A, replace “**exported fuel**” with “**fuel on-sold outside RFT region**”.

(2) Replace regulation 8A(1)(c) with:

- (c) the person has transported the fuel for on-sale outside the RFT region.

(3) Replace regulation 8A(2) with:

(2) In this regulation, fuel has been **transported for on-sale outside the RFT region** if the fuel has been—

- (a) shipped to a point outside New Zealand for on-sale outside New Zealand; or
- (b) transported outside the boundaries of the RFT region in which the fuel was supplied to the person, for commercial distribution outside that RFT region.

- (4) In regulation 8A(3)(c), replace “exported it for on-sale”, with “transported it for on-sale outside the RFT region”.
- (5) Replace regulation 8A(3)(d) with:
- (d) evidence that the fuel has been transported for on-sale outside the RFT region, such as,—
- (i) in the case of fuel transported for on-sale outside New Zealand, a ship manifest or bill of lading; or
- (ii) in the case of fuel transported outside the boundaries of the RFT region for on-sale outside the RFT region, delivery or loading documents; and
- (6) In regulation 8A(5), replace “ExportedLitres” with “TransportedLitres” in each place.
- (7) In regulation 8A(5), replace “exported for on-sale”, with “transported for on-sale outside the RFT region”.

6 New regulations 8B and 8C inserted

After regulation 8A, insert:

8B Rebate for fuel used in certain vehicles

- (1) A person is entitled to an RFT rebate if the person applies for the rebate in accordance with section 65ZC of the Act and satisfies the Agency that—
- (a) the person was supplied with a quantity of fuel in an RFT region in the period beginning on the start date of the RFT scheme that applies in that RFT region and ending on the end date of that RFT scheme; and
- (b) that fuel has been fully paid for; and
- (c) that fuel was used by the person in a vehicle that is listed in the Schedule of the Road User Charges (Classes of RUC Vehicles) Exemption Order 2012.
- (2) The following evidence must ordinarily be provided to satisfy the Agency of the matters set out in subclause (1)(a) to (c):
- (a) a copy of an invoice or a receipt for the fuel showing—
- (i) the name of the supplier of the fuel;
- (ii) the location or address where the fuel was supplied;
- (iii) the amount of fuel supplied;
- (iv) the date of the supply;
- (v) the price of the fuel; and
- (b) an invoice, a receipt, or any other documentary evidence, if it is available, proving that the fuel was supplied to the person, or, in a case where such evidence is not available, a statement by the person that the fuel was supplied to the person; and

- (c) evidence proving that the fuel has been paid for in full; and
 - (d) a statement setting out—
 - (i) details of the vehicle listed in the Schedule of the Road User Charges (Classes of RUC Vehicles) Exemption Order 2012 in which the fuel was used by the person;
 - (ii) the location of the use of the fuel in that vehicle;
 - (iii) the period during which the fuel was used by the person in that vehicle; and
 - (e) any other evidence or information that the Agency reasonably requires.
- (3) The Agency may accept any other evidence that satisfies it of the matters set out in subclause (1)(a) to (c).
- (4) The amount of an RFT rebate under this regulation is calculated in accordance with the following formula:

$$\text{ExemptLitres} \times \text{RFTRate}$$

where—

ExemptLitres is the fuel amount in litres that the Agency is satisfied was purchased by the person and used by the person in the vehicle

RFTRate is the rate per litre of regional fuel tax under the relevant RFT scheme on the date that the fuel was supplied to the person.

8C Rebate for diesel used for specified purposes before 21 December 2018

- (1) A person is entitled to an RFT rebate if the person applies for the rebate in accordance with section 65ZC of the Act and satisfies the Agency that—
- (a) the person was supplied with a quantity of diesel in an RFT region in the period beginning on the start date of the RFT scheme that applies in that RFT region and ending on 21 December 2018; and
 - (b) that diesel has been fully paid for; and
 - (c) that diesel was—
 - (i) used by the person in the generation of electricity by a body corporate or an unincorporated body (but not by a private individual); or
 - (ii) delivered by a commercial provider to a fixed tank connected to a home heating or home water heating system and used by the person for home heating or home water heating.
- (2) The following evidence must ordinarily be provided to satisfy the Agency of the matters set out in subclause (1)(a) to (c):
- (a) a copy of an invoice or a receipt for the diesel showing—
 - (i) the name of the supplier of the diesel;
 - (ii) the location or address where the diesel was supplied;

- (iii) the amount of diesel supplied;
 - (iv) the date of the supply;
 - (v) the price of the diesel; and
- (b) an invoice, a receipt, or any other documentary evidence, if it is available, proving that the diesel was supplied to the person, or, in a case where such evidence is not available, a statement by the person that the diesel was supplied to the person; and
- (c) evidence proving that the diesel has been paid for in full; and
- (d) a statement setting out—
- (i) the use (as specified in subclause (1)(c)(i) or (ii)) to which the diesel was put by the person, including details of the location of the use of the diesel; and
 - (ii) the period during which the diesel was used by the person; and
- (e) any other evidence or information that the Agency reasonably requires.
- (3) The Agency may accept any other evidence that satisfies it of the matters set out in subclause (1)(a) to (c).
- (4) The amount of an RFT rebate under this regulation is calculated in accordance with the following formula:
- $$\text{ExemptLitres} \times \text{RFTRate}$$
- where—
- ExemptLitres is the diesel amount in litres that the Agency is satisfied was purchased by the person and used by the person for a purpose specified in subclause (1)(c)
- RFTRate is the rate per litre of regional fuel tax under the relevant RFT scheme on the date that the diesel was supplied to the person.
- (5) To avoid doubt, a person may apply for a rebate under regulation 6 in respect of diesel purchased on and after 21 December 2018 that is used for an exempt use specified in regulation 5(1)(b) and (c) (which are equivalent to the uses specified in subclause (1)(c)).

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 21 December 2018, are made under the Land Transport Management Act 2003 (the **Act**). They amend the Land Transport

Management (Regional Fuel Tax) Regulations 2018 (the **principal regulations**) to provide for—

- the following to be exempt uses of fuel (in relation to which a person may, after 21 December 2018, apply for a regional fuel tax rebate and may apply to be registered as a user of fuel for exempt uses):
 - diesel used for home heating and home water heating; and
 - diesel used for electricity generation by a body corporate or an unincorporated body, but not by a private individual (this will apply to non-commercial organisations, for example, local and central government agencies and charities); and
- eligibility to apply for a regional fuel tax rebate to also be extended to—
 - petrol and diesel supplied inside a regional fuel tax region but subsequently transported for on-sale outside that region; and
 - petrol and diesel used in road registered vehicles in respect of which road user charges are not payable (as listed in the Schedule of the Road User Charges (Classes of RUC Vehicles) Exemption Order 2012); and
 - diesel purchased before 21 December 2018 and used for one of the new exempt uses. (After 21 December 2018, it will be possible to apply for a rebate under existing regulation 6 of the principal regulations in respect of those new exempt uses.)

Minister's statement of reasons

Under section 65ZK(3) of the Act, the Minister's reasons for recommending regulations that provide for exempt uses of fuel (including why the regulations are appropriate) must be set out in the explanatory note of the regulations.

In considering whether to recommend the making of *regulation 4* of these regulations, the Minister of Transport has had regard to the principle that regional fuel tax is intended to be borne only by those who use fuel on public roads. The Minister is aware that the current exempt use provisions are derived from existing refund rules for fuel excise duty and do not exempt all uses of fuel that do not involve use on public roads. The Minister has directed the Ministry of Transport to review entitlements to both fuel excise duty refunds and regional fuel tax rebates, with the expectation that the review will be completed by 30 June 2019.

The amendments made by these regulations provide exemptions for uses of fuel that the Minister considers are uses to which it is clear that regional fuel tax ought not apply. Accordingly, the Minister considers it is appropriate to provide for an exemption and a rebate entitlement in respect of those uses before the completion of that review.

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**Land Transport Management (Regional Fuel Tax)
Amendment Regulations (No 2) 2018**

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These regulations are administered by the Ministry of Transport.

Wellington, New Zealand:

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