

Land Transport (Road User) Amendment Rule [2009]

Rule 61001/4

Overview

Land Transport Rules are produced by the NZ Transport Agency for the Minister of Transport. Draft Rules go through an extensive consultation process and are refined in response to consultation.

*This overview accompanies, and sets in context, the yellow (public consultation) draft of **Land Transport (Road User) Amendment Rule [2009]** (Rule 61001/4). The draft Rule proposes changes to Land Transport (Road User) Rule 2004, including prohibiting the use of hand-held mobile phones while driving a vehicle.*

*If you wish to comment on this draft Rule, please see the page headed 'Making a submission'. The deadline for submissions is **16 October 2008**.*

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What are Land Transport Rules?

The NZ Transport Agency (NZTA), which was established from 1 August 2008 (by an amendment to the *Land Transport Management Act 2003*) is a new organisation that replaces the former Land Transport New Zealand and Transit New Zealand. It is contracted to produce Land Transport Rules (Rules) for the Minister of Transport under an agreement for Rule development services with the Secretary for Transport. Rules are signed into law by the responsible Minister under the *Land Transport Act 1998* (the Act).

Rules are made in relation to a wide range of matters covered by the New Zealand Transport Strategy. These include safeguarding and improving land transport safety and security, improving access and mobility, assisting economic development, protecting and promoting public health and helping to ensure environmental sustainability.

Land Transport Rules aim to:

- **clarify**
- **consolidate and**
- **create**

land transport law.

Rules are developed by means of extensive consultation and are drafted in plain language to be understood by a wide audience and to help ensure compliance with requirements.

Consultation process

The Government is committed to ensuring that legislation is sound and robust and that the consultation process takes account of the views of, and the impact on, people affected by changes proposed in Rules.

This publication, for your comment, has two parts:

- (a) an overview, the main purpose of which is to set proposed Rule changes in context; and
- (b) the yellow draft of *Land Transport (Road User) Amendment Rule [2009]* (Rule 61001/4) (the proposed amendment Rule) for public comment.

This amendment Rule contains proposals that would change requirements in *Land Transport (Road User) Rule 2004* (the Rule). Please read the overview carefully and consider the effects of the proposed changes. In particular, consider the benefits and costs that would result from the implementation of those changes.

You will notice that, as an amendment Rule, it sets out only the changes that are proposed. If you do not have a copy of the Rule, please read the information in *Publication and Information* about obtaining Land Transport Rules. In addition, the proposed amendment Rule has been linked with the Rule on the website so that the proposed amendments can be seen in the context of the Rule.

The issues that are raised in submissions on the yellow draft of the proposed amendment Rule will be analysed and taken into account in redrafting.

Following completion of the public consultation phase, the final draft amendment Rule will be sent to the Ministry of Transport for government scrutiny. The proposed amendment Rule will then be submitted to the Regulations Review Committee before going to Cabinet for noting and then being signed by the Minister.

Proposed timetable for implementation

Subject to government approval, it is proposed that the Rule will be signed in the first half of 2009.

Making a submission

If you wish to make a submission on the proposed amendment Rule, please read the material headed *Making a submission* at the front of this document.

The deadline for submissions is 16 October 2008.

Why is this amendment Rule being proposed?

The purpose of this proposed amendment Rule is to make changes to the *Land Transport (Road User) Rule 2004*, which sets out requirements for the safe and efficient use of roads by road users (ie driver, riders, passengers, pedestrians and those leading or driving animals).

The most significant change proposed in the amendment Rule addresses the risks to safety arising from the use of mobile phones while driving. The number of crashes associated with the use of mobile phones, and in particular serious injury crashes, has increased steadily over the last five years (see table on page 11).

Crashes caused by the use of mobile phones are expected to further increase in the future as mobile phone technology becomes more accessible and convenient, and the capabilities of phones are further enhanced. The proposal in the amendment Rule, to ban the use of hand-held mobile phones, would be accompanied by a campaign aimed at raising public awareness, not only about mobile phones as a cause of driver distraction, but also about the risks from all sources of driver distraction.

Other changes proposed in the amendment Rule are intended to improve the safety of road users and to clarify existing requirements.

What changes are proposed?

The NZTA welcomes your comments on the proposed changes discussed below, including the costs of compliance.

Proposal 1

Limit the use of hand-held mobile phones while driving

PROPOSAL

It is proposed that the Rule be amended to:

- (1) ban use of hand-held mobile phones while driving;
- (2) exempt the use of hands-free mobile phones and two-way radio; and
- (3) provide that it will not be a breach of (1) when 111 calls are made in a genuine emergency, and it is unsafe or impracticable to pull over to make a call.

Reason for proposed change

Evidence exists that using a mobile phone while driving reduces driving performance and can substantially increase the risk of a crash. One study has shown that using a mobile phone while driving can increase a driver's risk of being involved in a crash by up to four times.¹

Evidence shows the number of crashes as a result of the use of mobile phone, and in particular serious injury crashes, has increased steadily over the last five years. Safety problems related to distraction caused by the use of mobile phones are expected to increase further in the near future as this technology becomes more accessible and the capabilities of phones are further enhanced.

The problem of 'driver distraction'

The use of mobile phones is one of the causes of distraction for drivers. In 2006, 'driver distraction' (also known as 'diverted attention') was identified as a contributing factor in 1241 crashes on New Zealand roads (11% of all crashes), of which 26 were fatal crashes, 192 were serious injury crashes and 1023 were minor injury crashes. These crashes involved drivers, cyclists and pedestrians. These crashes resulted in 29 deaths, 224 serious injuries and 1487 minor injuries. In 2006, the total social cost of these crashes was about \$300 million or approximately 9% of social cost associated with all casualty crashes.

¹ 'Driver Distraction: A Review of Literature' a Monash University Accident Research Centre (MUARC) Report (2003).

What is 'driver distraction'?

Driver distraction occurs when a driver's attention is diverted by an object, person, event or activity that is secondary or unconnected to the primary task of driving. A large body of research shows 'in-vehicle' distraction impairs driving performance and safety. Driving is a complex task and requires the use and coordination of various skills – physical, cognitive and sensory. The more a driver's attention is diverted away from the task of driving, the greater the risk of a crash. Research into driver distraction shows that risk increases as a task becomes more complex, longer in duration and more frequent.

High risk of using mobile phones while driving

Mobile phones are a high risk cause of driver distraction. The task of using a mobile phone while driving is complex because it involves the driver mastering a number of different types of physical actions and requires a high degree of cognitive attention. Mobile phones can be a cause of distraction by taking a driver's eyes off the road (eg, when reading a text message), taking their attention away from the task of driving (eg, when talking), and physically interfering with vehicle control (eg, when reaching to answer the phone while steering). A number of research studies have identified the 'cognitive involvement' of using a mobile phone is a greater distraction than the physical act of using a mobile phone.

Mobile phones differ from more 'traditional' distractions because of the frequency and the nature of the interaction required. 'Traditional' distractions (such as talking to passengers, tuning the radio, smoking or eating) can be modified or reduced during dangerous or demanding traffic situations. For example, passengers are aware of the road environment and will generally let a conversation lapse during a dangerous driving situation, allowing the driver to concentrate fully on negotiating the hazard. A person on the other end of a mobile phone, however, is not aware of any potential hazards, and they will often continue to talk, distracting the driver at critical moments.

Distraction can affect driving performance in a number of ways. A review of the literature indicates that the use of mobile phones while driving can impair the following key driving performance measures:

- a driver's reaction times;
- maintenance of appropriate and predictable speed and lane position;
- hazard detection and response;
- judgment and acceptance of gaps in traffic; and
- general awareness of other traffic.

A UK study² has shown driver's reaction times to hazards were on average 30% slower when conversing on a hand-held mobile phone than when driving under the influence of alcohol, and 50% slower than under normal driving conditions.

A survey conducted in 2004³ showed approximately 65% of New Zealanders owned a mobile phone, and 57% of those surveyed used a mobile phone, at least occasionally, while driving. The number of mobile phone crashes has increased over the last five years, and is expected to increase further as this type of technology becomes even more accessible, convenient and affordable.

A major concern is that, as the capabilities of mobile phone devices expand, there will be further opportunities for drivers to be distracted. Mobile phones can already be used to talk, read and send text messages, take photographs, download and play video clips from the internet, navigate to chosen destinations and perform other functions. A recent rise in the number of crashes in New Zealand where text messaging has been a possible contributing factor has highlighted a growing area of concern.

What the figures show

During the five years 2002-2006, there were 311 injury crashes and 18 fatal crashes⁴ where the use of mobile phones or other telecommunications devices was identified as a possible contributing factor. *Table 1* shows that from 2002 to 2006, the number of casualty crashes where mobile phone distraction was a possible factor increased by more than 100%. There is also a significant increase in the social cost associated with these crashes. Over this five-year period, the social cost associated with crashes involving mobile phone distraction crashes was \$109.5 million.

² Bruns, PC, Parkes, A, Burton, S, Smith RK, Burch ,D. How dangerous is driving with a mobile phone? benchmarking the impairment to alcohol. Crowthorne, Eng: TRL Ltd. A study conducted by the Transport Research Laboratory (TRL) for Direct Line Insurance.

³ Sullman, MJM and Baas, PH (2004) Mobile phone use amongst New Zealand drivers. *Transportation Research Part F: Traffic Psychology and Behaviour*, 7, (2), pp. 95-105.

⁴ Note - these figures are based on drivers (vehicles) and cyclists but exclude pedestrians.

Table 1 Crashes where mobile phone/communications device use was cited as a possible contributing factor

Year	Number of fatal crashes	Number of injury crashes	Total social costs (\$M) 2007
2002	1	45	9.9
2003	3	44	11.7
2004	5	59	26.7
2005	7	72	37.5
2006	2	91	23.7
TOTAL	18	311	109.5

Text messaging increases the risk of a crash

A recent study in Western Australia showed that the risk of having a crash increased fourfold when drivers used their phones to send text messages. The number of people sending or receiving text messages while driving has been steadily increasing, and this is particularly evident within the youth population. A study conducted by Telstra in Australia in 2003 concluded one in six drivers regularly send text messages when driving. A recent study showed drivers spent 400 percent more time with their eyes off the road when text messaging, than when not text messaging.

Young drivers are about four times more likely to have a crash compared with drivers in other age categories. They are also more likely than other drivers to use mobile phones and other in-vehicle technologies when driving. An analysis of mobile phone crashes in New Zealand shows over half (52%) of all crashes involved drivers under 25 years of age. The over-representation of this group of drivers in crash statistics is probably a result of their relative inexperience behind the wheel, together with the need to concentrate on two concurrent tasks.

Proposal to reduce mobile phone-related crashes

The use of mobile phones while driving is not specifically banned but is discouraged by the Police and road safety agencies. A number of enforcement measures are available to the Police to deal with drivers who drive while distracted. A person can be charged with careless or inconsiderate driving or reckless or dangerous driving under the Act. However, very few drivers are penalised for mobile phone use, and there is currently little incentive for drivers to change their behaviour.

The NZTA and the Ministry of Transport have considered the options available to prevent mobile phone-related crashes. The options, that could be employed to minimise the risks from driver distraction caused by the use of mobile phones, broadly fall into two categories – legislation and enforcement and raising public awareness. However, a combination of both approaches is considered to be the most effective in changing driver behaviour over the long term. This would be consistent with the approach taken in the best-performing road safety jurisdictions, including Australia, the Netherlands and the United Kingdom.

It is proposed to prohibit the use of hand-held mobile phones while driving. The ban would be enforced through the issuing of infringement notices (ie, instant fines) and demerit points.

It would also bring New Zealand into line with international safety standards and other best-performing road safety jurisdictions. All Australian states and at least 45 countries (including most countries in the European Union) have introduced legislation to prohibit the use of hand-held mobile phones while driving.

Likely effects of implementing proposal

Introducing a specific ban on the use of hand-held mobile phone while driving will make enforcement easier, as it would be enforced through infringements (instant fines). Currently, charges of careless or inconsiderate driving are usually laid only when an incident is of sufficient seriousness to justify Police and Court time, (ie, a serious injury or death is the result).

Mobile phones enhance business communication and increase personal convenience, and it is accepted that banning hand-held mobile phone use while driving is likely to be unpopular among some groups. In addition there may be some perception of a lack of consistency in legislating against mobile phone use while other distractions such as smoking, eating and adjusting the radio remain legal. Consultation undertaken as part of the development of the Rule in 2004, however, showed broad support for banning the use of hand-held mobile phones while driving.

More recently there has been growing public support for a ban and NZ Automobile Association (76%) and Research New Zealand (86%) polls confirmed this. Vodafone and Telecom, two major New Zealand's phone companies, have also recently come out in support of banning hand-held mobile phone while driving. The implementation of this proposal would be accompanied by an education campaign to raise awareness not only of dangers from using mobile phones while driving but of all the causes of driver distraction.

Use of 'hands-free' mobile phones still to be allowed

Research shows the risk to safety is decreased when using a hands-free phone while driving, but is still high, because the driver may be concentrating on a conversation rather than on the road. Some studies have suggested that banning only hand-held mobile phone use could reinforce the mistaken belief that hands-free devices present a low safety risk and, therefore, provide a false sense of security that they are safe within the driving environment.

Education and information material to be made available to accompany the Rule before implementation of the proposed ban on hand-held mobile phones will emphasise the risks associated with *all* mobile phone use while driving.

Other options considered

Aside from maintaining the status quo, the other option considered for preventing dangerous driving involving the use of mobile phones, would be to ban the use of both hand-held and hands-free phones when driving.

Although this option would be likely to produce the most favourable safety outcome, because it would be aimed at removing distractions associated with mobile phone use while driving, some drivers might regard such a requirement as unnecessary regulation and might take risks to use mobile phones covertly to avoid detection. Detection of hands-free devices would be less straightforward and might involve exercise of the Police powers of search. A total ban would also produce economic and productivity disadvantages, be difficult to enforce, and be inconsistent with rules for other in-vehicle distractions.

Given that mobile phones are an essential business tool, particularly for tradesmen and small businesses, many of these businesses would be economically disadvantaged if they are not contactable while travelling. Mobile phones also provide safety and personal security benefits, for example, they are regularly used to make emergency calls, and report vehicle breakdowns as well as crashes and hazards on the roads. A total ban could compromise these benefits.

On balance, however, the proposed ban on hand-held phones while driving is the preferred option because it addresses the growing number of serious crashes and increased risk associated with using a mobile phone while driving, while maintaining the benefits that the use of mobile phones bring.

Costs of the proposal

The main cost associated with implementing a ban on hand-held mobile phone use is the compliance cost to business and personal users. The main compliance costs will relate to the purchasing of hands-free kits for use in vehicles, which cost about \$39 each.

Alternatively, drivers will have the choice to pull over, to use options like voicemail or to turn their phones off entirely. There may be some concerns about economic loss in business activities, such as reduced benefits to users from the restriction on the use of cell phones while driving, particularly in the short term until most mobile phone users have purchased and installed hands-free phones.

This proposal would involve funding for increasing awareness of the regulatory change; the amount of funding required will depend on the level of coverage sought. To raise the public's awareness of a law change, a widespread information campaign independent of other campaigns could be conducted during the first three months after the Rule is signed.

There will be enforcement costs associated with banning the use of hand-held mobile phones when driving. These costs include infringement fee processing and collection costs, and the possible cost of diverting Police enforcement away from other activities.

Proposal 2

Clarify the distance for which a driver may use a lane that is otherwise not available to vehicles

PROPOSAL. It is proposed to amend the Rule to require that a person who is allowed to drive a vehicle on a lane that is not otherwise available to that vehicle must complete his or her manoeuvres on that lane within a total distance not exceeding 100 m.

Reason for proposed change

Subclause 2.3(3) of the Rule specifies the circumstances in which a driver may use a lane that is not otherwise available to their vehicle (for example, when the driver crosses that lane in order to make a turn). The driver is required (*subclause 2.3 (4)*) to keep the use of the lane to the minimum necessary to complete their manoeuvre.

Experience with special vehicle lanes has demonstrated there would be value in specifying a maximum distance for which a driver would be allowed to use the lane. The *Australian Road Rules* define maximum distances (100 m for bus, transit and other lanes (*Rule 158(4)*) and 50 m for cycle lanes (*Rule 153(3)*)) that drivers, who are not driving a vehicle of the appropriate class, may use the lane to turn.

A maximum distance provides greater clarity for drivers and could be reinforced by appropriate marking. It would also ease enforcement requirements. Any specified distance would have to provide adequate length for the turning driver to select a gap (in the flow of vehicles using the special vehicle lane), adjust speed and complete the turning movement. It is suggested that a distance of 100 m would be adequate for this purpose, under normal circumstances, and this distance is, therefore, being proposed.

Proposal 3

Cyclists to be allowed to do a 'hook turn'

PROPOSAL. It is proposed cyclists be allowed, in the interests of safety, to make a hook turn at intersections unless specifically prohibited.

Reason for proposed change

When vehicle volumes and operating speeds are high on multi-lane roads, it is often difficult for cyclists, particularly those who are inexperienced or otherwise less able, to make a right turn at major junctions. In these circumstances, they are often required to move from the extreme left of the road to the centre across two or more lanes of traffic.

In Australia, cyclists are permitted, unless there is a sign prohibiting the movement, to complete what is termed a 'hook turn'. This allows them to:

- proceed from the left-hand side of the road across part of the intersection to a point in the appropriate lane of the side road;
- either wait for a suitable gap on the through road or, where there are signals, to wait until the signals change to green; and,
- then proceed across the intersection effectively completing a right turn.

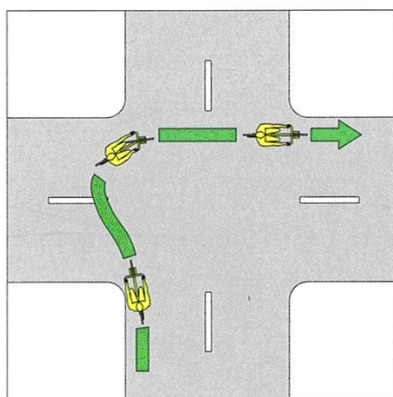


Figure 1. Cyclist completing a hook turn

(Source: Australian Road Rules, National Transport Commission)

This movement is partially envisaged by *subclause 2.5(3)* as a driver may, in the interests of safety, turn right from the left-hand side of the road. However, where the route of driving has been marked by arrows this movement is not allowed and, where the intersection is controlled by signals, *subclause 2.5(3)* does not impose a requirement for the driver to wait for the signals. Drivers of motor vehicles would not turn right from the left-hand side where lane use arrows are installed and the proposal would, therefore, only apply to cyclists.

Proposal 4

Use of motor vehicles on footpath

PROPOSAL

It is proposed to provide for an exception to allow mopeds or motorcycles to be used on footpaths by a person when delivering newspapers, mail or other printed material to letterboxes, subject to:

- (a) the road on which the footpath is located has a speed limit of 70 km/h or more or, where the speed limit is less than 70 km/h, the road controlling authority has authorised the use of a footpath;
- (b) the rider must:
 - (i) operate the vehicle in a careful and considerate manner; and
 - (ii) not operate the vehicle at a speed that constitutes a hazard to other footpath users and in any case not exceed 10 km/h when driving on a footpath;
- (c) the rider gives way to pedestrians, and to mobility devices or wheeled recreational devices being used on the footpath;
- (d) a pedestrian, a rider of a mobility device or wheeled recreational device may not unduly impede the passage of the moped or motorcycle being used on the footpath for the services described.

Reason for proposed change

With the development of low density housing, particularly on the periphery of urban areas, and changes in the type of mail being handled (more small parcels) it has become increasingly difficult to deliver mail by the traditional methods of walking or by cycling. These difficulties include:

- the increased physical demand on postal delivery staff, both in terms of weight of mail and lengths of routes;
- safety implications when delivering mail by walking or cycling on roads with greater vehicle volumes, higher operating speeds and more often reduced facilities for walking or cycling; and

- issues, including partial mail drops at intermediate locations, leading to concerns about mail security.

Alternative use of motorcycles and mopeds

Postal delivery by moped or motorcycles overcomes many of these concerns but, where footpaths exist, the implications of riding up to and away from individual letter boxes along the routes can lead to inefficiencies and risk to safety as the mail person leaves and enters the footpaths and roadways. The option of allowing mail delivery vehicles to use footpaths overcomes many postal service concerns but, potentially, creates concerns in relation to the possible impact on pedestrians, riders of mobility devices and riders of wheeled recreational devices who are currently the only legitimate users of footpaths.

Clauses 2.13 and 11.11 of the Rule ban motor vehicles and cycles from using footpaths. It is currently not legally possible for a road controlling authority to permit the use of a footpath by a vehicle. However, an exception for cycles to use footpaths (*subclause 11.11(2)*) applies to a person “in the course of delivering newspapers, mail or printed material to letterboxes”. It is proposed that a similar exception apply to mopeds and motorcycles.

Learning from the experience with mobility devices and wheeled recreational devices

Submissions on proposals for the use of footpaths by mobility devices and wheeled recreational devices in the *Road User Rule Consultation Paper* (Land Transport Safety Authority, June 2001) raised concerns about the speed of these wheeled devices, and suggested the need for some maximum speed (10 km/h was frequently suggested).

The Land Transport Safety Authority considered the possibility of imposing a speed limit on these categories of vehicle and concluded it was generally unnecessary (many were not capable of exceeding 10-12 km/h and most did not have a reliable speedometer). Instead, more emphasis needed to be placed on general duties of care and in clearly determining a priority between the classes of users.

This resulted in “duties of care and consideration” and the obligation not to operate the vehicles at a speed that constitutes a hazard to other footpath users (*subclause 11.1(4)*). The hierarchy of giving way requires wheeled recreational devices to give way to pedestrians and mobility devices (*subclause 11.1(5)*). However, pedestrians may not unduly impede the passage of mobility devices or wheeled recreational devices (*subclause 11.1(6)*).

Safeguards for allowing mopeds and motorcycles to use the footpath

The proposed change to allow mopeds and motorcycles to use the footpath for delivery to letter boxes contains a number of conditions to ensure that safety and consideration for other road users are not compromised. These conditions are set out below.

- Vehicles used for mail delivery or other services would have to give way to existing legitimate users of footpaths; and, users of footpaths would have an onus not to unduly impede the passage of other users.
- Because of the performance capability of mopeds and motorcycles, their speed when using a footpath is to be limited to a maximum of 10 km/h. This would also encourage their use of the road for longer distances between stops and reduce risks for the driver and all other users of the footpath.
- To address concerns about likely high pedestrian activity and also concerns expressed by mail delivery services, the proposed exception is limited to roads with a speed limit of 70 km/h or higher (generally indicative of lower levels of roadside development such as houses and other buildings).

There may be many other locations where local residents and the local road controlling authority consider it appropriate to allow use of footpaths. This proposed amendment would allow road controlling authorities to extend the exception to specific roads within their jurisdiction for which the speed limit is less than 70 km/h.

Proposal 5

Duties relating to the use of mobility devices and wheeled recreational devices at traffic signals

PROPOSAL. It is proposed that, at traffic signals, riders of mobility devices and wheeled recreational devices have the same priorities and obligations as pedestrians.

Reason for proposed change

As with pedestrians, riders of mobility devices and wheeled recreational devices using a footpath must not enter an intersection when a flashing or steady red, 'standing man' signal is displayed (*subclause 3.5(1)*). Although they may enter the intersection at the same time as pedestrians (*subclause 3.5(2)*) they are not given the same priority as pedestrians. Drivers are obliged to give way to pedestrians lawfully crossing or about to cross the roadway (*subparagraph 3.2(b)(ii)*). It is proposed that this provision also apply to riders of mobility devices and wheeled recreational devices who are lawfully using the footpath and crossing (as do pedestrians) from one footpath to the other.

It is also proposed that other provisions applying to pedestrians at traffic signals should apply to riders of mobility devices and wheeled recreational devices who are using a footpath. These provisions are set out below.

- *Subclause 3.2(2)* provides that while a traffic light is green, pedestrians facing the light may proceed across the roadway unless a special signal for pedestrians indicates a flashing or steady red human symbol;
- *Paragraphs 3.2(4)(b)* and *3.2(5)(b)* provide that when the traffic light is red or yellow, pedestrians facing the light must not enter the roadway, unless a green pedestrian signal is displayed;
- *Paragraphs 3.3(1)(b)*, *3.3(2)(b)* and *3.3(3)(b)* provide that while a steady green, yellow or red traffic light arrow is displayed, pedestrians facing the light must not enter the roadway unless a green pedestrian signal is displayed.

Proposal 6***Signalling requirements for cyclists at roundabouts***

PROPOSAL. It is proposed to provide an exception from arm signalling requirements for cyclists at roundabouts where signalling is not practicable.

Reason for proposed change

It can be difficult for cyclists to negotiate roundabouts, particularly those that are multi-laned. This can be made more difficult if a cyclist attempts to comply with the signalling requirements in *clause 3.10*.

Paragraph 3.10(5)(b), in particular, requires a driver intending to leave more than halfway round the roundabout to signal a right turn before they enter. They must signal left after they pass the exit before the one they intend to use, until they leave the roundabout. The obligation on cyclists to signal as they approach, and then depart from, a roundabout is not only physically demanding but also, potentially, places them at greater risk of losing control in this critical environment.

Subclauses 3.10(6) and (7) provide exceptions where signalling is not practicable but these provisions are, arguably, directed primarily at drivers of motor vehicles. It is proposed that the exception will clearly apply to a cyclist.

Proposal 7***Giving way on a road where one direction has priority***

PROPOSAL. It is proposed that drivers approaching a section of road suitable for travel in one direction only, and controlled by a one-way, give-way sign at or near the section of road, be required to give way to vehicles within or approaching that section of road as indicated by the sign.

Reason for proposed change

Drivers approaching or entering an intersection on a roadway where a give-way sign is installed must give way to any vehicles approaching or crossing the intersection (*subclause 4.1(2)*). *Clause 3.1* provides a general duty on drivers to comply with traffic control devices. Installation of a one-way, give-way sign (see *Figure 2*) on one approach defines a priority and, with it, an obligation for a driver travelling in that direction to give way.

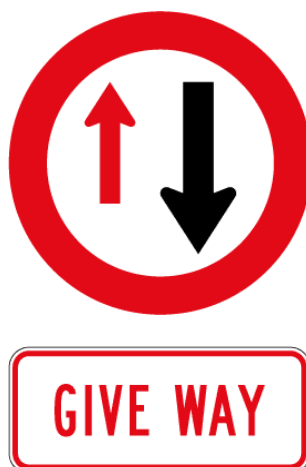


Figure 2. One-way, give-way sign

Subclause 4.1(2), however, does not apply to a one-way bridge or to other sections of road wide enough for one-way travel only, and where a priority has been established with the use of the one-way, give-way sign. Examples include narrow, winding sections of hilly roads, and devices installed on residential streets (aimed at reducing vehicles flows and speeds) that effectively reduce width to one direction of traffic at a time. The proposed amendment would correct this anomaly.

Proposal 8

Clarify the give-way rules at traffic signals

PROPOSAL. Minor changes are proposed to the wording of relevant clauses within *Parts 3 and 4* to clarify the give-way rules at traffic signals.

Reason for proposed change

The NZTA is aware that there appears to be confusion about the rules applying at traffic signals when two vehicles on conflicting paths both have a green disc signal displayed. The intention is that the normal give-way rules apply, and these are largely covered in *subclauses 3.2(1) and (2)* of the Rule. To cover more general requirements, *subclause 3.2(3)* states:

“If 2 drivers travelling in opposite directions each have a green signal to proceed and this clause does not specify who must give way, the driver required by Part 4 to give way must give way accordingly.”

However, *clause 4.3* states “*Clauses 4.1 and 4.2* do not apply to an intersection while it is controlled by traffic signals or an enforcement officer. With no reference in *4.3* or *3.2(3)*, the give-way rules at traffic signals are not well-defined or, or worse still, the requirements in *4.2* and *3.2* may not apply.

The proposed change is intended to clarify the requirements relating to giving way at traffic signals and to avoid confusion about the requirements.

Proposal 9

Set a maximum speed for towing a vehicle normally propelled by mechanical power

PROPOSAL

It is proposed that vehicles towing a vehicle normally propelled by mechanical power by means of a non-rigid towing system be limited to a speed of 50 km/h.

Reason for proposal

Non-rigid towing systems (e.g. ropes, straps, chains and other flexible materials) typically have the strength required to pull a vehicle that is normally propelled by mechanical power. These systems, however, provide only limited lateral control of the towed vehicle and do not transmit any braking forces from the towing vehicle to the towed vehicle.

The lateral position and the distance between the two vehicles are largely controlled by the driver of the towed vehicle. This driver must react to the behaviour of the driver of the towing vehicle and to what they can see of the road ahead.

The typical time for a fully alerted person to see and react is about 0.5 seconds. This does not take into account the correctness of the response or the time it might take for the response to take effect. At 50 km/h, a vehicle travels a distance of 7 metres in 0.5 seconds, and this is more than the length of a typical flexible tow system. Any speed above 50 km/h significantly increases the risk that the driver of the towed vehicle will not be able to react in time to avoid colliding with the towing vehicle, with uncertain and potentially serious outcomes for the drivers involved or other road users in the vicinity.

Most drivers who are involved in towing a vehicle (which is normally propelled by mechanical power) using a flexible towing system, operate at speeds at or below 50km/h. Although there is some risk even at this speed, 50 km/h is considered an appropriate limit to apply.

Proposal 10 Set a maximum speed for mopeds

PROPOSAL. It is proposed that a person must not operate a vehicle registered as a moped at a speed exceeding 50km/h.

Reason for proposed change

A moped is defined as:

“a motor vehicle running on 2 or 3 wheels that is fitted with a motor having a power output not exceeding 2 kW and is designed to be ridden at a speed not exceeding 50 km per hour under normal conditions of use.”

A moped rider is not required to hold a motorcycle licence, mainly because of the limited power output of the moped and its operating speed. However, in some cases, vehicles are registered as mopeds when they are outside the definition of such a vehicle or they are subsequently modified so their power output or speed exceeds the values for a moped.

It is important that any mistaken classification does not lead to drivers with minimal motorcycle experience and skills driving such a misclassified moped at a speed outside that intended.

Proposal 11 Parking a vehicle off-roadway

PROPOSAL. It is proposed to amend the Rule by prohibiting within urban traffic areas (ie, areas subject to a speed limit of 50 km/h) parking on grassed areas or other cultivation forming part of a road, unless a road controlling authority indicates otherwise by signs or markings.

A proposed definition of the term ‘urban traffic area’ is to be inserted in the Rule (see 6(1) of the draft Rule).

Reason for proposed change

In many areas, parking on grass berms and other roadside cultivation not only damages the surface but it may affect underground services. Parking in these areas can prevent pedestrians and mobility device users from accessing roads and footpaths if there is no other path, and, it creates a hazard for other motorists if the vehicle is parked on a bend or other location where visibility is limited.

Drivers who park off the road on the grass often claim that they are allowing the free movement of traffic on the roadway and are reducing the risk of their vehicle being hit by another vehicle. In many urban roads parking on the road does slow traffic along the road, and this is not an undesirable outcome for the safety of all road users and the concerns of local residents about speeding vehicles.

Currently, *clause 2.14* of the Rule states “A driver must not drive a motor vehicle on a lawn, garden or other cultivation that is adjacent to, or forms part of, a road”. This creates a ‘moving’ offence. Parking enforcement officers are not able to enforce ‘moving’ offences and the proposed change would enable them to do so.

A previous proposal to make a similar change affecting all roads led to comments suggesting the issue is largely an urban problem and should be directed at urban areas. Submissions in support of the earlier proposal indicated local authorities are having difficulty in defining their restrictions relating to parking on grass verges and are concerned about the current need for extensive sign installation to give effect to their bylaws.

The proposal, therefore, would put in place uniform, nationally-defined requirements for road users (which could be varied in specific cases by signs and markings). It would also address the concerns of road controlling authorities about the cost of installing and maintaining signs and markings and visual intrusion of these signs and markings.

Proposal 12

Parking contrary to notice, traffic sign, or marking

PROPOSAL. It is proposed to amend the Rule by specifying *Land Transport Rule: Traffic Control Devices 2004* as the means by which a road controlling authority must sign or mark parking restrictions or limitations.

Reason for proposed change

Land Transport Rule: Traffic Control Devices 2004 sets out how road controlling authorities define restrictions placed on parking by notices, signs or markings. The purpose of the proposal is to avoid any unnecessary duplication or potential confusion between that Rule and the *Land Transport (Road User) Rule 2004*.

Proposal 13 Buses permitted to stop at bus stops

PROPOSAL. It is proposed to rectify an oversight in the Rule that unintentionally prohibits buses from stopping at bus stops.

Reason for proposed change

Subclause 6.8(1) of the Rule prohibits any person from stopping, standing or parking *a vehicle* within 6 m of a bus stop sign. The Rule does not expressly except buses. The proposed amendment will clarify this.

Proposal 14 Marking of stopping or standing places

PROPOSAL. It is proposed to require stopping places or stands for any class or classes of vehicles parking to be marked only if practicable.

Reason for proposed change

Clause 6.15 of the Rule requires a place where a road controlling authority has limited stopping or standing to a specific class or classes of vehicle to be marked (as well as having appropriate signs). Although most of these places are able to be marked (and will be marked) there are some sites where a road controlling authority will not be able to comply with this requirement. The proposed amendment will allow for situations in which marking is not practicable.

Proposal 15 Requirement to wear seat belts properly

PROPOSAL. It is proposed to amend the Rule to ensure that seat belts are worn correctly, and that the user is properly restrained and keeps the belt securely fastened.

Reason for proposed change

Clauses 7.6 to 7.10 of the Rule require passengers and drivers to be restrained in a child restraint or by a seat belt, as appropriate. Wherever a child restraint is mentioned, the child is required to be “properly restrained”. However, *clause 7.8* (applying to children between 8 and 15 years) and *clause 7.10* (persons over 15 years of age) require that the person must “wear the seat belt and must ensure it is securely fastened”.

The Police have expressed concern about the numbers of people they have observed not wearing their seat belt properly, although the seat belt has been securely fastened. In these cases, the seat belt has often not provided any protection for the occupant and, the occupant may have even been at greater risk of injury in a crash. The proposed amendment would strengthen the requirements in the Rule to help ensure that seat belts are worn properly.

Proposal 16

Exceptions for bus drivers in relation to child restraints and seat belt wearing

PROPOSAL. It is proposed to amend the Rule to clarify the exception for bus drivers in relation to drivers ensuring that child restraints and seat belts are worn.

Reason for proposed change

The current wording of *clause 7.11(4)* has caused confusion. The intent of this clause is to provide an exception for bus drivers in relation to the duties set out in *clauses 7.7* and *7.8*. These provisions relate, respectively, to the duties of a driver to ensure that children between the ages of 5 and 8, and those between 8 and 15 years are restrained.

It is proposed to amend *clause 7.11* by substituting the following for *subclause (4)*:

“(4) The requirements of *clauses 7.7, 7.8, and 7.10* do not apply to a driver of a bus.”

Proposal 17

Use of light trailer safety chains

PROPOSAL. It is proposed that the duty to safely and securely attach trailers to the towing vehicle is clarified.

Reason for proposed change

In developing *clause 7.18* of the current Rule, it was assumed that the requirement to “safely and securely attach by an adequate coupling” would be sufficient to also ensure the safety chain on a light trailer would also be attached. In the light of a number of safety-related issues that have arisen, the NZTA believes there is a need to re-state the rule to emphasise clearly the need to safely and securely attach trailers to the towing vehicle. The opportunity is also being taken to ensure consistency between the Rule and *Land Transport Rule: Heavy Vehicles 2004* (the Heavy Vehicles Rule) and *Land Transport Rule: Light-vehicle Brakes 2002* (the Light-vehicle Brakes Rule).

The Heavy Vehicles Rule defines the technical requirements required of couplings used with heavy vehicles.

It is proposed that trailers required to meet those requirements should be safely and securely attached to the towing vehicle by means of appropriate couplings.

The Light-vehicle Brake Rule defines the technical requirements for light trailers including, where required, breakaway brakes, couplings and supplementary chains or cables. It is proposed that trailers required to meet these requirements be safely and securely attached to the towing vehicle by means of the coupling and, where a breakaway-brake is not installed, also be attached by means of a chain or cable capable of holding the trailer secure under all conditions of use.

Proposal 18 Updating of reference to Police

PROPOSAL. It is proposed to update the reference in the Rule to the Police in relation to the exception allowing Police to carry loaded firearms in a motor vehicle.

Reason for proposed change

The purpose of this proposed change is to reflect changes as a result of the passage of the *Policing Bill*. It is expected that this legislation will be passed before the amendment Rule takes effect.

Proposal 19 Child safety locks in taxis

PROPOSAL. It is proposed to amend the Rule to require drivers of small passenger vehicles (including taxis) fitted with child safety locks to ensure that:

- (1) a sign approved by the NZTA is displayed at each of the outer door handles of the taxi; and
- (2) a child safety lock is used only at the request of the passenger or a person who is responsible for the well-being of the passenger.

A proposed definition of the term 'child safety lock' is to be inserted in the Rule (see 6(1) of the draft Rule).

Reason for proposed change

At the time that *Land Transport Rule: Passenger Service Vehicles 1999* (the PSV Rule) was being drafted in the late 1990s, concerns were raised about passengers possibly being locked in, or feeling trapped, if a taxi was equipped with child safety locks that were activated. The PSV Rule prohibits taxis from being fitted with these locks.

However, the taxi industry maintained that there were sometimes circumstances in which child safety locks were useful, (for instance, when transporting children with behavioural problems, who might open the doors). The industry asked that they be allowed to retain child safety locks, if fitted, provided that a sign was displayed by the door handle explaining that the locks had been fitted as original equipment.

An amendment to the PSV Rule, removing the need for individual exemptions, has been proposed in the draft *Land Transport Rule: Omnibus Amendment 2008* (out for consultation from 19 August 2008 until 16 September 2008). This would allow small passenger service vehicles to retain this device, provided that a sign, approved by the Agency, is displayed at the outer door handle.

This proposal is aimed at ensuring that where child safety locks are retained they are used solely at the request of the passenger, or a person who has responsibility for the passenger, and reflects the conditions that were applied under the exemptions.

Proposal 20

Use of motorcycle and moped lights during daylight hours

PROPOSAL. It is proposed to amend the Rule to require drivers of mopeds and motorcycles to use headlamps or, if fitted, daytime running lamps, during daylight hours.

A proposed definition of the term 'daytime running lamp' is to be inserted in the Rule (see 6(1) of the draft Rule).

Reason for proposed change

Motorcycle casualties (fatalities, serious injuries and minor injuries) have increased by almost 80 percent since 2001. Although some increase in the number of casualties might have been expected as a result of the 28 percent increase in licensed motorcycles over the same period (see *Figure 3*), the NZTA and the Ministry of Transport are concerned that the increase is so large. Furthermore, the cost of fuel has risen, and is likely to remain high, so motorcycle ownership and use is likely to increase further. It is important that motorcycle safety initiatives that follow best practice are put in place to deal with this growing road safety problem.

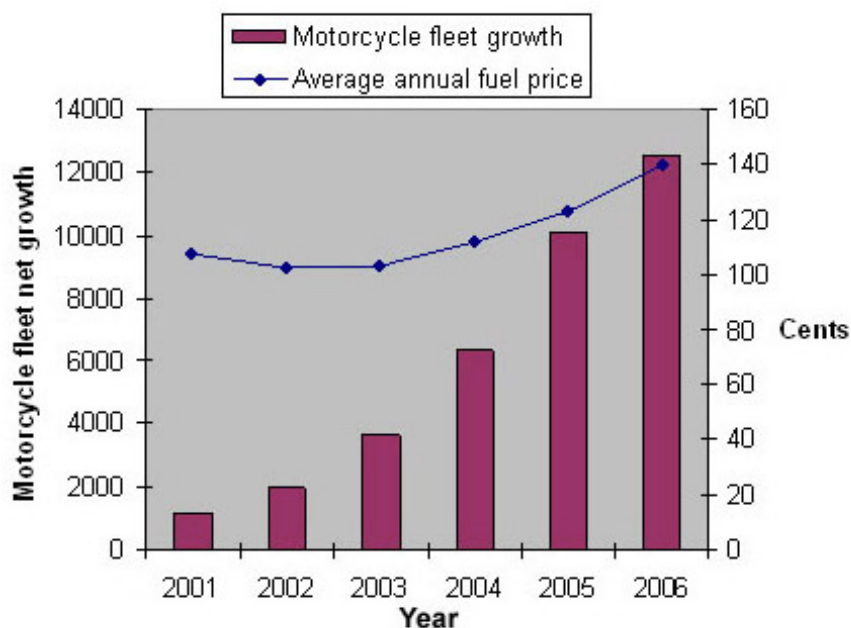


Figure 3. Motorcycle fleet growth and fuel price – 2001-2006

The problem of visibility

Visibility is a contributing factor in a significant proportion of multi-vehicle motorcycle crashes. Motorcycle speed and manoeuvrability coupled with their small size can make these vehicles less visible to other road users than larger vehicles. Motorcyclists are responsible for about 55 % of the crashes in which they are involved. However, if only intersection collisions are examined, other drivers are at fault about 75 % of the time. There were 323 multi-vehicle motorcycle crashes in 2006 (33 % of all motorcycle crashes) in which visibility was recorded as a contributing crash factor.

Improving visibility

Daytime running lamps are fitted to the front of motorcycles to make it easier for motorcycles to be seen by other road users. The lamps have a low light output and are not bright enough to illuminate the road ahead during darkness. They are normally designed to switch on automatically with the engine ignition, and switch off when the dipped or main beam headlamps are switched on. The vast majority of new motorcycle and moped imports entering New Zealand have these lamps fitted as standard.

A case control study on motorcycle rider visibility carried out in New Zealand and published in 2004, found that three quarters of motorcycle riders had their headlight turned on during the day, and this was associated with a 27 % lower crash risk.

Under the proposal, the few motorcycles and mopeds, currently without daytime running lamps, would be required to have their headlamps on at all times when being ridden on the road. Social cost analysis (based on 2002-2006 data) indicates that preventing injury-causing daylight crashes, in which a driver did not see the motorcycle would save \$39.5 million a year, so even very modest crash reductions would be cost effective.

Proposal 21

Use of blue beacons by officials with the statutory power to stop vehicles

PROPOSAL. It is proposed that certain officers with statutory power to stop drivers be entitled to have blue beacons installed on vehicles they use in their official duties.

Reason for proposed change

There are a range of people with statutory powers to require drivers to stop. However, they currently are not able to install and operate beacons on their vehicles. Their efforts to signal drivers to pull over and stop are hampered by the inability to signal clearly not only their intention, but also to demonstrate their legal authority, to require the driver to stop.

Displaying a blue beacon would provide a clear signal that the enforcement officials concerned (customs officers, fisheries officers, and rangers operating in maritime reserves) have the power to require a driver to stop a vehicle. A consequential change to *subclause 11.2(2)* of *Land Transport Rule: Vehicle Lighting 2004* has been proposed in the draft *Land Transport Rule: Omnibus Amendment 2008*.

Proposal 22 *Rules for passenger service vehicles stopping at level crossings*

PROPOSAL. It is proposed to extend the current exceptions from the requirement for passenger service vehicles (other than taxis) to stop before every level crossing to include level crossings where red or flashing red signals have been installed.

Reason for proposed change

Clause 9.4 of the Rule requires school buses and vehicles (other than taxis) being used for the carriage of passengers for hire or reward to stop before every level crossing. Exceptions to this requirement are where the driver proceeds under the direction of an enforcement officer, where an 'EXEMPT' sign has been installed by the road controlling authority or where barrier arms are installed at the level crossing.

Incidents are regularly reported of motorists, (who probably do not have experience with, or may not have knowledge of, the requirements relating to buses stopping at level crossings) taking unsafe evasive action to avoid a bus that has stopped, or is about to stop, in accordance with existing requirements. The incidents include emergency braking and resultant swerving and, of more concern, sudden and ill-considered passing of the bus. This last movement is not only illegal (see *clause 2.11*), but the driver is distracted from noticing other risks associated with the level crossing.

As a result of experiences of this nature, many bus drivers are reluctant to stop in advance of level crossings particularly those equipped with flashing signals. The level of compliance, particularly in open road areas, is not good, thereby exacerbating the already poor standard of drivers' knowledge and experience of correct behaviour.

Flashing red signals

Flashing red signals (including those with barrier arms) are generally installed to manage the greater risks associated with high traffic volumes and speeds. These higher volumes and speeds also increase the risks associated with buses being required to stop. Drivers place considerable reliance on the flashing signals to advise them of the presence of an on-coming train and do not expect a vehicle ahead of them to stop when the signals are not flashing.

While this may not be appropriate (drivers should always be prepared for a vehicle ahead to stop and keep a distance behind to allow safe stopping), it is understandable. The signals do have a very high level of reliability and it is considered appropriate that the exception to stopping be extended to level crossings equipped with flashing signals.

Level crossings without flashing signals

Level crossings without flashing signals have either a Stop sign or Give-Way sign installed. All vehicles are required to stop and no exception need be given where there are Stop signs. At sites with Give-Way signs there is a considerable variation in vehicle volume, speed, grades, road surface conditions and view lines available for motorists approaching the level crossing. The level of risk associated with a train/bus collision at those crossings will also vary, but is considered sufficiently great to retain the requirement to stop.

A consequential change to *subclause 8.4(2) of Land Transport Rule: Dangerous Goods 2005* (which provides the same exceptions for vehicles carrying specified dangerous goods⁵) will be proposed separately if the proposal is accepted.

Proposal 23

Categories of passenger service vehicle required to stop at level crossings

PROPOSAL. It is proposed to amend the categories of passenger service vehicle required to stop at level crossings following the reclassification of PSVs in *Land Transport Rule: Operator Licensing 2007*.

Reason for proposed change

Subclause 9.4(2) of the Rule requires certain vehicles to stop before crossing a level crossing. *Paragraph 9.4(1)(a)* describes one class of vehicle to which this applies as “a vehicle (other than a taxi) being used on any road for the carriage of passengers for hire or reward (with or without goods)”. *Land Transport Rule: Operator Licensing 2007* now classifies small passenger services into taxis, shuttles and private hire services. This change means that *subclause 9.4(2)* applies to a widely diverse range of small vehicles. Concerns described in Proposal 22 in relation to large buses apply perhaps even more particularly to these small vehicles.

It is considered appropriate, therefore, to relax the provisions by amending *9.4(1)(a)* to refer only to heavy vehicles being used for the carriage of passengers for hire or reward.

⁵ The list of dangerous goods includes:

- Class 1 (explosives with some exceptions); or
- Class 2.1 (flammable gases) or Class 3 (flammable liquids) in quantities of 250 litres or more where they are transported in a tankwagon, portable tank or containers for bulk quantities of dangerous goods.

Proposal 24 Giving way to pedestrians waiting to cross a pedestrian crossing

PROPOSAL. It is proposed to amend the Rule to require drivers to give way to pedestrians who are obviously waiting to cross at a pedestrian crossing.

Reason for proposed change

A number of submissions on the public consultation draft of the Rule in 2003 proposed that:

- drivers should be required to stop for pedestrians waiting to cross at pedestrian crossings; and
- a requirement be introduced to restrict pedestrians from loitering near pedestrian crossings because those pedestrians did not give a clear indication of whether or not they intended to cross.

An amendment requiring drivers to give way not only to persons on a pedestrian crossing but also to those about to cross would clearly raise priority for pedestrians. This is consistent with the promotion of pedestrian activity. Similar rules are in force in Australian states, Ontario (Canada), the United Kingdom, and other European countries.

Before such a proposal could be implemented, road controlling authorities would have to review visibility and lighting requirements at existing pedestrian crossings. Other changes, including physical changes, would also need to be made. These would include extending kerbs and, possibly, installing signal control.

The NZTA believes that the objectives outlined above could be achieved without changes to crossings, by requiring drivers to give way to pedestrians who are obviously waiting to cross. Many drivers already comply with this proposed requirement. The visibility required for drivers of pedestrians immediately behind the kerb line should already, largely, be achieved.

Proposal 25**Use of shared pedestrian cycle paths****PROPOSAL**

It is proposed to amend the Rule to require:

- (1) a general duty of care be imposed on all users of shared pedestrian and cycle paths to use the paths in a careful and considerate manner that does not present a hazard to other users;
- (2) that, where a priority is indicated by signs or markings to either pedestrians or cyclists, users without priority must give way, but the users with priority must not unreasonably impede other users.

Reason for proposed changes

With the increasing availability of shared pedestrian/cycle paths, concern has been expressed that users (cyclists, pedestrians, and riders of mobility devices and wheeled recreational devices) are not sure of their obligations. Unlike the general duties for drivers of vehicles, which are clearly set out in the Act, similar duties expected of the users of shared paths are not clearly set out in legislation.

Some shared paths define separate areas for specific users by means of a marked line and installation of signs. More commonly, the facility does not have separate parts for each type of user defined but often has a sign installed to give pedestrians a degree of priority in the use of the facility. A path specifically defined as a cycle path implies cyclists have priority. However, because a cycle path will also often provide a convenient path for pedestrians there is an implicit understanding that they, and riders of mobility devices and wheeled recreational devices, will use such facilities.

Clause 11.1 of the Rule establishes a priority for those groups of users entitled to use footpaths – namely pedestrians and mobility devices and wheeled recreational devices. Wheeled recreational devices are obliged to give way to the other two classes of user (*subclause 11.1(5)*). However, even though they might have a ‘priority’, no one class of user may unreasonably impede the progress of any other user. The proposed amendment is intended to clarify the respective responsibilities of users of shared paths.

Proposal 26 *Performance criteria for cycle headlamps*

PROPOSAL. It is proposed to amend the definition of ‘headlamp’ in the Rule to correct an inconsistency.

Reason for proposed change

The term “headlamp”, in the Rule and in *Land Transport Rule: Vehicle Lighting 2004* (the Vehicle Lighting Rule) means:

“a lamp designed to illuminate the road ahead of a vehicle and that is—

- (a) a dipped-beam headlamp; or
- (b) a main-beam headlamp; or
- (c) a combination of a dipped-beam headlamp and a main beam headlamp.”

Cycle lights rarely provide sufficient light in a downward direction to illuminate the road ahead. However, most modern lights are able to meet the requirement for being visible from a distance of 100 m.

Subclauses 3.3(2) and 3.3(3) of the Lighting Rule state that Group A vehicles (cycles) may have one or two headlamps, one or both of which must be visible from a distance of 100 m, and only one of which may flash. A cycle equipped with headlamps that comply with these requirements may not sufficiently illuminate the road ahead and, therefore, arguably, could be regarded as not complying with the definition of a “headlamp”.

It is proposed to add the following words to the definition of headlamp (in both Rules): “in relation to a cycle, means a forward-facing lamp that is visible for at least 100m when it is illuminated.”

Issue for consideration

Priority for buses when signalling to leave a stop

Introduction

Consideration is being given to whether other drivers should be required to give priority (when they can do so safely) to a bus when the bus driver signals and pulls away from a stop.

One of the critical elements in addressing the increasing need to provide effective public transport is to improve the reliability of transport services. Waiting for suitable gaps to allow a bus to enter the traffic stream can cause considerable delays and variability in service and, consequently, reduced reliability. Many drivers do make way for buses to enter the stream but on many critical routes this courtesy cannot be relied on.

Overseas requirements for giving way to buses

Australia

The *Australian Road Rules* require drivers to give way to a bus when it is about to enter the lane in which the driver is traveling subject to:

- the vehicles being in a ‘built-up area’ (defined in relation to roadside buildings or street lighting but largely covering areas where the speed limit is 70 km/h or less);
- the bus displaying a “give way to bus” sign; and
- the bus driver having given sufficient warning (defined as at least five seconds of indication signal).

United Kingdom

In contrast, the British *Highway Code* advises drivers to give priority to buses when this can be done safely, especially when the bus signals to pull away from a stop. It also recommends drivers look out for people getting off a bus and crossing the road. The following are the relevant provisions of the *Highway Code*.

- The *Highway Code* does not apply solely to the lane on which the bus driver intends travelling (for example, a bus leaving a stop may have to encroach on to an adjacent lane).
- The *Highway Code* applies everywhere and not just in built-up areas. In rural areas, a school bus is the most likely bus to be waiting to leave a bus stop. Approaching drivers would have to slow to possibly give way to any stopped bus. Where this is a

school bus, this could improve the compliance of drivers of other vehicles with the requirement to slow to 20 km/h for school buses stopped to discharge or embark children (*subclause 5.6(1)*).

- The *Highway Code* does not require the bus to display a specific sign. (If a sign was required it would have to compete with many other messages found on the back of buses and in many cases would not be clearly seen.)
- A bus driver is required to signal, but the *Highway Code* also indicates that the bus driver needs to be aware that a vehicle may be so close that the bus would not be able to give way safely. Consequently, while the bus is given priority, some onus for assessing the situation still rests with the bus driver.

Comment

The idea of providing for buses to be given priority needs to be balanced against the safety of other motorists and cyclists. The proposal to give buses some priority has raised concerns in relation to cyclists where bus drivers might be more likely to pull out in front of an approaching cyclist assuming a right of way. It is essential that the bus driver be required to signal and not assume absolute priority to the bus. On that basis, the UK model appears to provide a good balance of obligations and, if the proposal were to proceed, could be the most suitable option to adopt in New Zealand.

Your comments on this issue would be welcomed.

Matters to be taken into account

The Act provides the legal framework for making Land Transport Rules.

Section 161 of the Act states the procedures by which the Minister of Transport makes ordinary rules. These include the obligation to consult, which has been developed into a series of formal and informal discussion procedures.

Application of Rule-making criteria

Proposed activity or service

Section 164(2)(b) of the Act requires that appropriate weight be given to the nature of the proposed activity or service for which the Rule is being established. The 'proposed activity or service' that is covered by the proposed amendment Rule is the safe use of roads by road users and adherence to New Zealand's road rules.

Risk to land transport safety

Section 164(2)(a), (c) and (d) requires the Minister to take into account the level of risk to land transport safety in each proposed activity or service, the level of risk existing to land transport safety in general in New Zealand, and the need to maintain and improve land transport safety and security.

The risks to land transport safety associated with the proposed amendments are those arising from the use of mobile phones while driving, and, generally, from situations that present a risk to the safety of road users or create impediments to the efficient use of our roads.

Assisting achievement of strategic objectives for transport

The *Land Transport Amendment Act 2004* amended the matters that the Minister must take into account when making Rules, to reflect the overarching importance of the government's New Zealand Transport Strategy (NZTS). The NZTS envisages that, by 2010, New Zealand will have an affordable, integrated, safe, responsive and sustainable transport system.

Section 164(2)(e) of the Act requires that the Minister must have regard, and give such weight as he or she considers appropriate in each case, to whether a proposed Rule (i) assists economic development; (ii) improves access and mobility; (iii) protects and promotes public health; and (iv) ensures environmental sustainability.

Economic development

Economic development issues associated with the proposed amendments are limited. These issues are largely restricted to banning the use of hand-held mobile phones while driving (Proposal 1) and to the use of motorcycles or mopeds on footpaths for the delivery of newspapers, mail and other printed material (Proposal 4).

Safety and personal security

The measures in the proposed amendment Rule are largely aimed at maintaining or improving the safety of road users. These include the proposal to ban the use of hand-held mobile phones while driving, the proposed restriction on the speed at which a moped may be driven, the proposal aimed at ensuring that seat belts are properly worn and clarification of existing requirements relating to giving-way at intersections, and parking requirements.

Access and mobility

A number of the proposals address issues relating to pedestrians, drivers of mobility devices, drivers of wheeled recreational devices, and cyclists. The proposals will facilitate movement for these classes of user and enhance, to some degree, access and mobility.

Public health

Those amendment proposals that will improve road safety (for example, the proposal to ensure that seat belts are worn properly), should also have a positive impact on public health.

Environmental sustainability

There are no issues for environmental sustainability associated with the proposals in the amendment Rule.

Benefits and costs of the proposed changes

Section 164(2)(ea) of the Act requires that the Minister have regard to the costs of implementing measures proposed in a Rule.

Details of the benefits and costs of the proposal for banning the use of hand-held mobile phones while driving are set out in Proposal 1 (see *Proposal to reduce mobile phone-related crashes*, page 11).

Apart from Proposal 1 (*Limit the use of hand-held mobile phones while driving*) and Proposal 20 (*Use of motorcycle and moped lights during daylight hours*), it is anticipated there will be no, or very limited, compliance cost associated with the proposals.

The main benefits arising from the remaining proposals are generally improving the clarity of rules, facilitation of movement, and, some expected, but minor improvements, in traffic efficiency and safety.

International considerations

Section 164(1) and 164(2)(f) of the Act requires that Rules may not be inconsistent with New Zealand's international obligations concerning land transport safety, and that international circumstances in respect of land transport safety be taken into account in making a Rule. In developing this proposed Rule, consideration has been given to best practice in overseas jurisdictions.

How the proposed amendment Rule fits with other legislation

Offences and penalties

The proposed amendment does not contain offence provisions. These provisions are contained in the *Land Transport (Offences and Penalties) Regulations 1999*.

It is proposed that the penalty for breaching the provisions banning the use of mobile phones while driving would be an infringement fee of \$50 and 25 demerit points. These proposals are in line with recent changes to the penalty and demerit point regime for traffic offences.

Consequential amendments will also be required to the *Land Transport (Offences and Penalties) Regulations 1999* to ensure that the description of Road User Rule provisions in the regulations aligns with those in the Rule as amended. Where the amendment Rule extends existing requirements, (for example, the new speeds limits proposed for mopeds and for vehicles towing with non-rigid towing systems), penalties for breaching these requirements would be consistent with existing penalties.

Publication and availability of Rule

Amendments to Road User Rule

This proposed Rule is the fourth amendment to the *Land Transport (Road User) Rule 2004*, which was drafted by the Parliamentary Counsel Office (PCO) and published in the Statutory Regulations series.

Copies of this Rule proposal document may be obtained by calling the NZTA Contact Centre on 0800 699 000. It is also available at: www.nzta.govt.nz/consultation/road-user-amendment/index.html.

Availability of Rules

Land Transport (Road User) Rule 2004 and its amendments to date can be purchased from selected bookshops throughout New Zealand that sell legislation. The final, published versions of Land Transport Rules are also available at www.landtransport.govt.nz/legislation/. They can also be inspected at regional offices of the NZTA. Final versions of these Rules are also available at: www.landtransport.govt.nz/rules.

Information about Rules

Information about the Rules programme and process can be found on the website at: www.landtransport.govt.nz/legislation/. An electronic form is also provided for registering an interest in Rules.

If you have not registered your interest to receive drafts of this proposed amendment Rule (or other draft Rules in the Rules programme), you can do so by contacting the NZTA at the addresses shown in the *Making a submission* section at the front of this publication, or at www.landtransport.govt.nz/rules/reg-interest-rules.html.