

Land Transport Rule

Vehicle Equipment (Immobilisers)

Amendment [2008]

Rule 32017/3

Overview

Land Transport Rules are law produced by Land Transport New Zealand for the Minister of Transport. Land Transport NZ drafts Rules in plain language to reach a wide audience. 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 Rule: Vehicle Equipment (Immobilisers) Amendment [2008]** (Rule 32017/3). This draft legislation would make immobilisers compulsory on new and used light passenger vehicles, imported into New Zealand, that are less than eight years old.*

*If you wish to comment on this draft Rule, please see the page headed 'Making a submission'. The deadline for submissions is **23 May 2008**.*

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What are Land Transport Rules?

Land Transport New Zealand was established by the *Land Transport Management Act 2003*. One of the tasks of Land Transport NZ is to produce Land Transport Rules (under an agreement for Rule development services with the Secretary for Transport) for signature by the responsible Minister under the *Land Transport Act 1998* (the Act).

Rules are made on a wide range of land transport objectives covered by the New Zealand Transport Strategy (NZTS). 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:

- clarify
- consolidate and
- create

land transport law.

Rules are developed by means of extensive consultation. Each Rule is drafted in plain language so as to be understood by a wide audience and to help ensure compliance with its 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 has two parts:

- (a) the overview, which sets the draft amendment Rule in context; and
- (b) the yellow draft of *Land Transport Rule: Vehicle Equipment (Immobilisers) Amendment [2008]* (Rule 32017/3) (the proposed amendment Rule) for public comment.

This overview sets in context the proposals in the draft Rule. Please consider how the Rule would affect you, your business, or the members of your organisation. In particular, consider the benefits and costs that would result from its implementation.

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

Following completion of the public consultation phase, the final draft Rule will be submitted to the Ministry of Transport for government scrutiny. The draft Rule will then go to Cabinet for noting and, finally, will be submitted for signature by the Minister for Transport Safety.

Proposed timetable for implementation of the Rule

It is proposed that the Rule will be signed in late 2008. A six-month lead-in time is proposed to raise awareness before the Rule requirements start to apply. It is expected that a consumer information campaign, to explain the mandatory immobiliser requirement and its benefits, would be undertaken during this time.

Making a submission

If you wish to comment on this yellow draft, please read the page headed *Making a submission* and send your submission to:

*Immobilisers Amendment
Rules Team
Land Transport New Zealand
PO Box 2840
Wellington.*

The deadline for submissions is **23 May 2008**.

Why is this amendment Rule being proposed?

Government initiative to reduce vehicle crime

The proposal to make immobilisers mandatory for light passenger vehicles is one of six initiatives in the Ministry of Justice's Vehicle Crime Reduction Programme. This programme was initiated as part of the Government's Crime Reduction Strategy, which made the reduction of vehicle crime a priority.

This proposal is specifically targeted at reducing opportunistic vehicle theft, which is the theft of a vehicle for a short-term purpose (for example, for joyriding, as means of transport, or to facilitate the commission of another offence). Vehicles are often recovered but, in many cases, in a damaged condition. The Police estimate that 70% - 80% of vehicle theft in New Zealand is opportunistic.

The mandatory immobiliser proposal requires an amendment to *Land Transport Rule: Vehicle Equipment 2004*.

Input from stakeholder groups

In May 2007, the Ministry of Transport sent a consultation paper ('blue draft')¹ to approximately 30 motor vehicle industry and vehicle security industry stakeholders. The paper set out the proposal and sought industry input (see also *How would the proposal be implemented?* page 10).

The issues raised by the industry, and the information provided in submissions on the consultation paper, were analysed and referred to the Minister for Transport Safety for consideration.

¹ Ministry of Transport. *Mandatory vehicle immobilisation initiative*, Consultation paper, May 2007.

What does the amendment Rule propose?

On instruction from the Minister for Transport Safety, Land Transport New Zealand, in consultation with the Ministry of Transport, has prepared the accompanying proposed amendment Rule, which is being released for public comment.

The proposed amendment Rule would require that a new or used light passenger vehicle that is less than eight years old be fitted with an immobiliser in order to be certified for entry into service. In general terms, an immobiliser is an electronic device that interrupts a vehicle's power supply to two or more systems that are required to start a vehicle's engine (for example, the fuel pump, starter motor or ignition). Unless the correct electrical signal is supplied to those systems (for example, by a transponder on the ignition key) the vehicle will not start.

The proposal would apply to vehicles entering New Zealand from the date that the Rule comes into force. A vehicle inspector or inspecting organisation would not be allowed to certify a vehicle covered by the Rule if it is not fitted with an immobiliser, or if the inspector or inspecting organisation believed the immobiliser was not in working order. Vehicles would, therefore, not be able to be registered for use on New Zealand roads unless they complied with the Rule.

Scope of proposed amendment Rule

The proposed amendment Rule would apply to the following vehicles that are less than eight years old and entering into service for the first time in New Zealand:²

- passenger cars (Class MA);
- forward control passenger vehicles (Class MB);
- off-road passenger vehicles (Class MC).³

The proposed amendment Rule would not apply to the following vehicles:

- scratch-built vehicles;⁴

² A description of the vehicle classes can be found in *Table A* in Part 2 of *Land Transport Rule: Vehicle Equipment Rule 2004*, and in the Appendix to this Overview.

³ There was generally agreement, in submissions on the industry consultation paper, with the proposed application of the immobiliser requirement to Class MA, MB and MC vehicles. However, the Independent Motor Vehicle Dealers Association (IMVDA) suggested that the requirement should only apply to vehicles manufactured from 2000 onwards.

- motor sport vehicles;
- vehicles first registered outside New Zealand eight or more years before the date of their entry into service in New Zealand; and
- vehicles re-entering service.

⁴ Compulsory vehicle immobilisation would not apply to ‘scratch-built’ vehicles because of the uniqueness and small quantity of such vehicles built each year. The draft amendment Rule defines a ‘scratch-built vehicle’ (see *Part 2, Definitions*).

How would the proposal be implemented?

The industry consultation paper identified a number of issues that need to be taken into account in implementing a workable policy for the mandatory fitting of immobilisers.

Determining whether an operational immobiliser is fitted

It is proposed that compliance with the immobiliser requirement would be checked as part of Land Transport NZ's existing vehicle entry compliance process.

The industry consultation paper noted that it would be essential to determine:

- if an immobiliser is fitted in a vehicle;
- that the fitted immobiliser is operational; and
- that a fitted and operational immobiliser meets the appropriate standard.

Vehicle importers would be required to source an immobiliser, when a vehicle was imported without one.

What percentage of vehicles imported into New Zealand are already fitted with an immobiliser?

The new car industry advises that approximately 98% of new vehicles imported into New Zealand are already fitted with an immobiliser on arriving in New Zealand. However, it is not possible to estimate accurately the percentage of used imported vehicles that are pre-fitted with an immobiliser. The estimates provided by industry groups in their comments on the consultation paper varied, in some cases markedly. In part, the difficulty lies in distinguishing an immobiliser from a central locking system or alarm system.

In the consultation paper, the Ministry of Transport estimated that a significant percentage of used vehicles imported into New Zealand had immobilisers fitted. Feedback on the consultation paper indicated that this estimate was too high. Consequently, a further survey was conducted in Japan, and the percentage of used vehicles fitted with immobilisers appears to be closer to 18%. The survey was of five hundred post-2000, Japanese domestic vehicles bound for New Zealand. Of the 500 vehicles, only 90 registered as having a transponder in the key and just one had a remote alarm/central locking system which incorporated an immobiliser.

It is certain, however, that over time there will be a significant increase in the percentage of vehicles imported with an immobiliser, because this technology is standard equipment for new vehicles.

Vehicle standards approach

The consultation paper suggested that the joint Australian-New Zealand Standards AS/NZS4601 1999 and AS/NZS3749.1 2004 appeared suitable for adoption for the mandatory vehicle immobiliser initiative. Submissions on the consultation paper confirmed the need to adopt a 'smorgasbord' approach for overseas standards to ensure that all immobilisers fitted as part of a manufacturing process would be deemed as being compliant.

However, given the practical difficulties of gaining access to an immobiliser in a vehicle, and of then determining whether or not it is operating, it is proposed not to proceed with a standards-based approach for determining compliance.

Types of immobiliser

There are three main types of vehicle immobilisation device.

1. *Proximity.* These are controlled by a passive transponder embedded within the ignition key. A passive transponder has no power of its own, but is activated when it is in close proximity to the ignition barrel. It is read by the vehicle's electronic system, deactivating the immobiliser while the transponder remains in position.
2. *Remote control.* A remote control is a battery-powered device (which is either an infrared or radio frequency transmitter) used to send a coded signal to a receiver on the vehicle that activates or deactivates the immobiliser.
3. *Coded plug.* This is an electronic key that plugs into a socket in the vehicle to deactivate the immobiliser. Although it needs to be inserted and removed from the vehicle moments before the engine starts, a coded plug operates in a similar way to a passive transponder.

Proposed alternatives for determining compliance

(1) Key test

It is proposed that the 'test' set out below could be used to determine whether an immobiliser is fitted. The test would consist of two parts, either of which, if successful, would be deemed sufficient evidence of the presence of an immobiliser.

Part 1

Part 1 of the proposed test would entail the use of a 'key reading' device. The ignition key would be inserted into a reader that would detect whether a transponder was present in the key. If the key was fitted with a transponder, this could be taken as evidence of the presence of an immobiliser.

Part 2

If a remote control is present, the system would be activated with a remote control device (or, in the case of a coded plug, without using the plug), and an attempt made to start the vehicle using the ignition key. If the vehicle failed to start, this could be taken as evidence of the presence of an immobiliser.

(2) Manufacturer's evidence

Alternatively, if sufficient evidence (eg, a statement of compliance) from the vehicle manufacturer is provided, confirming the presence of an immobiliser, this would be accepted as evidence of compliance with the Rule.

New imported vehicles are certified largely on the basis of the compliance papers provided by the vehicle manufacturer. Vehicle importers would have to approach individual manufacturers/exporters to obtain immobiliser details.

(3) Retro-fitting of immobilisers

If a certifier is unable to confirm that an immobiliser is fitted to a vehicle using one of the above methods, the vehicle would have to be retro-fitted with an immobiliser.

Retro-fitting of immobilisers

Helpful information was received from the vehicle industry and the vehicle security industry on the logistics of the after-market fitting of immobilisers. This included details of the level of skills required to fit an immobiliser competently and the corresponding training required to produce suitably qualified technicians. From the comments received, it appears that the industry is either developing systems or has systems in place to train people to install immobilisers.

Currently, the vehicle security industry fits approximately 5000 immobiliser units each month throughout New Zealand. These are purchased voluntarily by vehicle owners for vehicles that are in service. Some of these units would be replacements for immobilisers that are no longer functioning properly.

Risks from installing immobilisers after-market

Immobilisers are usually concealed behind the dashboard, requiring the removal of panels to gain access for fitting. The risk of damage to a vehicle's engine management systems, as a result of an immobiliser not being properly installed after-market, was raised in industry comments on the consultation paper.

Based on the information received from the industry, it appears inevitable that some immobiliser systems will fail. This will be more common when immobilisers are installed after-market (although it is not anticipated that problems with immobilisers will be common). This, in turn, will impact on the operation of the vehicle.

Immobiliser failure, and the risk of damage to an engine, can be minimised if the systems are installed by suitably-trained technicians.

Not all vehicles can be fitted with an immobiliser after-market

The Ministry of Transport and Land Transport NZ are aware that not all vehicles may be able to be fitted with an immobiliser after-market. For example, some older vehicles do not have an electronic base or a central wiring loom into which an immobiliser can be wired. An immobiliser could, therefore, not be inserted into such a system.

However, given that the mandatory immobiliser requirement would apply only to vehicles under eight years of age that enter New Zealand from the time the Rule comes into force, it is expected that few vehicles subject to this requirement would be unable to be brought into compliance.

Matters to be taken into account

The *Land Transport Act 1998* provides the legal framework for making Land Transport Rules. *Section 161* states the procedures by which the Minister of Transport makes ordinary rules.

Application of Rule-making criteria

Section 164 of the Act states the matters to be taken into account in making a Rule. In making 'ordinary rules', the Minister is required to give such weight as he or she considers appropriate in each case to a number of matters, which are discussed below. The Act was amended in 2004 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.

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 this amendment Rule is the mandatory fitting of vehicle immobilisers to new and imported used light passenger vehicles that are under eight years old when entering New Zealand.

Risk to land transport safety

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

Stolen vehicles are often involved in Police pursuits. Making vehicles more secure by requiring that they be fitted with devices to help prevent them from being used by unauthorised, and possibly unlicensed, drivers would also help to improve road safety. In 2007, there were 279 crashes involving stolen vehicles (which resulted in 33 minor injuries, 12 serious injuries, and one fatality).

The proposed immobiliser requirement would contribute to the objectives of the NZTS by reducing financial costs to individuals, industry and government that are incurred as a result of vehicle crime. It would also contribute to increased safety and personal security.

Assisting achievement of government's strategic objectives

Economic development, access and mobility, public health and environmental sustainability

Section 164(2)(e) of the Act requires that the Minister have regard to, and give such weight as he or she considers appropriate, 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.

The proposed amendment would help to protect and promote public health by helping to prevent vehicle theft, which often results in stolen vehicles being driven in an unsafe manner (for example, by 'joy-riders') and being involved in crashes. The proposed amendment will also help to assist economic development by reducing the costs associated with vehicle theft.

The mandatory immobiliser proposal would not directly contribute to achieving the other objectives listed above.

International considerations

Sections 164(1) and *164(2)(f)* of the Act require that Rules 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.

New Zealand does not have any international obligations in relation to the use of immobilisers. In developing the proposed amendment Rule, account has been taken of best practice in overseas jurisdictions, specifically the United Kingdom and Western Australia, which have legislated for the compulsory installation of immobilisers.

What are the benefits and costs of the Rule amendment proposal?

Benefits of proposal

The benefits associated with the proposed mandatory vehicle immobiliser requirement, as advised by the Ministry of Justice and the Police, and set out in the consultation paper, include:

- reduced vehicle theft;
- the potential for reduced insurance premiums;
- increased road safety (fewer vehicles would be stolen, thereby reducing the safety risks to road users in the vicinity of a stolen vehicle involved in a Police pursuit);
- savings in Police time as a result of fewer vehicles being stolen;
- increased social well-being and less societal fear of crime.

Reduced vehicle theft

Submitters on the consultation paper unanimously agreed that a mandatory vehicle immobiliser requirement would decrease the opportunistic theft of vehicles. This should correspond to a reduction in Police resources required to investigate crimes involving motor vehicles.

There are reports from overseas that would-be car thieves have broken into vehicle owners' homes in order to find keys if they are thwarted in their attempt to start the vehicle. The proposed amendment is aimed, however, at opportunistic theft, rather than that carried out by experienced car thieves.

Reduced insurance premiums

Agreeing with the benefits outlined in the consultation paper, the Insurance Council of New Zealand estimated that vehicle crime (including theft from vehicles) costs New Zealand \$60 million annually. The biggest risk for vehicle losses of motor vehicle insurers comes from collision-damage claims.

Although it cannot be assumed that insurance premiums will automatically decrease as a result of the proposed immobiliser requirement, a significant reduction in vehicle theft over time would be likely to result in decreased premiums.

Some industry groups have noted that an immobiliser is often required by insurance companies as a condition of insurance, or to lower a premium and, therefore, a regulatory approach was not required. It is acknowledged that the insurance industry is effective at ensuring that vehicles with a high risk of theft have immobilisers fitted, and that other prudent measures are taken to protect these vehicles.

A significant degree of opportunistic vehicle theft is the result of the ineffective security of many used imported vehicles. A much lower percentage of used imported vehicles entering New Zealand are fitted with immobilisers compared with new vehicles. The mandatory immobiliser requirement is largely targeted at securing these vulnerable, used imported vehicles.

Costs of proposal

The industry consultation paper sought information about the cost of an immobiliser unit and its installation and other specific costs of complying with the proposed immobiliser requirement.

Buying and fitting an immobiliser

It is expected that compulsory vehicle immobilisation will add \$200 to \$300 (including installation) to the purchase price of a passenger car that is not fitted with an immobiliser.

Compliance costs

The Ministry of Transport has sought assistance from vehicle and security industry groups in the more difficult task of identifying and quantifying specific costs that would be incurred in implementing the mandatory immobiliser requirement. These include:

- setting-up (and adapting) processes at entry certification sites to certify that vehicles met the new requirement;
- the cost of additional time spent at vehicle inspection checking that an immobiliser is fitted;
- installing an immobiliser, if one needs to be fitted;
- handling and administrative costs that vehicle entry certification sites may face as a result of this requirement;
- the cost of a reduction in efficiency, and possibly the throughput, at entry certification sites, caused by disruption to work-flows and established practices;
- the costs of storing vehicles if they have to remain at entry certification sites for longer periods of time; and

- the cost of delays in a vehicle being certified and sold.

Comments on the consultation paper provided useful general information on likely compliance costs. Your comments on any specific costs of complying with this proposal would be welcomed.

How the proposed amendment Rule fits with other legislation

Offences and penalties

No new offences and penalties are needed to support the requirements in the proposed amendment Rule because the consequence of not having an immobiliser fitted would be that an affected vehicle would not be able to be certified for entry into New Zealand.

In addition, there are no proposed changes to the current offences and penalties provisions for the Vehicle Equipment Rule, which are contained in the *Land Transport (Offences and Penalties) Regulations 1999*.

Fees and charges

No additional fees are proposed in relation to the new requirements.

Consultation

This is the yellow draft of *Land Transport Rule: Vehicle Equipment (Immobilisers) Amendment [2008]*, which Land Transport NZ has released for public comment.

The proposal to introduce the mandatory fitting of vehicle immobilisers was initially consulted on in the blue draft consultation paper, which the Ministry of Transport sent to vehicle industry and vehicle security industry groups in May 2007, seeking input into the development of the proposed requirement.

Land Transport NZ invites comments on the proposals in this yellow draft amendment Rule, including comments on any related benefits and costs. The issues that are raised in your submissions will be analysed and taken into account in redrafting the Rule before it is submitted for government scrutiny and, finally, for signature by the Minister for Transport Safety.

Publication and information

Copies of this document may be obtained by telephoning the Land Transport NZ Contact Centre on 0800 699 000. It is also available on the Land Transport NZ website at:
www.landtransport.govt.nz/consultation/immobilisers-amendment/.

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

Information about the Rules programme and process can be found on the Land Transport NZ website at:
www.landtransport.govt.nz/legislation

An on-line form is provided for registering an interest in Rules.

Final published Land Transport Rules can be purchased from selected bookshops throughout New Zealand that sell legislation. Queries about the availability and price of Rules can be made to the Rule printers and distributors, Wickliffe Ltd, on (06) 358 8231.

Final Rules are also available on the Land Transport NZ website at:
www.landtransport.govt.nz/rules.

Appendix

Description of passenger vehicles

Excerpt from Table A: Vehicle classes

Source: Land Transport Rule: Vehicle Equipment 2004

	Description
Passenger vehicle	A motor vehicle that: (a) is constructed primarily for the carriage of passengers; and (b) either: (i) has at least four wheels; or (ii) has three wheels and a gross vehicle mass exceeding one tonne.
MA (Passenger car)	A passenger vehicle (other than a Class MB or Class MC vehicle) that has not more than nine seating positions (including the driver's seating position).
MB (Forward control passenger vehicle)	A passenger vehicle (other than a Class MC vehicle): (a) that has not more than nine seating positions (including the driver's seating position); and (b) in which the centre of the steering wheel is in the forward quarter of the vehicle's total length.
MC (Off-road passenger vehicle)	A passenger vehicle, designed with special features for off-road operation, that has not more than nine seating positions (including the driver's seating position), and that: (a) has four-wheel drive; and (b) has at least four of the following characteristics when the vehicle is unladen on a level surface and the front wheels are parallel to the vehicle's longitudinal centre-line and the tyres are inflated to the vehicle manufacturer's recommended pressure: (i) an approach angle of not less than 28 degrees; (ii) a breakover angle of not less than 14 degrees; (iii) a departure angle of not less than 20 degrees; (iv) a running clearance of not less than 200 mm; (v) a front-axle clearance, rear-axle clearance, or suspension clearance of not less than 175 mm.