Reprint
as at 1 December 2020

Land Transport Act 1998

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Contents

		Page
	Title	19
1	Short Title and commencement	20
	Part 1 **Preliminary provisions**	
2	Interpretation	20
2A	Transitional, savings, and related provisions	52
3	Act to bind the Crown	52
	Part 2 **Primary responsibilities of participants in land transport system**	
	General responsibilities	
4	General requirements for participants in land transport system	52
5	Drivers to be licensed	53
6	Vehicles to be safe and operated in compliance with rules	54
7	Drivers not to be reckless or dangerous	54
8	Drivers not to be careless or inconsiderate	54
9	Loads transported by vehicles to be secured	55

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Transport.

Responsibilities of road users under ordinary and emergency rules

10 Road users and others to comply with ordinary rules and emergency rules 55

Responsibilities concerning use of alcohol or drugs

11 Drivers not to exceed specified alcohol limits 55
11A Persons may not drive or attempt to drive while impaired and their blood contains evidence of use of qualifying drug 56
12 Persons not to drive while under influence of alcohol or drugs 56

Responsibilities of drivers and other road users concerning enforcement officers

13 Drivers and other road users to comply with directions of enforcement officers, etc 56

Part 3
Additional responsibilities concerning road transport

14 False or misleading information not to be given 57
15 Persons not to impersonate enforcement officers 57
16 Heavy motor vehicles not to be overloaded or in breach of dimension requirements 58
16A Temporary restriction of heavy traffic on roads 58
16B Interference with operation of speed measuring devices 59
17 Distance recorders not to be altered 59
18 Health practitioners to give Agency medical reports of persons unfit to drive 59
19 Licences of certain persons subject to Mental Health (Compulsory Assessment and Treatment) Act 1992 to be suspended 60
20 Traffic surveys not to be conducted unless approved by Agency 62
21 Enforcement officers to ameliorate hazards 62
22 Driver's duties where accident occurs 62
22A Persons not to engage in unauthorised street or drag racing, or other related prohibited activities on roads 63

Bylaws

22AB Road controlling authorities may make certain bylaws 64
22AC Minister may amend, replace, or disallow bylaws 73
22AD Consultation 73
22AE Publication and proof of bylaws 74
22AF Warning notices 74

Traction engine safety

22B Operators of traction engines to hold appropriate current qualification 75

22C Traction engine to be safe and operated in compliance with regulations and rules 75

Part 4
Driver licensing

23 Issue of driver licences 76
24 Agency may issue temporary driver licences 76
24A Authorised persons may request driver licences for certain persons 77
25 Minimum age for driver licensing 79
26 Drivers may be tested and examined 79
27 Suspension and revocation of licences 79
28 Photographic driver licence 79
28A Transitional provisions for photographic driver licences 81
29 Certain driver licences have no effect 81
29A Persons convicted of specified serious offences prohibited from holding passenger endorsement 82
29B Passenger endorsement may be reinstated in certain cases 83
30 Driver licences are property of Agency and are to be surrendered in certain circumstances 85

Part 4A
Transport services licensing

Subpart 1—Primary responsibilities of holders of transport service licences

30A Requirements for vehicles 87
30B Provision of identification information in Braille *[Repealed]* 88

Subpart 2—Fit and proper person test

Assessment criteria

30C General safety criteria 88
30D Additional criteria for small passenger service and vehicle recovery service 89
30E Additional criteria for large passenger service 90
30F Additional criteria for goods service 91

Information requirements

30G Agency may require information for fit and proper person assessment 91
30H Agency's duties concerning prejudicial information 91
30I Non-disclosure by Agency of information for safety reasons 92

Subpart 3—Licensing of transport services

30J Transport service operators must be licensed 93
30K Application for transport service licence 93
30L Grant of licence 93

30M Conditions of goods service licence 94
30N Transfer, assignment, or lease of transport service licence prohibited 95
30O Term of transport service licence 95
30P Driver must have or drive under transport service licence 96
30Q Records to be kept by facilitator of facilitated cost-sharing arrangement 96
30R Agency may revoke approval *[Repealed]* 96

Subpart 4—Revocation of transport service licences

30S When Agency may revoke transport service licence 96
30T Procedure Agency must follow before revoking transport service licence 97
30U Suspension of transport service licence or imposition of conditions 98

Subpart 5—Adverse decisions

30V Interpretation 99
30W Agency to notify proposal to make adverse decision 100
30X Procedure for consideration of information 101
30Y Agency's determination 101

Part 4B
Work time and logbooks

30Z Application of Part 102
30ZA Agency may grant exemptions or approve alternative fatigue management schemes 102

Subpart 1—Work time

30ZB Application of subpart 103
30ZC Limits on work time 104
30ZD Records must be kept 104

Subpart 2—Logbooks

30ZE Application of subpart 105
30ZF Drivers must maintain logbooks 106
30ZG Agency may approve or revoke alternative means of recording matters 106
30ZH Duties regarding logbooks 106

Subpart 3—Evidence in proceedings

30ZI Evidence in proceedings for offences against subpart 1 or subpart 2 108

Part 5
Offences relating to driving (other than alcohol-related offences) and penalties

Offences relating to driver licensing

31	Contravention of section 5(1)(a) or (b) or (4) or 30(2), (3), (3A), (4A), or (4B)	108
32	Contravention of section 5(1)(c)	109
33	Contravention of section 5(2) or (3)	111
33A	Offence to operate as driving instructor without authorisation	111

Offences relating to driving (other than offences involving alcohol)

34	Contravention of section 6	112
35	Contravention of section 7, or section 22 where no injury or death involved	112
36	Contravention of section 7 or section 22 involving injury	113
36AA	Contravention of section 7 by causing death of another person	114
36A	Contravention of section 22A	114
36AB	Contravention of sections 7 and 114 *[Repealed]*	116
36B	Contravention of section 22B or section 22C	116
37	Contravention of section 8	116
38	Contravention of section 8 causing injury or death	117
39	Aggravated careless use of vehicle causing injury or death	117

Offences relating to rules

40	Contravention of ordinary rules	118
41	Contravention of emergency rules	118

Loading offences

42	Failure to secure load	118
43	Overloading and over-dimension offences	119
43A	Courts may impose appropriate fines for infringement offences that are not overloading offences	119

Other offences

44	Contravention of section 14	120
45	Contravention of section 17	120
46	Contravention of section 20	120
47	Contravention of section 22(2), (3), (4), or (5)	120
48	Contravention of section 92(4)	121
49	Contravention of section 97(5) or (6)	121
50	Contravention of section 117(2)	122
51	Contravention of section 198(4)	122
52	Contravening notices, requirements, etc, given or imposed by enforcement officers	122
52A	Contravention of section 114	123

53 Obstruction of enforcement officer or dangerous goods enforcement officer 124
54 Personation of enforcement officer 125
55 Tampering with vehicle surveillance equipment 125
55A Offences concerning alcohol interlock devices 125

Part 6
Driving offences involving drink or drugs, and penalties and procedures

Offences and penalties

56 Contravention of specified breath or blood-alcohol limit 126
57 Contravention of specified breath or blood-alcohol limit by person younger than 20 128
57AA Contravention of specified breath or blood alcohol limit by holder of alcohol interlock licence or zero alcohol licence 129
57A Driving while impaired and with blood that contains evidence of use of qualifying drug 130
58 Contravention of section 12 132
59 Failure or refusal to remain at specified place or to accompany enforcement officer 133
60 Failure or refusal to permit blood specimen to be taken or to undergo compulsory impairment test 134
61 Person in charge of motor vehicle causing injury or death 136
62 Causing injury or death in circumstances to which section 61 does not apply 139
63 Further penalty in certain cases where person driving vehicle used in transport service 140

Defences

64 Defences 141

Mandatory disqualification and assessment for repeat offences

65 Mandatory disqualification and assessment for repeat offences 143
65A Alcohol interlock requirements for repeat offences or certain first time offences involving use of alcohol *[Repealed]* 144

Mandatory alcohol interlock sentence for repeat offences and certain first offences

65AB Qualifying offences 145
65AC Alcohol interlock sentence 146
65AD Injury or death 146
65AE Period of disqualification 146
65AF Alcohol interlock sentence disqualifies person from driving except under alcohol interlock licence 147
65AG Alcohol interlock licence requirements 147
65AH When court may take alcohol interlock sentence into account 148

65AI Exceptions: persons who are not to be given alcohol interlock sentence 148
65AJ Effect of subsequent qualifying offences on alcohol interlock sentence 148
65AK Effect of other subsequent offences on alcohol interlock licence 149

Mandatory zero alcohol requirements for repeat offences

65B Mandatory zero alcohol requirements for repeat offences and certain first offences 149

Name suppression

[Repealed]

66 Names of drivers convicted of alcohol or drug-related offences may not be suppressed *[Repealed]* 150

Blood test fee

67 Blood test fee 150

Enforcement procedures for offences involving intoxication

68 Who must undergo breath screening test 152
69 Who must undergo evidential breath test 153
70 Person may be required to undergo further evidential breath test if initial test fails to produce result 155
70A Right to elect blood test 155
71 Meaning of apparently younger than 20 155
71A Requirement to undergo compulsory impairment test 156
72 Who must give blood specimen at places other than hospital or medical centre 157
73 Who must give blood specimen in hospital or medical centre 160
73A Evidence of controlled drug in blood sample taken under section 72 or 73 may not be used as evidence of use of controlled drugs in prosecutions under Misuse of Drugs Act 1975 163
74 Procedure for dealing with blood specimens 163

Evidential provisions

75 Certificates in blood-alcohol proceedings 165
75A Certificates of compliance for evidential breath-testing devices 168
76 Presumptions relating to blood specimens 169
77 Presumptions relating to alcohol-testing 169
78 Presumptions as to age of driver 171
79 Circumstances in which certificate not admissible in proceedings 171

Part 6A
Offences relating to transport services and penalties

79A Offence to carry on transport service without licence 174
79AB Offence to drive vehicle used in transport service without licence 175
79B Provision of incorrect information 175

79C Failure to present vehicle for inspection 175
79D Contravention of section 30K 176
79E Liability of persons who use unlicensed transport service 176
79F Contravention of section 30M 176
79G Contravention of section 87G 177
79H Contravention of section 128A 177
79HA Failure to keep or produce records 177
79I Contravention of section 128B 178
79J Liability of employers and principal 178
79K Liability of directors of bodies corporate 178
79L Court may require convicted transport service licence holder to sit examination 179
79M Penalties for failure to pay service fares, etc 179

Part 6B
Offences relating to work time and logbooks

Subpart 1—Work time

79N Failure to keep or produce records or comply with conditions of exemption or approval 180
79O Failure to comply with prescribed work time restrictions or rest time requirements 180
79P Defences to work time offences 182
79PA Matters to be taken into account in imposing penalty for offence against section 79O 182

Subpart 2—Logbooks

79Q Failure to discharge duties regarding logbooks 183
79R Offences and proceedings concerning logbooks 183
79S Defences to logbook offences 185

Part 6C
Offences relating to chain of responsibility

79T Offence to cause or require driver to breach speed limits, maximum work time, or rest time requirements 186
79U Offence to cause or require driver to breach maximum gross weight limits 186
79V Search warrants in relation to offences against section 79T or 79U 186

Part 7
Disqualification, demerit points, licence suspension, and vehicle impoundment

Disqualification

80 General penalty of disqualification may be imposed if offence involves road safety 187
81 Mandatory disqualification: court's discretion if special reasons relating to offence 187

82	Effect of disqualification	188
82A	Application for reinstatement if suspended for any period (other than under section 95), or disqualified for period not exceeding 12 months	188
82B	Transitional provision concerning application of section 82A	188
82C	Application for reinstatement following expiry of alcohol interlock licence or zero alcohol licence	189
83	Holder to undergo approved tests or courses if disqualified for more than 1 year	189
84	New licence to be issued if disqualified driver qualifies for specified vehicle classes	190
85	When disqualification starts	191
86	Term of disqualification if person already disqualified	191
87	Particulars of certain court orders to be sent to Agency and offender	191
	Disqualification of transport service driver and other persons	
87A	Disqualification of transport service driver	192
87B	Disqualification of holder of transport service licence from holding transport service licence	193
87C	Procedure for disqualifying person under section 87A or section 87B	193
	Suspension of transport service driver and other persons	
87D	Immediate suspension of transport service driver and other persons in interests of public safety	193
87E	Procedure for suspending persons under section 87D	194
87F	Term of suspension	194
	Effect of disqualification or suspension of transport service driver and other persons	
87G	Effect of disqualification or suspension of transport service driver and other persons	195
	Demerit points system	
88	Demerit points to be recorded by Agency	196
89	Notice of demerit points	197
90	Suspension of licence or disqualification from driving under demerit points system	197
91	Cancellation and reinstatement of demerit points	198
	Driver licence stop orders	
91A	Interpretation	199
91B	Ways in which warning notice or driver licence stop order or details of related fines must be served	200
91C	Liability to driver licence stop order	201
91D	Warning notice to be served on defendant	202

91E Imposition of driver licence stop order 202
91F Effect of driver licence stop order 204
91G Cancellation of driver licence stop order 204
91H Termination of driver licence stop order if traffic fine paid or resolved 205

Other penalties

92 Compulsory attendance at driving improvement course or dangerous goods course 206
93 Court may order compulsory driving test 207
94 Substitution of community-based sentences 208

Mandatory suspension of driver licence

95 Mandatory 28-day suspension of driver licence in certain circumstances 209
95A Extension of 28-day suspension period of driver licence under section 95 212

Impoundment of vehicles

96 Vehicle seized and impounded for 28 days in certain circumstances 212
96A Impoundment of vehicle used in transport service 218
97 Storage of impounded vehicles 220
98 Release of vehicle after 28 days 222

Prohibiting sale or disposal of motor vehicles

98A Commissioner may prohibit sale or disposal of certain motor vehicles 224
98B Appeal of notice to District Court 225

Part 7A
Immobilising devices applied to parked motor vehicles

98C Interpretation 226
98D Immobilising devices applied to parked motor vehicles 226
98E Enforcement of section 98D and related matters 227

Part 8
Mitigation of penalties and rights of appeal

Removal of disqualifications

99 Court may reduce disqualification 228
99A Agency may approve programmes 230
100 Agency to remove certain disqualifications 231
100A Agency may authorise removal of alcohol interlock device and certify that requirements of alcohol interlock sentence have been fulfilled 232
100B Court may cancel alcohol interlock sentence and disqualify driver instead 232

100C Court may impose alcohol interlock sentence if exception no longer applies 232

Removal of licence suspension and return of impounded vehicles

101 Appeal to Agency against mandatory suspension of driver licence 233
102 Appeal to Police against impoundment of vehicle 234

Grant of limited licence

103 Persons who may apply to court for limited licence 236
104 Issue of limited licence to be delayed or prohibited in certain cases 237
105 Court may make order authorising grant of limited licence 238

Rights of appeal

106 General right of appeal to District Court 240
107 Appeals against court orders relating to disqualification or grant of limited licence, and deferral of disqualification 241
108 Appeal against Agency's refusal to remove disqualification or replace alcohol interlock licence with zero alcohol licence 242
109 Appeal against refusal of Agency to remove suspension of driver licence 243
110 Appeal against refusal of Police to direct release of impounded vehicle 243
111 Procedure 244
111A Appeal to High Court on question of law 245
111B Further appeal to Court of Appeal 245

Demerit points

112 Effect of appeal on demerit points 245

Enforceable undertakings

112A Agency may accept enforceable undertakings 246
112B Notice of decision and reasons for decision 246
112C When enforceable undertaking is enforceable 247
112D Compliance with enforceable undertaking 247
112E Contravention of enforceable undertaking 247
112F Withdrawal or variation of enforceable undertaking 247
112G Proceedings for contravention or alleged contravention 248

Part 9
Enforcement of responsibilities

General enforcement powers

113 Enforcement officers may enforce transport legislation 248
113A Power to inspect records 250
114 Power to require driver to stop and give name and address, etc 251
115 Enforcement officers may give directions prohibiting driving of vehicles 252

116 Enforcement of directions 254
117 Moved vehicle not to be damaged and to be returned to person entitled to possession 254
118 Requirement to give information as to identity of driver or passenger 254

Powers of entry, arrest, immobilisation, and impoundment

119 Powers of entry 256
120 Arrest of persons for alcohol or drug-related offences, or assault on enforcement officer 257
121 Enforcement officer may immobilise vehicle, etc, in specified circumstances 258
121A Enforcement officer may give directions or immobilise vehicle if driver breaches certain licence conditions 259
122 Enforcement officer may seize and impound vehicle for up to 12 hours in emergency 260
123 Enforcement officer may seize and impound vehicle for up to 7 days in relation to certain offences 260

Enforcement powers for offences involving certain vehicles

124 Inspection of vehicles required to have evidence of vehicle inspection and certificate of loading 261
125 Stopping, inspection, and weighing of heavy vehicles and certain transport service vehicles 262
126 Off-loading of overloaded vehicle 263
127 Protection against claims resulting from action under section 125 or section 126 264
128 Enforcement officer to order heavy vehicle to stop until load secured 265
128A Enforcement officer's powers in respect of non-complying small passenger service vehicles 265
128B Enforcement officer's powers in respect of non-complying vehicle recovery service vehicles 265
128C Enforcement officer's powers in respect of certain motor vehicles subject to service inspection and certification requirements 266
128D Appointment of parking wardens 266
128E Powers of parking wardens 267
128F Powers of enforcement officers in relation to public transport service fares 268

Dangerous goods

129 Vehicles may be inspected and directed to remain stopped for contravening dangerous goods rules 269
130 Power to inspect railway lines 270
131 Power to inspect premises used for loading and unloading of dangerous goods 271

132 Inspection powers concerning dangerous goods 272

Part 10
Proceedings enforcing responsibilities

133 Owner liability for moving vehicle offences and special vehicle lane offences 272
133A Owner liability for stationary vehicle offences 274
134 Strict liability for offences involving insecure loads and loads falling from vehicles 276

Commencement of proceedings

135 Commencing proceedings, and jurisdiction, for offences 277
136 Time for instituting proceedings 277

Certain matters not defences

137 Compliance with speed limit and certain other matters not to be defences 278

Infringement offences

138 Infringement offences 278
139 Issue of infringement notice 279
139A Towage fees if parking offences prosecuted 280
140 Contents of infringement and reminder notices 280
141 Provisions relating to infringement fees 282

Evidence

142 Evidence of driver history relating to infringement fees 283
143 Evidence of driver licence 283
144 Evidence in certain proceedings 284
145 Evidence of approved vehicle surveillance equipment 285
145A Evidence and proof 285
146 Evidence of testing and accuracy of speed-measuring devices, etc 286
147 Evidence of accuracy of weighing devices and sites 287
147A Certification of accuracy of alternative weighing technology 289
148 Presumptions relating to axle weights and dangerous goods 290
149 Admissibility of certain statements by drivers of certain vehicles 291
150 Evidence of certain documents 291
151 Evidence of rules 292

Part 11
Land transport subordinate legislation

152 Power of Minister to make ordinary rules 292
152A Governor-General may make ordinary rules 293
153 Rules concerning road user behaviour 294
154 Rules concerning driver licensing 294
155 Rules concerning vehicles 295
156 Rules concerning dangerous goods 296

157 Rules concerning roads 296
158 Rules concerning licensing, standard-setting, etc 297
159 Rules concerning land transport documents 301
159A Ordinary rule may require committee to be established 302
160 Other provisions concerning ordinary rules 303
161 Procedure concerning ordinary rules 304

Emergency rules

162 Agency may make emergency rules 305
163 Procedure for making emergency rules 305

General provisions concerning making of rules

164 Matters to have regard to when making or recommending rules 306
165 Incorporation by reference 307
166 Agency may grant exemptions 309
166A Agency may grant exemptions to New Zealand Defence Force 310

Regulations

167 Regulations 310
168 Regulations relating to fees and charges for land transport 314
168AAA Regulations relating to register of land transport records 316
168AA Land transport revenue to be paid into national land transport fund 317
168AAB Certain orders are confirmable instruments 317
168A Agency may declare that vehicle is mobility device or is not motor vehicle 318
168B Order in Council for certain land transport revenue *[Repealed]* 318
168C Piloting fees 318

Part 12
The Crown and land transport

169 Objectives of Minister 319
169A Functions of Minister 319

Part 13
Land transport strategies

[Repealed]

National land transport strategy

[Repealed]

170 National land transport strategy *[Repealed]* 320
171 Procedure for completing national land transport strategy *[Repealed]* 320
172 Currency of national land transport strategy *[Repealed]* 320
173 Amendment or revocation of national land transport strategy *[Repealed]* 320
174 Effect of national land transport strategy *[Repealed]* 320

Regional land transport strategies

[Repealed]

175 Regional land transport strategies *[Repealed]* 320
176 Currency of regional land transport strategies *[Repealed]* 321
177 Copies of regional land transport strategy to be made available to certain persons *[Repealed]* 321
178 Regional land transport committees *[Repealed]* 321
179 Consultation requirements for preparation of regional land transport strategies *[Repealed]* 321
180 Regional councils to consider contracting out functions under this Act *[Repealed]* 321
181 Effect of regional land transport strategies *[Repealed]* 321
182 Annual reports on regional land transport strategy *[Repealed]* 321
183 Certain territorial authorities to prepare land transport strategy *[Repealed]* 321

Part 14
Administrative provisions

184 Land Transport Safety Authority of New Zealand continued *[Repealed]* 322
185 Authority to be Crown entity *[Repealed]* 322
186 Director of Land Transport *[Repealed]* 322
187 Acting Director *[Repealed]* 322
188 Use of words Land Transport Safety Authority *[Repealed]* 322

Role of Land Transport Safety Authority and Director

[Repealed]

189 Principal objective of Authority *[Repealed]* 322
190 Functions of Authority *[Repealed]* 322
191 Authority to comply with policy directions *[Repealed]* 323
192 Performance agreement *[Repealed]* 323
193 Minister may determine content of agreement or amendment *[Repealed]* 323
194 Amendment of agreement *[Repealed]* 323
195 Service charter *[Repealed]* 323

Powers and additional functions of Authority and Director

[Repealed]

196 Authority to have powers of natural person *[Repealed]* 323
197 Functions and powers of Director *[Repealed]* 323
198 Inspections and audits 323
199 Agency to maintain register of driver licences 324
199A Register of transport service licences 327
200 Restrictions on access to photographic images of driver licence holders 328

Register of land transport records

200A Interpretation 329
200B Secondary legislation may require creation of land transport record 329
200C Land transport records must be created for certain bylaws 330
200D Land transport records may be created for certain bylaws 330
200E Register of land transport records 330
200F Purpose of register 330
200G When Registrar must create land transport record 331
200H Effect of land transport record 331
200I Contents of register 331
200J Operation, access, and search of register 331
200K Amendments to register 332
200L Submitting information to Registrar 332
200M Registrar must notify person that record created 332
200N Registrar may notify record or changes to register 332
200O Certified copy of information on register 333

Use of outside agencies in performance of functions

[Repealed]

201 Authority to consider delegating or contracting out of functions and powers *[Repealed]* 333
202 Authority may arrange for services to be provided by outside agencies *[Repealed]* 333

Delegations

203 Authority may delegate functions or powers to employees *[Repealed]* 333
204 Director may delegate functions or powers to employees of Authority *[Repealed]* 334
205 Director may delegate functions or powers to persons outside Authority *[Repealed]* 334
206 General provisions concerning delegations under sections 204 and 205 *[Repealed]* 334
207 Delegation of Minister's functions or powers to Agency 334

Part 15
Miscellaneous provisions

208 Appointment of enforcement officers and dangerous goods enforcement officers 335
208A Agency is enforcement officer for certain infringement offences 336
209 Taking of blood specimens for statistical or research purposes 337
209AA Expiry and repeal of section 209(2A) to (2C) 338
209A Analysing blood specimens for statistical or research purposes related to use of drugs or alcohol 338

210 Service of notices 338
210A Transfer of responsibilities between regional councils and territorial authorities 339
211 Commissioner to provide traffic accident reports 339
211A Payment of fees 340
212 Agency to pay sum to assessment centres 340
213 Customs control over imported vehicles 340
213A Public right of way at level crossings 340

Part 16
Repeals, amendments to other enactments, and transitional and savings provisions

214 Repeals 341
215 Amendments to other enactments 341
216 Transitional regulations 341
217 Expiry of section 216 *[Repealed]* 342
218 Regulations and other enactments having effect under this Act 342
219 Expiry of section 218 *[Repealed]* 343
220 Rules having effect under this Act 343
221 Appointments 343
222 Saving of certain land transport documents 344
223 Transfer provisions for certain employees of Agency 344
224 Saving of certain notices issued by enforcement officers 346
224A Saving of certain directions given by parking wardens 346
224B Savings of bylaws made under certain Acts 346
225 Savings relating to court orders, proceedings, etc 346
226 Saving of notices suspending driver licences 347
227 Saving of demerit points 347
228 Saving of certain applications under Transport Act 1962 347
229 Savings relating to rules and land transport strategies 347
230 Savings relating to functions of Agency 348
231 Savings relating to blood specimens taken under Transport Act 1962 348
232 Savings relating to blood specimens taken under this Act and posted in accordance with Transport Act 1962 349

Part 17
Motor vehicle registration and licensing

Preliminary provisions

233 Interpretation matters applying to this Part 350

Register of motor vehicles

234 Register of motor vehicles 352
235 Purposes of register 352
236 Application for information from register 352

237 Entitlement to receive information 353
238 Registrar may confirm or deny match of information 354
239 Further restrictions 354
240 Complaints procedure 355
241 Authorised access to name and address only 355

Registration and licensing requirements

242 Motor vehicles must be registered and licensed 356
243 Application for registration 357
244 Application for, and issuing of, licence 358
245 Commencement of licence 358
246 Change of use of motor vehicle 358

Change of registered person on sale or other disposition

247 Obligations of sellers and acquirers of motor vehicles 359
248 Prohibition against use of motor vehicle 359
249 Circumstances when motor vehicle may be seized and impounded 360
250 Personal property 360
251 Storage of impounded motor vehicles 361
252 Release of motor vehicle 361
253 Disposal of motor vehicle 362
254 Impounded motor vehicle not to be damaged 363

Cancellation of registration

255 Cancellation of registration 363
256 Discretion to refund fees 363

Registration plates

257 Issue of plates and certificates of registration 364
258 Supplementary plates 364
259 Contract to dispose of rights to personalised plates 364
260 Acquisition and disposal of personalised plates 365
261 Eligibility for trade plates 366
262 Application for trade plates 366
263 Transitional provision for existing registration plates 366

General provisions relating to registration and licensing

264 Replacement of certificate of registration, licence, or registration plates 366
265 Surrender and seizure of registration plates and facsimile plates 367
266 Registrar may prohibit or decline to issue plates 368
267 Appeal to District Court 368

Offences and penalties

268 Infringement offences 369

Regulations

269 Regulations 369
269A Additional fee for certain RUC vehicles 373
270 Fees and charges identified as land transport revenue 374

Appointment

271 Appointment of Registrar 375

Delegations and authorisations

272 Delegations 376
273 Authorisations by Registrar 377

Fees and charges

274 Land transport revenue to be paid into national land transport fund 377
275 Other prescribed fees received under this Part 377

Schedule 1
Transitional, savings, and related provisions 379

Schedule 1
Provisions concerning Land Transport Safety Authority of New Zealand 382

[Repealed]

Schedule 2
Enactments repealed 383

Schedule 3
Enactments amended 385

Schedule 4
New Parts 1, 2, 5, 7, 8, 9, and 10 substituted in Schedule 2 of Transport Act 1962 388

An Act—

(a) to promote safe road user behaviour and vehicle safety; and

(b) to provide for a system of rules governing road user behaviour, the licensing of drivers, and technical aspects of land transport, and to recognise reciprocal obligations of persons involved; and

(c) to consolidate and amend various enactments relating to road safety and land transport; and

(d) to enable New Zealand to implement international agreements relating to road safety and land transport

1 Short Title and commencement

(1) This Act may be cited as the Land Transport Act 1998.

(2) Sections 5(4), 23, 24, 25, 28, 31(1)(c), 95, 96(1), (2), (3), and (5), and 199 come into force on a date to be appointed by the Governor-General by Order in Council; and different dates may be appointed by 1 or more Orders in Council for different provisions.

(3) The repeals specified in clauses 1 to 14 of Part 4 of Schedule 2 come into force on a date to be appointed by the Governor-General by Order in Council; and different dates may be appointed by 1 or more Orders in Council for different provisions in that schedule.

(4) *[Repealed]*

(5) The rest of this Act comes into force on 1 March 1999.

Section 1(2): sections 5(4), 23, 24, 25, 28, 31(1)(c), 95, 96(1), (2), (3), and (5), and 199 brought into force, on 3 May 1999, by clause 2 of the Land Transport (Commencement of Provisions) Order 1999 (SR 1999/96).

Section 1(3): Schedule 2 Part 4 clause 9 brought into force, on 1 March 1999, by clause 2 of the Land Transport (Commencement of Repeals) Order 1999 (SR 1999/28).

Section 1(3): Schedule 2 Part 4 clauses 3, 5, and 13 brought into force, on 3 May 1999, by clause 2 of the Land Transport (Commencement of Repeals) Order (No 2) 1999 (SR 1999/97).

Section 1(3): Schedule 2 Part 4 clause 1 brought into force, on 27 February 2005, by clause 2 of the Land Transport (Commencement of Repeals) Order 2004 (SR 2004/452).

Section 1(4): repealed, on 29 June 2009, by section 4 of the Land Transport Amendment Act 2009 (2009 No 17).

Part 1
Preliminary provisions

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

accompany, in relation to the accompanying of an enforcement officer to a place, includes remaining with an enforcement officer at a place whether or not a journey is involved

Agency means the New Zealand Transport Agency established under section 93 of the Land Transport Management Act 2003

alcohol interlock device means a device that—

(a) is a part of the starting system of a motor vehicle; and

(b) uses breathalyser technology to determine whether the starting system should start the motor vehicle; and

(c) is, for the purposes of sections 65AB to 65AK, approved by the Minister of Transport (after consulting the Science Minister) by notice in the *Gazette*

alcohol interlock licence means a driver licence issued to a person who has been authorised to obtain an alcohol interlock licence by an order of a court made under section 65AC

alcohol interlock sentence has the meaning given in section 65AC

alternative fuel system means a fuel storage and conducting system that is used to provide liquid petroleum gas, compressed natural gas, or any other pressurised liquid or gaseous fuel (other than petrol or diesel) for the purpose of propulsion of a vehicle

ambulance means a motor vehicle designed and used principally for the carriage of sick or injured persons

apparently younger than 20 has the same meaning as it has in section 71

approved analyst means—

(a) a person who is designated by the Science Minister, by notice in the *Gazette*, as the analyst in charge of an approved laboratory; or

(b) a person who works in an approved laboratory and who is authorised, by the analyst in charge of that laboratory, to act as an approved analyst, either generally or in a particular case

approved health authority means an institution approved by the Minister, with the agreement of the Minister of Health, for the purposes of section 209

approved laboratory means a laboratory approved by the Science Minister, by notice in the *Gazette*, for the purposes of analysing blood specimens taken for the purposes of this Act

approved provider, in relation to alcohol interlock devices, means a person approved by the Agency to install, maintain, or remove alcohol interlock devices

approved vehicle surveillance equipment means vehicle surveillance equipment of a kind approved by the Minister or the Minister of Police, by notice in the *Gazette*

assessment centre means an establishment or individual for the time being approved as an assessment centre for the purposes of this Act by the chief executive of the Ministry of Health

axle means 1 or more shafts, spindles, or bearings in the same vertical transverse plane by means of which, in conjunction with wheels mounted on those shafts, spindles, or bearings, a portion of the weight of the vehicle is transmitted to the roadway; and, except as the provisions of this Act or of the rules otherwise provide, the following provisions apply for the purposes of this Act and the regulations and rules:

(a) if 2 or more wheels of a motor vehicle are substantially in the same line transversely and some or all of them have separate axles, the axles of all those wheels are to be treated as 1 axle:

(b) if the longitudinal centre line of an axle of a motor vehicle is less than 1 metre distant from the longitudinal centre line of another axle, the 2 axles are to be treated as 1 axle (**a dual axle**):

(c) for the purposes of measuring the distance of a dual axle from any other axle, the measurement must be taken from the longitudinal centre line of that one of the 2 axles comprising the dual axle which is nearer to the axle from which the distance is to be measured

blood specimen means a specimen of venous blood taken in accordance with normal medical procedures

blood specimen collecting instrument means—

(a) a needle and syringe; or

(b) an instrument of a kind designed for the taking of blood specimens approved by the Minister of Police (after consulting the Science Minister and the Minister of Transport) by notice in the *Gazette*

blood specimen collecting kit means a package having endorsed on it or affixed to it or included in it a label indicating that it is a blood specimen collecting kit and that it has been supplied by or on behalf of a laboratory for the time being approved by the Science Minister, by notice in the *Gazette*, for the purpose of supplying or causing to be supplied blood specimen collecting kits

blood specimen collecting procedure means the taking of a blood specimen by a blood specimen collecting instrument in a manner prescribed by the Minister of Police by notice in the *Gazette*

blood test means the analysis of a blood specimen

blood test fee means the fee for the analysis of a blood specimen prescribed by the Minister of Police, by notice in the *Gazette*, under section 67

breath screening device means a device of a kind approved for the purpose of breath screening tests by the Minister of Police, by notice in the *Gazette*

breath screening test means a test carried out by means of a breath screening device in a manner prescribed in respect of that device by the Minister of Police, by notice in the *Gazette*

carriage includes haulage

certificate of compliance means a certificate given under section 75A by a person authorised by the Science Minister

certificate of loading means a certificate of loading issued under the regulations or the rules

Commissioner means the Commissioner of Police

compulsory impairment test means a test, carried out in a manner prescribed by the Minister of Police by notice in the *Gazette*, to determine whether a person's capacity to drive is impaired

concurrent offence means an offence—

(a) that is not a qualifying offence; and

(b) that occurred as part of the same series of events as the facts that gave rise to the person's conviction for a qualifying offence; and

(c) for which the offender may or must be disqualified from holding or obtaining a driver licence under this Act or under section 124 of the Sentencing Act 2002

control, in relation to a transport service, means direct or indirect control of the management of the whole or part of the transport service by a shareholding or the holding of any position (however described) in the management of the whole or part of the transport service that gives the person a significant influence on the operation of the whole or part of the service (whether or not other persons are also involved)

court means the District Court

cruising means driving repeatedly in the same direction over the same section of a road in a motor vehicle in a manner that—

(a) draws attention to the power or sound of the engine of the motor vehicle being driven; or

(b) creates a convoy that—

(i) is formed otherwise than in trade; and

(ii) impedes traffic flow

cumulative work day means a period—

(a) during which work occurs; and

(b) that—

(i) does not exceed 24 hours; and

(ii) begins after a continuous period of rest time of at least 10 hours

cumulative work period means a set of cumulative work days between continuous periods of rest time of at least 24 hours

dangerous goods means goods declared by rules made under this Act to be dangerous goods

dangerous goods enforcement officer means a person appointed by warrant under section 208

design, in relation to a motor vehicle, refers to the construction of the motor vehicle, and not its use or intended use; and **designed** has a corresponding meaning

drink means alcoholic drink

driver, in relation to a vehicle, includes the rider of the motorcycle or moped or bicycle; and **drive** has a corresponding meaning

driver licence means a licence to drive that is issued or has effect under this Act; and includes an endorsement on a driver licence

driver licence stop order means an order imposed under section 91E

enforcement authority, in relation to an infringement offence, means (except in relation to Part 17)—

(a) the New Zealand Police, in any case:

(b) the Agency, in the case of an infringement offence for which an infringement notice is issued by an employee of the Agency or on behalf of the Agency:

(ba) an airport authority:

(c) *[Repealed]*

(d) a local authority, in the case of an infringement offence for which an infringement notice is issued by an employee of the local authority or on behalf of the local authority:

(e) a public road controlling authority that is an enforcement authority for the purposes of an Order in Council made under section 46 of the Land Transport Management Act 2003, in the case of an infringement offence that is a toll offence

enforcement officer means—

(a) a constable:

(b) a Police employee who is not a constable who is authorised for the purpose by the Commissioner:

(c) a person who is appointed to that office by warrant under section 208 or who holds that office by virtue of this Act:

(d) the Agency, in the circumstances set out in section 208A

evidence of vehicle inspection, in relation to a vehicle, means any certificate, label, or document issued under this Act as evidence of the completion of the periodic vehicle inspection requirements in respect of that vehicle

evidential breath test means a test carried out by means of an evidential breath-testing device in a manner prescribed in respect of that device by the Minister of Police, by notice in the *Gazette*

evidential breath-testing device means a device of a kind approved for the purpose of evidential breath tests by the Minister of Police, by notice in the *Gazette*

facilitate, in relation to a small passenger service,—

(a) means to enable drivers and passengers to connect by electronic or any other means (for example, by telephone, Internet site, application, or software); but

(b) does not include the mere provision of an answering or call centre service

facilitated cost-sharing arrangement means a small passenger service that is facilitated by a facilitator (whether or not the facilitator is paid) under which a passenger is carried in return for the driver's costs being reimbursed, which costs—

(a) may be up to a maximum amount per kilometre set by the Minister by notice in the *Gazette* (for example, the costs of fuel and reasonable vehicle wear and tear); but

(b) may not include—

(i) payment for the driver's driving or travelling time; or

(ii) any infringement fee incurred in the course of the journey; or

(iii) registration and licensing costs for the driver or the driver's vehicle

facilitator means a person who facilitates a small passenger service

financial year, in relation to the Agency, means the period of 12 months commencing on 1 July and ending with the close of 30 June

fire brigade includes—

(a) a defence fire brigade and an industry brigade (as those terms are defined in section 6 of the Fire and Emergency New Zealand Act 2017); and

(b) employed firefighters or other members of a defence fire brigade or an industry brigade; and

(c) employees, volunteers, and contractors of Fire and Emergency New Zealand who are operational personnel delivering designated services (as those terms are defined in section 6 of the Fire and Emergency New Zealand Act 2017)

former enactment means a provision of the Transport Act 1962, or of Part 2 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986, or of the Land Transport Act 1993, repealed by this Act

goods means all kinds of movable personal property; and includes articles sent by post, and animals

goods service—

(a) means the carriage of goods on any road, whether or not for hire or reward, by means of a motor vehicle whose gross vehicle mass is 6 000 kg or more; and

(b) includes the letting on hire of a motor vehicle whose gross vehicle mass is 6 000 kg or more by a person who drives the vehicle or provides a driver for the vehicle, where the motor vehicle is used for the carriage of goods; but

(c) does not include—

(i) a vehicle recovery service; or

(ii) a service involving the carriage of goods for personal domestic purposes where the service is not operated for more than a total of 7 days in any 12-month period; or

(iii) any carriage of goods by a passenger service vehicle where the carriage is part of a contract for the carriage of passengers or where the carriage is of such small amounts of goods, or occurs so infrequently, that it does not form a significant part of the overall operations of the vehicle; or

(iv) the use of trucks by licensed motor vehicle dealers to carry goods for demonstration and sale purposes; or

(v) the use of vintage vehicles to carry goods for display purposes; or

(vi) the use of trailers towed by small passenger service vehicles to carry passengers' luggage; or

(vii) any service specified as an exempt goods service in the regulations or the rules

goods service licence means a licence granted or deemed to be granted under subpart 3 of Part 4A that authorises its holder to carry on a goods service

goods service vehicle—

(a) means a motor vehicle used or capable of being used in a goods service for the carriage of goods; but

(b) does not include a vehicle specified as an exempt goods service vehicle in the regulations or the rules

gross vehicle mass means the maximum safe operating mass for a vehicle (including the mass of any accessories, crew, passengers, or load) that is derived from the design, capabilities, and capacities of the vehicle's construction, systems, and components, and that—

(a) is determined by—

(i) the Agency; or

(ii) the manufacturer of the vehicle; or

(iii) if the vehicle is modified after manufacture, a certifier approved by the Agency; and

(b) may be recorded in kilograms on the register of motor vehicles

gross weight, in relation to a vehicle or combination of vehicles, means the weight of the vehicle or of the vehicles comprising the combination, together with the load that the vehicle or (as the case may be) the vehicles are for the time being carrying, including equipment and accessories; and, for the purposes of this Act and of the regulations and the rules, and without limiting the

methods by which the gross weight of a vehicle may be determined, the gross weight of a vehicle may be determined by adding the weight on its axles or groups of axles

health practitioner has the same meaning as in section 5 of the Health Practitioners Competence Assurance Act 2003

heavy motor vehicle means a motor vehicle (other than a motorcar that is not used, kept, or available for the carriage of passengers for hire or reward) having a gross vehicle mass exceeding 3 500 kg

heavy traffic means—

(a) the use of any heavy motor vehicle; or

(b) any other traffic declared to be heavy traffic by the Agency by notice in the *Gazette*

hospital means a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001

image, in relation to approved vehicle surveillance equipment, includes a photograph, an electronic form of information storage, and the display and transmission of any pictorial or digital information

infringement offence means—

(a) a moving vehicle offence:

(ab) a stationary vehicle offence:

(b) an overloading or over-dimension offence:

(ba) an offence against this Act concerning logbooks that is committed by a transport service driver:

(c) an infringement offence specified in regulations made under this Act:

(ca) a toll offence:

(d) any other offence against this Act or any other enactment that is specified as an infringement offence against this Act (other than an offence that carries a penalty of imprisonment or mandatory disqualification from holding or obtaining a driver licence)

large passenger service means a passenger service provided in a large passenger service vehicle

large passenger service licence means a licence granted or deemed to be granted under subpart 3 of Part 4A that authorises its holder to carry on a large passenger service

land transport means transport on land by any means and the infrastructure facilitating such transport; and includes rail, surface-effect vehicles, and harbour ferries

land transport Act means—

(a) the Government Roading Powers Act 1989; and

(b) the Land Transport Act 1998 (this Act); and

(c) the Land Transport Management Act 2003; and

(d) the Railways Act 2005; and

(e) the Road User Charges Act 2012

land transport documents means licences, permits, approvals, authorisations, exemptions, certificates, and similar documents issued under this Act, the Government Roading Powers Act 1989, the Railways Act 2005, or the Road User Charges Act 2012

land transport record means a record of a decision or any other thing that is included in the register of land transport records established by section 200E

land transport register includes—

(a) registers kept under this Act, the Railways Act 2005, or the Road User Charges Act 2012; and

(b) other information and records relating to vehicle and operator licensing kept by the Agency

large passenger service vehicle means any passenger service vehicle that is designed or adapted to carry more than 12 persons (including the driver)

licensed means,—

(a) in relation to a driver,—

(i) licensed by or under this Act to drive vehicles of a specified class or classes; or

(ii) licensed for a specified purpose or to carry out a specified activity, including an authority conferred by an endorsement on a driver licence:

(b) in relation to a vehicle, licensed under Part 17

light rail vehicle has the same meaning as in section 4(1) of the Railways Act 2005

light rental service vehicle means a rental service vehicle having a gross vehicle mass of not more than 3 500 kg

load—

(a) includes part of a load; and

(b) includes covers, ropes, ties, blocks, tackles, barrows, or other equipment or object used in the securing or containing of loads on vehicles or the loading or unloading of vehicles, whether or not any other load is on the vehicle; but

(c) does not include animal wastes discharged from animals being carried on a vehicle at the time

local authority means any regional council or territorial authority within the meaning of the Local Government Act 2002

logbook means a logbook that is in a form approved by the Agency in accordance with the rules, and includes any alternative means approved under section 30ZG

mass, in relation to a vehicle, means the quantity of material contained in or on that vehicle that, when subjected to acceleration due to gravity, will exert downwards on a level surface a force that can be measured as the weight of the vehicle

medical centre means any place where a medical examination or medical care or treatment is carried out or given

medical expenses means the expenses incurred by a health practitioner or medical officer in taking a blood specimen

medical laboratory technologist means a health practitioner who is, or is deemed to be, registered with the Medical Sciences Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medical laboratory science

medical officer means a person acting in a hospital and who, in the normal course of the person's duties, takes blood specimens

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

member means a person appointed as a member of the Agency

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act or the relevant Part or provision of this Act

Minister of Police means, subject to any enactment, the Minister who, under authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the Police

Ministry means, subject to any enactment, the Ministry that is, with the approval of the Prime Minister, for the time being responsible for the administration of this Act

mobility device means—

(a) a vehicle that—

(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and

(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or

(b) a vehicle that the Agency has declared under section 168A(1) to be a mobility device

moped means a motor vehicle (other than a power-assisted pedal cycle) that has—

(a) 2 or 3 wheels; and

(b) a maximum speed not exceeding 50 kilometres per hour; and

(c) either—

(i) an engine cylinder capacity not exceeding 50 cc; or

(ii) a power source other than a piston engine

motor vehicle—

(a) means a vehicle drawn or propelled by mechanical power; and

(b) includes a trailer; but

(c) does not include—

(i) a vehicle running on rails; or

(ii) *[Repealed]*

(iii) a trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; or

(iv) a trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or

(v) a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or

(vi) a pedestrian-controlled machine; or

(vii) a vehicle that the Agency has declared under section 168A is not a motor vehicle; or

(viii) a mobility device

motorcycle—

(a) means a motor vehicle running on 2 wheels, or not more than 3 wheels when fitted with a sidecar; and

(b) includes a vehicle with motorcycle controls that is approved as a motorcycle by the Agency; but

(c) does not include a moped

moving vehicle offence means an offence detected by approved vehicle surveillance equipment that is—

(a) a speeding offence; or

(b) an offence in respect of the failure to comply with the directions given by a traffic signal or a traffic sign that is a variable traffic or lane control sign; or

(c) any offence against regulations made under this Act or the Transport (Vehicle and Driver Registration and Licensing) Act 1986 that is declared by regulations under this Act to be a moving vehicle offence for the purposes of this definition; or

(d) a toll offence

non-serviced area means an area that is identified on an Internet site maintained by or on behalf of the Agency and—

(a) is 70 km or more from an approved provider's service centre or is on an island without an approved provider's service centre; and

(b) is not able to be serviced by an approved provider via remote technology

novice driver has the meaning specified by the rules

nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing whose scope of practice permits the performance of general nursing functions

offence against this Act includes an offence against or prescribed by the regulations

operate, in relation to a vehicle, means to drive or use the vehicle on a road, or to cause or permit the vehicle to be on a road or to be driven on a road, whether or not the person is present with the vehicle; and **operator** has a corresponding meaning

organised criminal activity means an activity that—

(a) involves 2 or more persons; and

(b) has the acquisition of income or assets by means of a continuing course of criminal conduct as one of its objects

over-dimension offence means an offence against any enactment that is specified as an over-dimension offence by the regulations

overloading offence means an offence against any enactment that is specified as an overloading offence by the regulations

owner, in relation to a motor vehicle, means the person lawfully entitled to possession of the vehicle, except where—

(a) the motor vehicle is subject to a bailment that is for a period not exceeding 28 days; or

(b) the motor vehicle is let on hire pursuant to the terms of a rental-service licence,—

in which case **owner** means the person who, but for the bailment or letting on hire, would be lawfully entitled to possession of the motor vehicle; and **owned** and **ownership** have corresponding meanings

parking means,—

(a) in relation to any portion of a road where parking is for the time being governed by the location of parking meters placed pursuant to a bylaw of a local authority, the stopping or standing of a vehicle on that portion of the road for any period exceeding 5 minutes:

(b) in relation to any other portion of a road, the stopping or standing of a vehicle on that portion of the road

parking offence means an offence described in paragraph (a) of the definition of stationary vehicle offence

parking warden means a person appointed to hold the office of parking warden under section 128D

participant, in relation to the land transport system, means a person who does anything for which a land transport document is required

passenger service—

(a) means—

(i) the carriage of passengers on any road for hire or reward by means of a motor vehicle; and

(ii) the carriage of passengers on any road, whether or not for hire or reward, by means of a large passenger service vehicle; and

(b) includes the carriage of passengers on any road—

(i) that involves a specific charge on passengers for transport, including part payments to cover fuel and donations (which are expected as a condition of carriage); or

(ii) by a person or an organisation that is funded by another person or organisation specifically for the provision of transport; or

(iia) after a connection between a passenger and a small passenger service facilitated by a facilitator; or

(iii) in which the carriage of passengers is an integral part of, or reasonably necessary to provide, another service or activity (other than a transport service) for which payment is made; or

(iv) in which the carriage of passengers is made using the vehicle provided by one of the passengers and the driver is paid for the carriage; or

(v) that involves the letting on hire of a vehicle by a person who drives the vehicle or provides a driver for the vehicle if, during the hiring, the vehicle is used for the carriage of passengers; but

(c) does not include—

(i) private ambulance services provided by organisations primarily for their employees, being ambulance services that are available to the general public in an emergency only when public ambulance services cannot provide a service; or

(ii) any service using a vehicle that is specified as an exempt passenger service vehicle in the regulations or the rules; or

(iii) any service specified as an exempt passenger service in the regulations or the rules

passenger service vehicle—

(a) means a vehicle used or available for use in a passenger service for the carriage of passengers; but

(b) does not include—

(i) a vehicle designed or adapted to carry 12 or fewer persons (including the driver) provided by one of the passengers being carried; or

(ii) a vehicle specified as an exempt passenger service vehicle in the regulations or the rules

passive breath-testing device means a passive breath-testing device of a kind approved by the Minister of Police, by notice in the *Gazette*

permanent speed limit means a speed limit that is in force except when a seasonal, variable, minimum, emergency, or temporary speed limit is in force

positive, in relation to an evidential breath test, means an evidential breath test that indicates,—

(a) in the case of a person who holds an alcohol interlock licence or a zero alcohol licence, that the breath of the person who underwent the test contains alcohol; or

(b) in the case of a person who is apparently younger than 20, that the breath of the person who underwent the test contains alcohol; or

(c) in the case of any other person, that the proportion of alcohol in the breath of the person who underwent the test exceeds 250 micrograms of alcohol per litre of breath

premises, in sections 130 and 131, includes a vehicle, rail vehicle, carriage, box, or receptacle; but does not include a dwelling or Maori reservation consti-

tuted by or under the Maori Affairs Act 1953 or Part 17 of Te Ture Whenua Maori Act 1993

prescribed means,—

(a) in relation to a matter under this Act, prescribed by this Act or by regulations, rules, or notice made under this Act:

(b) in relation to a matter prescribed under any other enactment, prescribed in accordance with that enactment

prescription medicine has the same meaning as in section 3(3) of the Medicines Act 1981

private analyst means a person qualified by academic or technical training in chemical or biochemical analysis; and includes a body corporate or organisation that employs such a person

proceedings, in relation to an infringement offence, means proceedings under the Criminal Procedure Act 2011 or the Summary Proceedings Act 1957; and includes the issue of an infringement notice under section 139

qualifying bylaw means a bylaw made by a road controlling authority under section 22AB(1)(a) of this Act, or section 145 of the Local Government Act 2002 for the stated purpose of—

(a) restricting or placing conditions on the racing of motor vehicles or any associated activities:

(b) controlling or restricting cruising or any associated activities

qualifying drug—

(a) means any substance, preparation, mixture, or article containing—

(i) a controlled drug specified in Schedule 1, Schedule 2, or Part 1, 4, or 7 of Schedule 3 of the Misuse of Drugs Act 1975; and

(ii) any of the following drugs:

(A) Alprazolam:

(B) Bromazepam:

(C) Brotizolam:

(D) Camazepam:

(E) Chlordiazepoxide:

(F) Clobazam:

(G) Clonazepam:

(H) Clotiazepam:

(I) Cloxazolam:

(J) Delorazepam:

(K) Diazepam:

(L) Estazolam:

(M) Ethyl loflazepate:

(N) Fludiazepam:

(O) Flunitrazepam:

(P) Flurazepam:

(Q) Halazepam:

(R) Haloxazolam:

(S) Ketazolam:

(T) Loprazolam:

(U) Lorazepam:

(V) Lormetazepam:

(W) Medazepam:

(X) Midazolam:

(Y) Nimetazepam:

(Z) Nitrazepam:

(ZA) Nordazepam:

(ZB) Oxazepam:

(ZC) Oxazolam:

(ZD) Pinazepam:

(ZE) Prazepam:

(ZF) Temazepam:

(ZG) Tetrazepam:

(ZH) Triazolam; and

(b) includes—

(i) any controlled drug analogue (within the meaning of controlled drug analogue in section 2(1) of the Misuse of Drugs Act 1975); and

(ii) any prescription medicine; but

(c) excludes any substance, preparation, mixture, or article specified in paragraph (a) or (b)(i) if it is excluded by regulations made under this Act

qualifying offence is an offence described in section 65AB(1)

rail operator has the same meaning as in section 4(1) of the Railways Act 2005

rail participant has the same meaning as in section 4(1) of the Railways Act 2005

rail vehicle has the same meaning as in section 4(1) of the Railways Act 2005

regional council means a regional council within the meaning of the Local Government Act 2002

register of motor vehicles means the register continued and maintained under section 234

registered, in relation to a vehicle, means registered under Part 17

Registrar, in relation to the execution of a warrant of confiscation, means any Registrar of the High Court or of the District Court, as the case may require, and includes a Deputy Registrar

the regulations means regulations made under this Act and the regulations referred to in section 218

rental service means the letting of a motor vehicle on hire for the carriage of passengers (including the driver) or of goods, or both, to a person who drives the vehicle or provides a driver for the vehicle; but does not include—

(a) the letting of a motor vehicle under a hire purchase agreement or a bailment that is for a period exceeding 6 months; or

(b) the hiring of trailers with a gross vehicle mass not exceeding 3 500 kg; or

(c) any service specified as an exempt rental service in the regulations or the rules

rental service licence means a licence granted or deemed to be granted under subpart 3 of Part 4A that authorises its holder to carry on a rental service

rental service vehicle means a vehicle used or available for use in a rental service for letting on hire for the carriage of passengers or goods, or both, to a person who drives the vehicle or provides a driver for the vehicle; but does not include a vehicle specified as an exempt vehicle in this Act or the regulations or the rules

representative means an agent authorised by a small passenger service operator to—

(a) engage with the Agency on matters relating to the operator's compliance with the relevant requirements of this Act, the regulations, and the rules; and

(b) accept service of legal documents on behalf of the operator

responsible clinician has the same meaning as it has in section 2(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992

rest time means all time that—

(a) is not work time; and

(b) is at least 30 minutes in duration; and

(c) is not spent in a moving vehicle associated with work

road includes—

(a) a street; and

(b) a motorway; and

(c) a beach; and

(d) a place to which the public have access, whether as of right or not; and

(e) all bridges, culverts, ferries, and fords forming part of a road or street or motorway, or a place referred to in paragraph (d); and

(f) all sites at which vehicles may be weighed for the purposes of this Act or any other enactment

road controlling authority, in relation to a road,—

(a) means the authority, body, or person having control of the road; and

(b) includes a person acting under and within the terms of a delegation or authorisation given by the controlling authority

the rules means the ordinary rules and emergency rules made under this Act and the rules referred to in section 220

Science Minister means, subject to any enactment, the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Research, Science, and Technology Act 2010

secondary legislation means regulations within the meaning of section 29 of the Interpretation Act 1999

Secretary means the chief executive of the Ministry

service, in Part 4A, includes—

(a) an operation carried out on 1 occasion only; and

(b) an operation carried out solely for the benefit of the persons carrying it out

site, in section 147, means a site where a dynamic axle weigher is used

small passenger service means a passenger service provided in—

(a) a small passenger service vehicle; or

(b) a vehicle designed or adapted to carry 12 or fewer persons (including the driver) that is provided by one of the passengers being carried; or

(c) a vehicle designed or adapted to carry 12 or fewer persons (including the driver) that is being used in a facilitated cost-sharing arrangement

small passenger service licence means a licence granted or deemed to be granted under subpart 3 of Part 4A that authorises its holder to carry on or facilitate a small passenger service

small passenger service operator—

(a) means a person who carries on a small passenger service; and

(b) includes a facilitator; but

(c) does not include any other person who is a driver in the small passenger service or who otherwise assists in the small passenger service

small passenger service vehicle means any passenger service vehicle that is designed or adapted to carry 12 or fewer persons (including the driver)

special vehicle lane has the meaning given to it in clause 1.6 of the Land Transport (Road User) Rule 2004

speed limit means a speed limit set under—

(a) this Act, including—

(i) by a land transport record being included in the register of land transport records established by section 200E; or

(ii) under a rule or bylaw made under this Act; or

(b) the Local Government Act 1974; or

(c) the Government Roading Powers Act 1989

speeding offence means an offence which consists solely of exceeding a speed limit

stationary vehicle offence means—

(a) parking in any portion of a road in breach of—

(i) any Act or regulation; or

(ii) any bylaw made under section 22AB(1)(m) to (o):

(b) any offence specified as a stationary vehicle offence in regulations made under this Act

storage provider means a person who stores vehicles impounded under this Act

territorial authority means a territorial authority within the meaning of the Local Government Act 2002

toll has the same meaning as in section 5 of the Land Transport Management Act 2003

toll offence means an offence against section 54(1) of the Land Transport Management Act 2003

towage fee, in respect of a parking offence, means an amount specified as the towage fee in respect of that offence by the Secretary by notice in the *Gazette*; and, for the purposes of this definition, the Secretary may prescribe different rates of towage fees in respect of different classes of persons, vehicles, products, or any other property or item, or on the basis of different times of use, or different distances, or on any other differential basis

traction engine means a vehicle that—

(a) is propelled by steam power; and

(b) is not a rail vehicle within the meaning of section 4(1) of the Railways Act 2005; and

(c) is not designed for the carriage of goods or persons other than the driver and, if appropriate, other persons involved in its operation

traffic control device includes any—

(a) sign, signal, or notice; or

(b) traffic calming device; or

(c) marking or road surface treatment—

used on a road for the purpose of traffic control

transport service—

(a) means any goods service, passenger service, rental service, or vehicle recovery service; but

(b) does not include—

(i) licensed rail participants under the Railways Act 2005; and

(ii) any service specified as an exempt transport service in the regulations or the rules

transport service driver means any person who is, or is from time to time, employed or engaged in driving a vehicle being used in a transport service other than a rental service, whether or not that person is licensed or required to hold a licence to drive such a vehicle

transport service licence means any of the following licences granted or deemed to be granted under subpart 3 of Part 4A:

(a) a goods service licence:

(b) a large passenger service licence:

(c) a rental service licence:

(d) a small passenger service licence:

(e) a vehicle recovery service licence

transport service operator—

(a) means a person who carries on a transport service; and

(b) includes, in relation to a small passenger service, a facilitator; but

(c) does not include any other person who is a driver in the transport service or who otherwise assists in the transport service

transport service vehicle means any goods service vehicle, passenger service vehicle, rental service vehicle, or vehicle recovery service vehicle; but does not include—

(a) a rail vehicle under the Railways Act 2005; or

(b) a vehicle running on self-laying tracks or rollers; or

(c) a vehicle that operates solely on or in areas to which the public does not have access as of right (whether or not that vehicle is used on a road in connection with that vehicle's inspection, servicing, or repair, or for the purposes of a practical driving test required under any enactment); or

(d) a vehicle used as a place of abode to the extent that it is not used in a rental service; or

(e) a vehicle listed as a farm vehicle in Part 1 of the Schedule of the Transit New Zealand (Apportionment and Refund of Excise Duty) Regulations 1998 or in any provisions made in substitution for that schedule; or

(f) a tractor (being a motor vehicle designed principally for traction at speeds not exceeding 50 km per hour); or

(g) a forklift (being a motor vehicle designed principally for lifting and stacking goods by means of 1 or more forks, tines, platens, or clamps); or

(h) a hearse; or

(i) a traction engine

unladen weight, in relation to a vehicle, means the weight of the vehicle together with the fuel in its fuel system (if any) and the equipment and accessories on it that are necessary for its operation for the purpose for which it was designed

unlicensed, in relation to a driver, includes holding an expired licence

vehicle—

(a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and

(b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but

(c) does not include—

(i) a perambulator or pushchair:

(ii) a shopping or sporting trundler not propelled by mechanical power:

(iii) a wheelbarrow or hand-trolley:

(iv) *[Repealed]*

(v) a pedestrian-controlled lawnmower:

(vi) a pedestrian-controlled agricultural machine not propelled by mechanical power:

(vii) an article of furniture:

(viii) a wheelchair not propelled by mechanical power:

(ix) any other contrivance specified by the rules not to be a vehicle for the purposes of this definition:

(x) any rail vehicle

vehicle recovery service—

(a) means the towing or carrying on any road of a motor vehicle, irrespective of the size or design of the towing or carrying vehicle, and whether or not the towing or carrying of the vehicle is carried out by a person intending to carry out repairs on the vehicle; but

(b) does not include—

(i) the towing or carrying of any motorcycle or moped; or

(ii) the towing or carrying of one motor vehicle by another where—

(A) the towing or carrying is not carried out directly or indirectly for reward; and

(B) the towing or carrying vehicle is not designed or adapted for the purpose of towing or carrying motor vehicles; or

(iii) the towing or carrying of a vehicle by a person who owns the vehicle; or

(iv) the towing of disabled vehicles using a rope or flat tow by—

(A) a person employed by, or contracted to, a motoring association or insurance company where the towing is limited to removal of the vehicle to a place of safety; or

(B) the owner or employee of a garage or workshop who intends to carry out repairs to the vehicle; or

(v) the removal of vehicles by New Zealand Defence Force tow trucks at the request of an enforcement officer; or

(vi) routine towing services operated by New Zealand Defence Force personnel in areas where there is no suitable and available commercial towing service nearby; or

(vii) any service where the Agency has provided the transport service operator with a written notice that—

(A) must be carried in the vehicle used in the service; and

(B) specifies that the nature of the service is such that the carriage of vehicles should be treated as the carriage of goods; or

(viii) any service specified as an exempt vehicle recovery service in the regulations or the rules

vehicle recovery service licence means a licence granted or deemed to be granted under subpart 3 of Part 4A that authorises its holder to carry on a vehicle recovery service

vehicle recovery service vehicle—

(a) means a vehicle used or available for use in a vehicle recovery service for towing or carrying on a road any motor vehicle; but

(b) does not include any vehicle specified as an exempt vehicle recovery service vehicle in the regulations or the rules

weight,—

(a) in relation to a wheel, an axle, a group of axles, or a vehicle, means the weight, or, as the case may be, the sum of the weights, recorded or displayed on a weighing device of a type approved for the purpose by the Minister of Police, by notice in the *Gazette*, and used in a manner prescribed by the Minister of Police, by notice in the *Gazette*:

(b) in relation to the load on a vehicle, means the gross weight of the vehicle less its unladen weight

work time includes (but is not limited to) all the time spent—

(a) driving a vehicle to which section 30ZB(1) applies:

(b) performing work-related duties, including (but not limited to)—

(i) loading and unloading:

(ii) maintenance and cleaning of vehicles (other than unpaid cleaning outside working hours):

(iii) administration or recording:

(c) in any paid employment (other than paid leave or paid breaks of at least 30 minutes' duration), whether or not related to transport activities

zero alcohol licence means a licence that—

(a) is issued to a person who is authorised to obtain the licence by a court order referred to in section 65B(1); and

(b) authorises the person to drive on the condition that neither the person's breath nor the person's blood contains alcohol.

(1A) If a transport service includes the use of vehicles that are specified as exempt vehicles in the regulations or the rules, the operation of those vehicles is not to be treated as part of the operation of the service.

(2) A notice or replacement notice given by any Minister in the *Gazette* for any purpose specified in subsection (1) or in section 75A(5), and a corresponding notice given under any former enactment and continued in force by this Act, is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and may be amended from time to time, or revoked or replaced, by the responsible Minister in the same manner.

(3) A notice or replacement notice under subsection (1) that is given by the Minister of Police in the *Gazette* for the purposes of approving a kind of device or a test may—

(a) define an approved device as a device that bears or is associated by its manufacturer with such trade name or number or other expression, or any combination of those things, as may be specified in the notice:

(b) provide for a test, or part of a test, to be carried out in accordance with instructions displayed or printed on or by a specified kind of device.

(4) In the absence of proof to the contrary, a device is to be treated as bearing or being associated with a particular trade name or number or other expression if that name or number or other expression—

(a) appears on the device, whether on a label or otherwise, or is shown on a display panel on the device; or

(b) is printed out by the device on a card or on paper; or

(c) appears on printed matter that—

(i) accompanies the device; and

(ii) is associated with the device or is intended by the manufacturer of the device to be associated with the device; and

(iii) is issued by or on behalf of the manufacturer.

(5) Despite anything in subsection (1), for the purposes of any proceedings against an offence of failing to comply with work time restrictions or rest time requirements, where no continuous period of rest of least 10 hours is or has been taken, a cumulative work day is to be treated as a period that—

(a) begins from the commencement of any work time; and

(b) ends only after a continuous period of rest of at least 10 hours is taken.

Compare: 1962 No 135 ss 2, 57A

Section 2(1) **Agency**: inserted, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **alcohol interlock device**: inserted, on 10 May 2011, by section 4(17) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **alcohol interlock device** paragraph (c): amended, on 1 July 2018, by section 5(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **alcohol interlock licence**: inserted, on 10 May 2011, by section 4(17) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **alcohol interlock licence**: amended, on 1 July 2018, by section 5(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **alcohol interlock sentence**: inserted, on 1 July 2018, by section 5(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **approved provider**: inserted, on 10 May 2011, by section 4(17) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **approved taxi organisation**: repealed, on 1 October 2017, by section 61(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **approved vehicle surveillance equipment**: amended, on 1 September 2020, by section 24(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 2(1) **assessment centre**: amended, on 11 August 2017, by section 89(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **Authority**: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **blood specimen collecting instrument**: inserted, on 5 November 2011, by section 4(18) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **blood specimen collecting procedure**: inserted, on 5 November 2011, by section 4(18) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **blood test**: amended, on 1 November 2009, by section 5(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 2(1) **blood test fee**: amended, on 1 November 2009, by section 5(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 2(1) **Board** and **Transfund**: repealed, on 1 December 2004, by section 3(1) of the Land Transport Amendment Act 2004 (2004 No 96).

Section 2(1) **certificate of compliance**: inserted, on 29 December 2001, by section 4(1) of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Section 2(1) **commercial public transport service**: repealed, on 13 June 2013, by section 72 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 2(1) **compulsory impairment test**: inserted, on 1 November 2009, by section 5(3) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 2(1) **conclusive evidential breath-testing device**: repealed, on 29 December 2001, by section 4(2) of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Section 2(1) **concurrent offence**: inserted, on 1 July 2018, by section 5(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **control**: inserted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **control**: amended, on 1 October 2017, by section 61(2)(a) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **control**: amended, on 1 October 2017, by section 61(2)(b) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **control**: amended, on 1 October 2017, by section 61(2)(c) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **controlled drug**: repealed (without coming into force), on 1 November 2009, by section 4(2) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 2(1) **court**: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 2(1) **cruising**: inserted, on 1 December 2009, by section 4(1) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 2(1) **cumulative work day**: inserted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **cumulative work period**: inserted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **Director**: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **doctor's surgery**: repealed, on 7 November 2018, by section 4(1) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 2(1) **driver licence stop order**: inserted, on 1 November 2013, by section 4 of the Land Transport Amendment Act 2011 (2011 No 31).

Section 2(1) **enforcement authority**: substituted, on 28 June 2006, by section 4(1) of the Land Transport Amendment Act (No 2) 2006 (2006 No 30).

Section 2(1) **enforcement authority**: amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 2(1) **enforcement authority** paragraph (b): replaced, on 1 September 2020, by section 24(5) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 2(1) **enforcement authority** paragraph (ba): inserted, on 10 May 2011, by section 4(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **enforcement authority** paragraph (c): repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **enforcement authority** paragraph (d): substituted, on 10 May 2011, by section 4(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **enforcement officer** paragraph (a): amended, on 1 October 2008, pursuant to section 116(a)(vii) of the Policing Act 2008 (2008 No 72).

Section 2(1) **enforcement officer** paragraph (b): amended, on 1 October 2008, pursuant to section 116(d) of the Policing Act 2008 (2008 No 72).

Section 2(1) **enforcement officer** paragraph (d): inserted, on 1 September 2020, by section 24(7) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 2(1) **facilitate**: inserted, on 1 October 2017, by section 61(7) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **facilitated cost-sharing arrangement**: inserted, on 1 October 2017, by section 61(7) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **facilitated cost-sharing arrangement**: maximum amount per kilometre that may be paid to a driver under a facilitated cost-sharing arrangement as reimbursement for the driver's costs is $0.73, on 1 October 2017, by clause 3 of the Land Transport (Facilitated Cost-sharing Arrangement Maximum Reimbursement) Notice 2017 (LI 2017/274).

Section 2(1) **facilitator**: inserted, on 1 October 2017, by section 61(7) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **financial year**: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **fire brigade**: replaced, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

Section 2(1) **goods service**: substituted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **goods service** paragraph (a): amended, on 11 August 2017, by section 46(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **goods service** paragraph (b): amended, on 11 August 2017, by section 46(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **goods service licence**: substituted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **goods service vehicle**: substituted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **gross laden weight**: repealed, on 11 August 2017, by section 46(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **gross vehicle mass**: inserted, on 11 August 2017, by section 46(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **health practitioner**: inserted, on 1 November 2009, by section 5(3) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 2(1) **heavy motor vehicle**: amended, on 11 August 2017, by section 46(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **heavy traffic**: inserted, on 10 May 2011, by section 4(17) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **hospital**: substituted, on 10 May 2011, by section 4(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **infringement offence** paragraph (ab): inserted, on 10 May 2011, by section 4(4) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **infringement offence** paragraph (b): amended, on 11 August 2017, by section 46(5) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **infringement offence** paragraph (ba): inserted, on 1 October 2007, by section 4(6) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **infringement offence** paragraph (c): amended, on 10 May 2011, by section 4(5) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **infringement offence** paragraph (ca): inserted, on 13 November 2003, by section 90 of the Land Transport Management Act 2003 (2003 No 118).

Section 2(1) **invalid carriage**: repealed, on 22 June 2005, by section 4(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **land transport Act**: inserted, on 1 September 2020, by section 24(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 2(1) **land transport documents**: amended, on 1 September 2020, by section 24(8) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 2(1) **land transport record**: inserted, on 1 September 2020, by section 24(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 2(1) **land transport register** paragraph (a): amended, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Section 2(1) **land transport register** paragraph (a): amended, on 1 October 2007, by section 4(7) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **land transport register** paragraph (a): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **land transport register** paragraph (b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **large passenger service**: inserted, on 1 October 2017, by section 61(7) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **large passenger service licence**: inserted, on 1 October 2017, by section 61(7) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **large passenger service vehicle**: inserted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **licensed** paragraph (b): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 2(1) **light rail vehicle**: inserted, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **light rental service vehicle**: amended, on 11 August 2017, by section 46(6) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **local authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **logbook**: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **logbook**: amended, on 1 October 2007, by section 4(8) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **medical centre**: inserted, on 7 November 2018, by section 4(2) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 2(1) **medical expenses**: inserted, on 1 November 2009, by section 5(3) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 2(1) **medical expenses**: amended, on 7 November 2018, by section 4(3) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 2(1) **medical laboratory technologist**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **medical laboratory technologist**: amended, on 1 August 2011, by clause 8(2) of the Health Practitioners Competence Assurance (Designation of Anaesthetic Technology Services as Health Profession) Order 2011 (SR 2011/227).

Section 2(1) **medical officer**: replaced, on 7 November 2018, by section 4(4) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 2(1) **medical practitioner**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **member**: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **member**: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 2(1) **Minister**: substituted, on 1 December 2004, by section 3(2) of the Land Transport Amendment Act 2004 (2004 No 96).

Section 2(1) **mobility device**: inserted, on 22 June 2005, by section 4(4) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **mobility device** paragraph (b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **moped**: replaced, on 11 August 2017, by section 89(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **motor vehicle** paragraph (c)(ii): repealed, on 22 June 2005, by section 4(9) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **motor vehicle** paragraph (c)(vi): amended, on 22 June 2005, by section 4(10) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **motor vehicle** paragraph (c)(vii): added, on 22 June 2005, by section 4(10) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **motor vehicle** paragraph (c)(vii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **motor vehicle** paragraph (c)(viii): added, on 22 June 2005, by section 4(10) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **motorcycle**: inserted, on 10 May 2011, by section 4(17) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **moving vehicle offence** paragraph (b): amended, on 11 August 2017, by section 89(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **moving vehicle offence** paragraph (c): amended, on 10 May 2011, by section 4(6) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **moving vehicle offence** paragraph (c): amended, on 13 November 2003, by section 90 of the Land Transport Management Act 2003 (2003 No 118).

Section 2(1) **moving vehicle offence** paragraph (d): added, on 13 November 2003, by section 90 of the Land Transport Management Act 2003 (2003 No 118).

Section 2(1) **national land transport strategy** or **strategy**: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **non-serviced area**: inserted, on 1 July 2018, by section 5(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **nurse**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **optometrist**: repealed, on 7 November 2018, by section 4(5) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 2(1) **organised criminal activity**: inserted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **outputs**: repealed, on 1 September 2020, by section 24(11) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 2(1) **over-dimension offence**: inserted, on 11 August 2017, by section 46(7) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **parking**: inserted, on 10 May 2011, by section 4(17) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **parking offence**: inserted, on 10 May 2011, by section 4(17) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **parking warden**: inserted, on 1 November 2009, by section 5(3) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 2(1) **parking warden**: amended, on 10 May 2011, by section 4(7) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **parking warden** second definition: repealed, on 11 August 2017, by section 89(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **passenger service**: substituted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **passenger service** paragraph (b)(iia): inserted, on 1 October 2017, by section 61(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **passenger service** paragraph (b)(iii): amended, on 10 May 2011, by section 4(8) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **passenger service licence**: repealed, on 1 October 2017, by section 61(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **passenger service vehicle**: substituted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **performance agreement**: repealed, on 1 December 2004, by section 3(1) of the Land Transport Amendment Act 2004 (2004 No 96).

Section 2(1) **permanent speed limit**: replaced, on 1 September 2020, by section 24(12) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 2(1) **positive**: inserted, on 7 August 2011, by section 4(9) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **positive** paragraph (c): amended, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 2(1) **positive evidential breath test**: repealed, on 7 August 2011, by section 4(9) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **premises**: amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **prescription medicine**: inserted, on 1 November 2009, by section 5(3) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 2(1) **proceedings**: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 2(1) **qualifying bylaw**: inserted, on 1 December 2009, by section 4(1) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 2(1) **qualifying bylaw**: amended, on 10 May 2011, by section 4(10)(a) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **qualifying bylaw**: amended, on 10 May 2011, by section 4(10)(b) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **qualifying drug**: inserted, on 1 November 2009, by section 4(3) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 2(1) **qualifying drug** paragraph (a)(i): amended, on 9 August 2011, by section 12(2) of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Section 2(1) **qualifying offence**: inserted, on 1 July 2018, by section 5(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **rail operator**: inserted, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **rail participant**: inserted, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **rail service operator**: repealed, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **rail service vehicle**: repealed, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **rail vehicle**: inserted, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **regional council**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **regional land transport strategy**: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **register of motor vehicles**: substituted, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 2(1) **registered**: amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 2(1) **registered medical practitioner**: repealed, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **registered optometrist**: repealed, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **Registrar**: inserted, on 1 December 2009, by section 4(1) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 2(1) **Registrar**: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 2(1) **rental service**: substituted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **rental service** paragraph (b): amended, on 11 August 2017, by section 46(8) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **rental service licence**: inserted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **rental service vehicle**: substituted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **representative**: inserted, on 1 October 2017, by section 61(7) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **rest time**: inserted, on 1 October 2007, by section 4(5) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **road** paragraph (e): amended, on 10 May 2011, by section 4(11) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **Science Minister**: amended, on 1 February 2011, by section 18 of the Research, Science, and Technology Act 2010 (2010 No 131).

Section 2(1) **secondary legislation**: inserted, on 1 September 2020, by section 24(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 2(1) **service**: inserted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **service charter**: repealed, on 1 December 2004, by section 3(1) of the Land Transport Amendment Act 2004 (2004 No 96).

Section 2(1) **small passenger service**: inserted, on 1 October 2017, by section 61(7) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **small passenger service licence**: inserted, on 1 October 2017, by section 61(7) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **small passenger service operator**: inserted, on 1 October 2017, by section 61(7) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **small passenger service vehicle**: inserted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **special vehicle lane**: inserted, on 28 June 2006, by section 4(2) of the Land Transport Amendment Act (No 2) 2006 (2006 No 30).

Section 2(1) **speed limit**: replaced, on 1 September 2020, by section 24(13) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 2(1) **stationary vehicle offence**: inserted, on 10 May 2011, by section 4(17) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **taxi**: repealed, on 1 October 2017, by section 61(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **taxi service**: repealed, on 1 October 2017, by section 61(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **territorial authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **toll**: inserted, on 13 November 2003, by section 90 of the Land Transport Management Act 2003 (2003 No 118).

Section 2(1) **toll offence**: inserted, on 13 November 2003, by section 90 of the Land Transport Management Act 2003 (2003 No 118).

Section 2(1) **towage fee**: inserted, on 10 May 2011, by section 4(17) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **traction engine**: inserted, on 22 June 2005, by section 4(4) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **traction engine** paragraph (b): substituted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 2(1) **Transit** and **Transit New Zealand**: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **transport service**: substituted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **transport service** paragraph (b)(i): substituted, on 10 May 2011, by section 4(13) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **transport service driver**: inserted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **transport service licence**: replaced, on 1 October 2017, by section 61(5) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **transport service operator**: replaced, on 1 October 2017, by section 61(6) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1) **transport service vehicle**: substituted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **transport service vehicle** paragraph (a): substituted, on 10 May 2011, by section 4(14) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **transport service vehicle** paragraph (f): amended, on 10 May 2011, by section 4(15) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **unlicensed**: inserted, on 22 June 2005, by section 4(4) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **vehicle** paragraph (c)(iv): repealed, on 22 June 2005, by section 4(11) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **vehicle** paragraph (c)(viii): amended, on 22 June 2005, by section 4(12) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **vehicle** paragraph (c)(x): added, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **vehicle recovery service**: substituted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **vehicle recovery service** paragraph (b)(vii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **vehicle recovery service licence**: substituted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **vehicle recovery service vehicle**: substituted, on 1 October 2007, by section 4(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(1) **work time**: substituted, on 10 May 2011, by section 4(16) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **zero alcohol licence**: added, on 10 May 2011, by section 4(17) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(1) **zero alcohol licence** paragraph (a): amended, on 1 July 2018, by section 5(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 2(1A): inserted, on 1 October 2007, by section 4(13) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 2(2): amended, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Section 2(2): amended, on 10 May 2011, by section 4(19) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(2): amended, on 10 May 2011, by section 4(20) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(2): amended, on 29 December 2001, by section 4(4) of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Section 2(3): amended, on 10 May 2011, by section 4(21) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 2(5): added, on 10 May 2011, by section 4(22) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Section 2A: inserted, on 11 August 2017, by section 4 of the Land Transport Amendment Act 2017 (2017 No 34).

3 Act to bind the Crown

This Act binds the Crown.

Part 2
Primary responsibilities of participants in land transport system

General responsibilities

4 General requirements for participants in land transport system

(1) A participant in the land transport system must ensure that the appropriate land transport documents and all the necessary qualifications and other documents are held by the participant.

(2) A participant must comply with this Act, the relevant regulations and rules, and the conditions attached to the relevant land transport documents.

(3) A participant, other than a rail participant, must ensure that the activities or functions for which the land transport document has been granted are carried out by the participant, and by all persons for whom the participant is responsible, safely and in accordance with the relevant prescribed safety standards and practices.

(4) A person who applies for a land transport document that authorises the provision of a service within the land transport system must, if so required by the rules, satisfy the Agency that the person is a fit and proper person; and the Agency must determine whether a person is a fit and proper person for the purposes of this subsection in accordance with subpart 2 of Part 4A, which applies with any necessary modifications.

(5) A participant who holds a land transport document that authorises the provision of a service within the land transport system—

(a) must, if so required by the rules, establish and follow a safety management system that will ensure compliance with the relevant prescribed safety standards and the conditions attached to the document; and

(b) must provide training and supervision to all employees of the participant who are engaged in doing anything to which the document relates, so as to maintain compliance with the relevant prescribed safety standards and the conditions attached to the document and to promote safety; and

(c) must provide sufficient resources to ensure compliance with the relevant prescribed safety standards and the conditions attached to the document.

Compare: 1990 No 98 s 12

Section 4(3): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 4(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 4(4): amended, on 1 October 2007, by section 5 of the Land Transport Amendment Act 2005 (2005 No 77).

5 Drivers to be licensed

(1) A person may not drive a motor vehicle on a road—

(a) without an appropriate current driver licence; or

(b) in contravention of the conditions of the person's driver licence; or

(c) if the person is disqualified from holding or obtaining a driver licence, or the person's driver licence is suspended or has been revoked, or the driving is contrary to an alcohol interlock licence, a zero alcohol licence, or a limited licence.

(2) A person may not hold or apply for a driver licence while he or she is disqualified under this Act or any other Act from holding or obtaining a driver licence.

(3) While a person's driver licence is suspended under this Act or any other Act, the person may not hold or obtain a driver licence.

(4) A person driving a motor vehicle must produce without delay his or her driver licence for inspection whenever required to do so by an enforcement officer.

(5) Nothing in subsection (1) or subsection (4) applies if the person driving—

(a) is driving an ambulance in an emergency, and—

(i) the emergency requires the licensed driver to perform other duties and it is impracticable for him or her to drive the ambulance, or the licensed driver is injured or otherwise unable to drive; and

(ii) unless the licensed driver was unable to do so, the licensed driver has requested that person to drive in place of the licensed driver; or

(b) is a member of a fire brigade and drives a motor vehicle used by a fire brigade for attendance at emergencies, so long as the vehicle being used at the time is used on urgent fire brigade service and it is impracticable for an appropriately licensed person to drive the vehicle; or

(c) is a Police employee and drives a motor vehicle in an emergency requiring Police attendance, and—

(i) the emergency is not reasonably foreseeable; and

(ii) the driving is necessary in the interests of safety or public order; and

(iii) an appropriately licensed person is not readily available.

Compare: 1986 No 6 s 37(1), (1A), (2)

Section 5(1)(c): amended, on 10 September 2012, by section 5 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 5(5)(c): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

6 Vehicles to be safe and operated in compliance with rules

(1) A person may not operate an unsafe motor vehicle on a road.

(2) If the regulations or the rules require a vehicle to have current evidence of vehicle inspection or a current certificate of loading, or both, a person may not operate the vehicle on a road without the appropriate current evidence of vehicle inspection or certificate or both (as the case may require).

(3) A person operating a motor vehicle that is required to have current evidence of vehicle inspection or a certificate of loading must comply with the provisions in the regulations and the rules concerning such evidence or certificate, and the operation of the vehicle.

(4) Evidence of vehicle inspection must be displayed on the vehicle to which it applies.

(5) A certificate of loading must be displayed on the vehicle to which it applies if required by the rules.

Compare: 1986 No 6 s 5

Section 6(5): inserted, on 11 August 2017, by section 47 of the Land Transport Amendment Act 2017 (2017 No 34).

7 Drivers not to be reckless or dangerous

(1) A person may not drive a motor vehicle, or cause a motor vehicle to be driven, recklessly.

(2) A person may not drive a motor vehicle, or cause a motor vehicle to be driven, at a speed or in a manner which, having regard to all the circumstances, is or might be dangerous to the public or to a person.

Compare: 1962 No 135 s 57

Section 7(1): substituted, on 22 June 2005, by section 6(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 7(2): amended, on 22 June 2005, by section 6(2) of the Land Transport Amendment Act 2005 (2005 No 77).

8 Drivers not to be careless or inconsiderate

A person may not drive a vehicle, or cause a vehicle to be driven, carelessly or without reasonable consideration for other persons

Section 8: substituted, on 22 June 2005, by section 7 of the Land Transport Amendment Act 2005 (2005 No 77).

9 Loads transported by vehicles to be secured

A person operating a motor vehicle on a road, and any person loading that vehicle, must ensure that any load carried in or on the vehicle, or in or on a vehicle being towed by the vehicle driven by the operator, is secured and contained in such a manner that it cannot fall or escape from the vehicle.

Compare: 1962 No 135 s 70(1)

Section 9: amended, on 22 June 2005, by section 8 of the Land Transport Amendment Act 2005 (2005 No 77).

Responsibilities of road users under ordinary and emergency rules

10 Road users and others to comply with ordinary rules and emergency rules

A person must comply with the rules.

Responsibilities concerning use of alcohol or drugs

11 Drivers not to exceed specified alcohol limits

A person may not drive or attempt to drive a motor vehicle while—

(a) the proportion of alcohol in the person's breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, exceeds 250 micrograms of alcohol per litre of breath; or

(b) the proportion of alcohol in the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or section 73, exceeds 50 milligrams of alcohol per 100 millilitres of blood; or

(c) if the person is younger than 20,—

(i) the person's breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, contains alcohol; or

(ii) the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, contains alcohol; or

(d) if the person holds an alcohol interlock licence or a zero alcohol licence,—

(i) the person's breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, contains alcohol; or

(ii) the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, contains alcohol.

Compare: 1962 No 135 ss 55(2)(b), (c), 58(1)(a), (c), (f), (g)

Section 11: amended, on 22 June 2005, by section 9 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 11(a): amended, on 1 December 2014, by section 4(1) of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 11(b): amended, on 1 December 2014, by section 4(2) of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 11(c): substituted, on 7 August 2011, by section 6(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 11(d): inserted, on 10 September 2012, by section 6(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

11A Persons may not drive or attempt to drive while impaired and their blood contains evidence of use of qualifying drug

A person may not drive or attempt to drive a motor vehicle while—

(a) impaired; and

(b) that person's blood contains evidence of the use of a qualifying drug.

Section 11A: inserted, on 1 November 2009, by section 6 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 11A heading: amended, on 1 November 2009, by section 5(1) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 11A(b): substituted, on 1 November 2009, by section 5(2) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

12 Persons not to drive while under influence of alcohol or drugs

A person may not drive or attempt to drive a motor vehicle while under the influence of drink or a drug, or both, to such an extent as to be incapable of having proper control of the vehicle.

Compare: 1962 No 135 s 58(1)(e); 1988 No 170 s 7

Section 12: amended, on 22 June 2005, by section 10 of the Land Transport Amendment Act 2005 (2005 No 77).

Responsibilities of drivers and other road users concerning enforcement officers

13 Drivers and other road users to comply with directions of enforcement officers, etc

(1AA) A person driving a motor vehicle that has a warning notice given under section 22AF attached to it must comply with that notice.

(1) A person must comply with sections 68, 69, 70, 71A, 72, and 73 (which relate to the administration of breath screening tests, evidential breath tests, and blood tests).

(2) A person must comply with all lawful requirements, directions, and requests made by an enforcement officer under any of sections 68, 69, 70, 71A, 72, and 73.

(3) A person must comply with all lawful requirements and requests made by a health practitioner or medical officer under section 72 or section 73 (which relate to the administration of blood tests).

(4) A person may not—

(a) remove, obscure, or render indistinguishable a notice affixed to a vehicle under section 115, unless current evidence of vehicle inspection has been obtained for the vehicle or (if the notice was given under section 96(1B)) the direction requiring the vehicle not to be driven on a road has been cancelled under section 102(3)(b) or section 110(3)(a)(ii); or

(b) drive a vehicle to which a notice given under section 115 applies until current evidence of vehicle inspection has been obtained for, and is displayed on, the vehicle.

(5) Drivers and other persons must comply with all other lawful requirements, directions, notices, and requests given to, and prohibitions imposed on, them under this Act by an enforcement officer or a dangerous goods enforcement officer.

Compare: 1962 No 135 s 68C

Section 13(1AA): inserted, on 1 December 2009, by section 6 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 13(1AA): amended, on 10 May 2011, by section 7 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 13(1): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 13(2): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 13(3): amended, on 7 November 2018, by section 5 of the Land Transport Amendment Act 2016 (2016 No 77).

Section 13(3): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 13(4)(a): amended, on 2 May 2003, by section 4 of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Part 3
Additional responsibilities concerning road transport

14 False or misleading information not to be given

A person who is required by or under this Act to give any specified information, or who gives a statutory declaration for any purpose under this Act, may not give in response to that requirement, or in that statutory declaration, information that the person knows to be false or misleading.

15 Persons not to impersonate enforcement officers

(1) A person (other than an enforcement officer or a dangerous goods enforcement officer) may not by words, conduct, or demeanour pretend to be an enforce-

ment officer or dangerous goods enforcement officer, or put on or assume the dress, name, designation, or description of an enforcement officer or dangerous goods enforcement officer.

(2) This section does not affect section 48 of the Policing Act 2008.

Compare: 1962 No 135 s 192A

Section 15(2): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

16 Heavy motor vehicles not to be overloaded or in breach of dimension requirements

(1) A person operating a heavy motor vehicle or combination of vehicles must not operate the vehicle or combination of vehicles in breach of any of the following:

(a) the prescribed maximum mass limits for axles:

(b) the prescribed maximum mass limits for axle sets:

(c) the prescribed maximum mass limits for groups of axles:

(d) the prescribed maximum gross mass limits for motor vehicles.

(2) A person must not operate a heavy motor vehicle or combination of vehicles if the vehicle or combination of vehicles exceeds the gross vehicle mass for that vehicle or vehicles.

(3) A person must not operate a heavy motor vehicle or combination of vehicles if the vehicle or combination of vehicles breaches prescribed requirements in relation to dimensions.

Section 16: replaced, on 11 August 2017, by section 48 of the Land Transport Amendment Act 2017 (2017 No 34).

16A Temporary restriction of heavy traffic on roads

(1) This section applies if a road controlling authority decides on reasonable grounds that there is an urgent risk of either or both of the following:

(a) damage to a road:

(b) danger to the safety of road users.

(2) The road controlling authority may, for a specified period of no more than 6 months, by a road closure sign, direct that any heavy traffic, or any specified kind of heavy traffic, may not proceed between any 2 places by way of any specified road or roads.

(3) A sign referred to in subsection (2) must be displayed in at least 1 prominent position on every road to which the sign applies.

(4) A person commits an offence, and is liable on conviction to a fine not exceeding $1,000, if the person contravenes the requirements of any sign described in subsection (2) unless the person proves that there was no other way reasonably available for the traffic concerned to proceed.

Section 16A: replaced, on 11 August 2017, by section 49 of the Land Transport Amendment Act 2017 (2017 No 34).

16B Interference with operation of speed measuring devices

Every person commits an offence who—

(a) uses in a motor vehicle any equipment that interferes with the operation of a speed measuring device:

(b) possesses in a motor vehicle any equipment that is designed to interfere with the operation of a speed measuring device.

Section 16B: inserted, on 10 May 2011, by section 8 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

17 Distance recorders not to be altered

A person may not, with intent to cause a false record of the distance travelled by a motor vehicle to be shown or recorded, make or cause to be made any alteration to the distance recorder or to the vehicle.

Compare: 1962 No 135 s 192B

18 Health practitioners to give Agency medical reports of persons unfit to drive

(1) This section applies if a health practitioner, who has attended or been consulted in respect of a driver licence holder, considers that—

(a) the mental or physical condition of the licence holder is such that, in the interests of public safety, the licence holder—

(i) should not be permitted to drive motor vehicles of a specified class or classes; or

(ii) should only be permitted to drive motor vehicles subject to such limitations as may be warranted by the mental or physical condition of the licence holder; and

(b) the licence holder is likely to drive a motor vehicle.

(2) If this section applies, the health practitioner must as soon as practicable give the Agency written notice of the opinion under subsection (1)(a) and the grounds on which it is based.

(3) A health practitioner who gives a notice under subsection (2) in good faith is not liable to civil or professional liability because of any disclosure of personal medical information in that notice.

(4) *[Repealed]*

Compare: 1986 No 6 s 45A

Section 18 heading: amended, on 7 November 2018, by section 6(1) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 18 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 18(1): amended, on 7 November 2018, by section 6(2) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 18(1): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 18(2): amended, on 7 November 2018, by section 6(3) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 18(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 18(2): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 18(3): amended, on 7 November 2018, by section 6(4) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 18(3): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 18(4): repealed, on 10 May 2011, by section 9 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

19 Licences of certain persons subject to Mental Health (Compulsory Assessment and Treatment) Act 1992 to be suspended

(1) If a person who holds a driver licence becomes subject to a compulsory treatment order that is an inpatient order or becomes a special patient under the Mental Health (Compulsory Assessment and Treatment) Act 1992,—

(a) the person in charge of the hospital to which the person is referred or at which the person is detained must notify the Agency of the making of an inpatient order or that the person is a special patient (as the case may be); and

(b) the licence is suspended while the holder is subject to an inpatient order or is a special patient.

(2) A person who has possession of the driver licence of a person referred to in subsection (1) must, on the request of the person in charge of the hospital at which the holder is an inpatient, deliver the licence to the person in charge of the hospital; and the person in charge must forward the licence to the Director of Area Mental Health Services.

(3) The Director of Area Mental Health Services must retain a driver licence received under this section until it ceases to be subject to this section, and then,—

(a) in the case of a licence that applies to commercial vehicles, forward the licence to the Agency; or

(b) in any other case, return the licence to the holder or to the person in possession referred to in subsection (2).

(4) If a person to whom this section applies ceases to be a person referred to in subsection (1) and his or her responsible clinician considers that person to be unfit to hold a driver licence, the responsible clinician must advise the Director of Area Mental Health Services of that opinion and that Director must give the

Agency a certificate to that effect and (if it is in his or her possession) return the licence to the Agency; and the licence has no effect unless it is returned to the holder under subsection (5).

(5) A person referred to in subsection (4) may apply to the Agency for the return of his or her driver licence and the Agency must return the licence if satisfied the holder is fit to drive.

(6) If—

(a) a person to whom subsection (1) applies is, under any of sections 31, 50, and 52 of the Mental Health (Compulsory Assessment and Treatment) Act 1992, permitted to be absent on leave from a hospital under that Act; and

(b) a responsible clinician certifies in writing that, in the clinician's opinion, that person is fit to hold a driver licence,—

subsection (1)(b) does not apply to that person while that person is absent on leave from the hospital, and, if that person's driver licence is held by the Director of Area Mental Health Services, the licence must be returned to the holder.

(7) In any case to which subsection (3)(a) applies, once the holder ceases to be subject to this section, the Agency must, as soon as practicable after the Agency is satisfied the holder is eligible to hold the licence, return the licence to the holder or to the person previously in possession referred to in subsection (2).

Compare: 1986 No 6 s 46

Section 19(1)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 19(1)(a): amended, on 1 December 2004, by section 10 of the Land Transport Amendment Act 2004 (2004 No 96).

Section 19(3)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 19(3)(a): amended, on 1 December 2004, by section 10 of the Land Transport Amendment Act 2004 (2004 No 96).

Section 19(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 19(4): amended, on 1 December 2004, by section 10 of the Land Transport Amendment Act 2004 (2004 No 96).

Section 19(5): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 19(5): amended, on 1 December 2004, by section 10 of the Land Transport Amendment Act 2004 (2004 No 96).

Section 19(7): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 19(7): amended, on 1 December 2004, by section 10 of the Land Transport Amendment Act 2004 (2004 No 96).

20 Traffic surveys not to be conducted unless approved by Agency

(1) A person may not, without the prior written consent of the Agency, conduct on a road a traffic survey that is likely to involve the stopping, delay, or diversion of vehicles.

(2) The Agency may consent conditionally or unconditionally, and, if any condition is not complied with, the Agency may direct that the survey be discontinued.

Compare: 1962 No 135 s 76C

Section 20 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 20(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 20(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

21 Enforcement officers to ameliorate hazards

If an enforcement officer, acting in the course of his or her official duties, becomes aware of the existence on a road of a hazard to the safety of traffic (whether arising from the nature or condition of a road or otherwise), the officer must—

(a) take such steps as may be reasonably practicable to eliminate or reduce the hazard; and

(b) if it is not reasonably practicable for the officer to eliminate the hazard, as soon as practicable report the existence of the hazard to the road controlling authority with a view to eliminating the hazard.

Compare: 1962 No 135 s 76B

22 Driver's duties where accident occurs

(1) If an accident arising directly or indirectly from the operation of a vehicle occurs to a person or to a vehicle, the driver or rider of the vehicle must—

(a) stop and ascertain whether a person has been injured; and

(b) render all practicable assistance to any injured persons.

(2) The driver or rider of the vehicle must, if required by an enforcement officer or any other person involved in the accident, give the officer or other person—

(a) the driver's or rider's name and address; and

(b) the name and address of the owner of the vehicle; and

(c) if the vehicle concerned is a motor vehicle, the number or letters or other expression on the registration plates assigned to the vehicle.

(3) If the accident involves an injury to or the death of a person, the driver or rider must report the accident to an enforcement officer as soon as reasonably practicable, and in any case not later than 24 hours after the time of the accident,

unless the driver or rider is incapable of doing so by reason of injuries sustained by him or her in the accident.

(4) If the accident involves damage to an unoccupied motor vehicle or to other property belonging to a person other than the driver or rider, the driver or rider must (unless he or she is incapable of doing so by reason of injuries sustained by him or her in the accident), not later than 48 hours after the time of the accident, report to the owner—

(a) the driver's or rider's name and address; and

(b) the number on the registration plates assigned to the motor vehicle; and

(c) the location of the accident.

(5) If the accident involves damage to an unoccupied motor vehicle or to other property belonging to a person other than the driver or rider, but the owner cannot readily be contacted or identified, the driver or rider must report the accident to an enforcement officer as soon as practicable and in any case within 60 hours after the time of the accident.

(6) If the motor vehicle involved in the accident is a fire engine or an ambulance travelling to an emergency, the driver complies with subsection (1) if he or she stops the vehicle and sets down a member of the crew who is equipped with a first-aid kit and discharges all the other duties imposed on a driver by that subsection.

(7) Subsections (3) to (5) do not apply if the driver or rider has been arrested or detained as a result of the accident.

(8) This section does not apply to a rail vehicle unless that vehicle is a light rail vehicle.

Compare: 1962 No 135 s 65

Section 22(3): amended, on 1 October 2008, by section 124(2) of the Policing Act 2008 (2008 No 72).

Section 22(5): amended, on 1 October 2008, by section 124(3) of the Policing Act 2008 (2008 No 72).

Section 22(8): added, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

22A Persons not to engage in unauthorised street or drag racing, or other related prohibited activities on roads

(1) A person must not operate a motor vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road unless the operation of the vehicle in that manner is authorised by law.

(2) A person must not, without reasonable excuse, intentionally pour onto, place on, or allow to spill onto a road—

(a) any petrol, oil, or diesel fuel; or

(b) any other substance likely to cause a vehicle to undergo loss of traction.

(3) A person must not, without reasonable excuse, operate a motor vehicle on a road in a manner that causes the vehicle to undergo sustained loss of traction unless the operation of the vehicle in that manner is authorised by law.

(3A) A person may not, without reasonable excuse, operate a motor vehicle on a road in a manner that contravenes a bylaw made under section 22AB or 22AC.

(4) In this section and in section 96(9), the operation of a motor vehicle in a particular manner is authorised by law if,—

(a) in the case of a race or an exhibition of speed or acceleration,—

(i) the speed of the vehicle is within the applicable speed limit or speed limits; and

(ii) the vehicle operator does not contravene any enactment other than this section that applies in relation to the operation of the vehicle; or

(b) the operation is conducted on a road that is closed for the purpose under section 319(h) or section 342 of the Local Government Act 1974, and is conducted in accordance with the conditions (if any) imposed under Schedule 10 of that Act; or

(c) the operation is otherwise authorised by or under an enactment other than this section.

Section 22A: inserted, on 2 May 2003, by section 5 of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 22A(3A): inserted, on 1 December 2009, by section 7 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Bylaws

Heading: inserted, on 1 December 2009, by section 8 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

22AB Road controlling authorities may make certain bylaws

(1) A road controlling authority may make any bylaw that it thinks fit for 1 or more of the following purposes:

(a) controlling, restricting, or prohibiting cruising, including (but not limited to)—

(i) specifying the section of road or roads on which cruising is controlled, restricted, or prohibited:

(ii) prescribing the period of time that must elapse between each time a driver drives on a specified section of road for the driver to avoid being regarded as cruising:

(b) prescribing fines, not exceeding $1,000, for the breach of any bylaw made under this section.

Vehicle and road use

(c) prohibiting or restricting, absolutely or conditionally, any specified class of traffic (whether heavy traffic or not), or any specified motor vehicles or class of motor vehicle that, by reason of its size or nature or the nature of the goods carried, is unsuitable for use on any road or roads:

(d) for the safety of the public or for the better preservation of any road,—

(i) fixing the maximum speed of vehicles or of specified classes of vehicles on any road:

(ii) designating any area, where that designation will have the effect of determining the speed limit in that area:

(e) prohibiting or restricting engine braking in any area where the permanent speed limit does not exceed 70 kilometres per hour:

(f) prohibiting or restricting the use of vehicles on beaches:

(g) restricting the use of motor vehicles on unformed legal roads for the purposes of protecting the environment, the road and adjoining land, and the safety of road users:

(h) prescribing the use of roads and cycle tracks, and the construction of anything on, over, or under a road or cycle track:

Heavy traffic

(i) providing for the giving and taking of security by or from any person that no special damage will occur to any road, bridge, culvert, ferry, or ford by reason of any heavy traffic:

(j) prohibiting any specified class of heavy traffic that has caused or is likely to cause serious damage to any road, unless the cost of reinstating or strengthening the road, as estimated by the Minister or the relevant road controlling authority, as the case may be, is paid previously:

(k) providing for the annual or other payment of any reasonable sum by any person concerned in any heavy traffic by way of compensation for any damage likely to occur as a result of the heavy traffic to any road, bridge, culvert, ferry, or ford:

(l) providing for the establishment, in accordance with section 361 of the Local Government Act 1974, of a toll to be levied on any class of heavy traffic:

Parking

(m) prohibiting or restricting, subject to the erection of the prescribed signs, the stopping, standing, or parking of vehicles on any road; limiting the stopping, standing, or parking of vehicles on any road to vehicles of any specified class or description; limiting the period of time that vehicles may park on any part of the road where parking is limited to such vehicles; and providing that a vehicle used for the time being for any

specified purpose must be treated for the purposes of the bylaw to be of a specified class or description, whether or not the vehicle belongs to any other class or description for any other purpose:

(n) prohibiting or restricting, subject to the erection of the prescribed signs, the parking of heavy motor vehicles, or any specified class or description of heavy motor vehicle, on any specified road during specified hours or for a period that exceeds a specified period:

(o) prescribing the use of parking places and transport stations, which includes (but is not limited to)—

(i) specifying the vehicles or classes of vehicle that may be entitled to use any parking place or transport station:

(ii) reserving any specified parking place or transport station for use, either generally or at specified times, only by members of the judiciary, medical practitioners, members of the diplomatic corps or consular corps, or disabled persons as defined in section 2 of the Disabled Persons Community Welfare Act 1975:

(iii) if in the relevant road controlling authority's opinion it would be reasonable to reserve parking places or transport stations for use by persons who reside in the vicinity,—

(A) reserving specified parking places or transport stations for those persons to use, either generally or at specified times; and

(B) setting the fees that those persons must pay to the relevant road controlling authority, whether annual or otherwise, for the use of those parking places or transport stations (provided that the fees do not exceed the reasonable cost to the relevant road controlling authority of the service involved in granting a permit to park in any parking place or transport station, collecting fees, or otherwise in relation to the reserving of any parking place or transport station):

(iv) prohibiting or restricting parking (being the stopping or standing of a vehicle for a period in excess of that specified in the bylaws) on specified roads or part of roads in residential areas by specified classes of vehicles, either generally or at specified times, where in the relevant road controlling authority's opinion the parking is likely to cause a nuisance or danger:

(v) prescribing the conditions under which any parking place or transport station may be used:

(vi) prescribing the charges to be paid to the relevant road controlling authority in connection with the use of any parking place or transport station, as measured by parking meters or in any other manner specified in the bylaws:

(vii) providing for the removal of vehicles from parking places or transport stations or roads where those vehicles are using those places or stations in breach of the bylaws, and requiring the payment of the reasonable cost of such removal:

Signs and markings

(p) providing that, subject to the erection of the prescribed signs, vehicles on roads must travel in 1 specified direction only:

(q) prohibiting, subject to the erection of the prescribed signs, vehicles on a roadway turning from facing or travelling in 1 direction to facing or travelling in the opposite direction, or prohibiting vehicles on a road, other than vehicles of a specified class, from turning to the right or to the left:

(r) prescribing, subject to the marking of lanes on the roadway, that on any road any traffic lane may be used or any turning movement may be made only by vehicles of specified classes or vehicles carrying specified classes of loads or no fewer than a specified number of occupants:

Livestock

(s) prohibiting, either absolutely or conditionally, the crossing of any bridge or culvert by horses, cattle, sheep, pigs, or other animals, or vehicles and regulating the times at which or the manner in which any horses, cattle, sheep, pigs, or other animals, or vehicles, may cross or be taken over any bridge or culvert:

(t) prescribing the routes by which and the times at which horses, cattle, sheep, pigs, or other animals, or specified classes of vehicles, may pass over any road:

(u) prohibiting the driving of loose horses, cattle, sheep, pigs, or other animals along any road, otherwise than at the times and by the routes so prescribed, except with the permission of the Minister or of the relevant road controlling authority, as the case may be, and on the conditions that the Minister or the relevant road controlling authority, as the case may be, thinks fit:

(v) prohibiting, either absolutely or conditionally, the driving of horses, cattle, sheep, pigs, or other animals along any road, and requiring that no horses, cattle, sheep, pigs, or other animals may be taken upon or enter any road unless they are confined within a motor vehicle:

Displays, vegetation, and access

(w) regulating the use of any means of access constructed under section 319(1) of the Local Government Act 1974:

(x) requiring the owner or occupier of any area of land on which a building is situated or the owner or occupier of any building or part of a building, being land or a building or part of a building to which a number has been

allocated under section 319B of the Local Government Act 1974, to display that number in a position visible from the road:

(y) regulating, controlling, or prohibiting the display or continuance of the display of posters, placards, handbills, writings, pictures, or devices for advertising or other purposes on or over public buildings or bridges, or on or over buildings, walls, fences, posts, trees, pavements, or hoardings, that are situated—

(i) in or on or adjoining any land or road that is the property of, or under the control of, the relevant road controlling authority; or

(ii) where that display is visible from a road or public place:

(z) restricting or prohibiting the planting or erection, at or within a specified distance from corners, bends, or intersections on roads, of trees, shrubs, hedges, scrub, or other growth, or of fences or walls, that, in the opinion of the relevant road controlling authority are, or are likely to constitute, a source of nuisance or danger to traffic, and requiring the trimming or cutting down of such trees, shrubs, hedges, scrub, or other growth:

(za) requiring any allotment in such parts of the district as are specified in the bylaws to be fenced along its line of frontage to any road and to be kept clear of noxious plants:

(zb) prohibiting the cutting of grass for seed on roads or on any specified roads without the previous consent in writing of the relevant road controlling authority, either at all times or during any specified part of the year:

(zc) regulating the use of, and protecting, grass plots, flower beds, and shrubberies laid out in roads or on land vested in or under the control of the relevant road controlling authority by or under the authority of the relevant road controlling authority, and protecting trees growing on any roads or on land vested in or under the control of the relevant road controlling authority (whether or not planted by the relevant road controlling authority):

(zd) regulating or prohibiting the construction of cellars or the making of excavations within a specified distance from any road or any adjoining land, and preventing cellars and excavations from becoming a receptacle for stagnant water or other impure matter:

Weights

(ze) providing for—

(i) the weighing or measurement of vehicle loads:

(ii) the computation of the weight or measurement of loads from the cubical or superficial measurements of vehicle loads:

(zf) prescribing the quantity of material that, for the purpose of a computation, may be conclusively treated as a specified weight or measurement

of vehicle loads from the cubical or superficial measurements of vehicle loads:

(zg) providing for the drivers of vehicles to—

(i) give information as to vehicle loads and as to the quantity, weight, size, or measurement of vehicle loads:

(ii) do any thing for the purpose of enabling the quantity, weight, size, or measurement of the loads to be ascertained, as may be requested by any person authorised in this regard:

(zh) regulating the weights of vehicles or loads that may pass over bridges or culverts:

Pedlars

(zi) prohibiting or permitting the occupation of stands or stalls (including vehicles used as stalls) by hawkers, pedlars, and keepers of mobile or travelling shops (subject, in the case of a State highway, to the prior consent of the Agency and to any conditions imposed by the Agency)—

(i) in roads, public places, and State highways as the relevant road controlling authority thinks fit; or

(ii) in specified roads or State highways or parts of specified roads or State highways; or

(iii) in any public place adjoining specified roads or State highways or parts of specified roads or State highways if the presence of the stall or stand is likely to cause an obstruction or a danger to traffic:

(zj) prescribing charges in respect of any permits that may be granted in relation to matters specified in paragraph (zi):

General

(zk) regulating any road-related matters not addressed by paragraphs (a) to (zj), including (but not limited to) enhancing or promoting road safety or providing protection for the environment.

(2) A bylaw made under subsection (1) may apply—

(a) to all roads, any specified road, or any part of a specified road under the care, control, or management of the road controlling authority making the bylaw:

(b) to all vehicles or traffic or to any specified class or classes of vehicles or traffic using a road under the care, control, or management of the road controlling authority making the bylaw:

(c) at any specified time or times.

(3) A bylaw made under subsection (1) may leave any matter or thing to be regulated, controlled, or prohibited by the road controlling authority by resolution generally, for any specified classes of case, or in a particular case.

(3A) A relevant road controlling authority may, by resolution that is publicly notified, limit a parking place or transport station or any specified part of that parking place or transport station to vehicles belonging to or used by particular persons or classes of persons or to vehicles used for particular public purposes.

(3B) If, under subsection (3A), a parking place or transport station is limited to vehicles belonging to or used by particular persons or classes of persons or to vehicles used for particular public purposes, no person in charge of any other vehicle may allow the vehicle to stand in the parking place or transport station.

(4) A copy of every bylaw made under this section by a road controlling authority must, within 1 week after being made, be sent by the road controlling authority to the Minister, who may at any time disallow the bylaw or any part of the bylaw under section 22AC.

(5) Nothing in this section—

(a) applies to any railway on, over, or across any road; or

(b) limits any provision in this Act or any other Act, or any provision in any rules or regulations made under this Act or any other Act, regarding the regulation of traffic on roads; or

(c) limits the power to make bylaws conferred on a road controlling authority under any other Act.

(6) In this section,—

keeper, in relation to a mobile or travelling shop, means the person by whom or on whose behalf any business is carried on by means of the mobile or travelling shop

mobile or travelling shop—

(a) means a vehicle, whether self-propelled or not, from which goods, wares, or merchandise are offered or available for sale in the road, or from which goods, wares, or merchandise may be ordered in the road (whether or not in response to any invitation) or from which services are offered for sale in the road; but

(b) does not include any vehicle on or from which food is sold for consumption in or at the vehicle, or any vehicle used for the purpose of transporting and delivering goods, wares, or merchandise ordered previously

parking place has the same meaning as in section 591(6) of the Local Government Act 1974

railway has the same meaning as in section 4(1) of the Railways Act 2005

transport station has the same meaning as in section 591(6) of the Local Government Act 1974.

Section 22AB: inserted, on 1 December 2009, by section 8 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 22AB(1)(b): amended, on 11 August 2017, by section 90 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 22AB(1)(c) heading: added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(c): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(d): replaced, on 22 July 2015, by section 11 of the Land Transport (Speed Limits Validation and Other Matters) Act 2015 (2015 No 64).

Section 22AB(1)(e): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(f): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(g): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(h): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(i) heading: added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(i): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(j): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(k): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(l): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(m) heading: added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(m): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(n): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(o): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(p) heading: added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(p): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(q): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(r): replaced, on 1 July 2017, by section 18 of the Energy Innovation (Electric Vehicles and Other Matters) Amendment Act 2017 (2017 No 27).

Section 22AB(1)(s) heading: added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(s): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(t): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(u): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(v): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(w) heading: added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(w): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(x): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(y): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(z): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(za): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(zb): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(zc): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(zd): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(ze) heading: added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(ze): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(zf): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(zg): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(zh): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(zi) heading: added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(zi): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(zj): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(zk) heading: added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(zk): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(3A): inserted, on 10 May 2011, by section 10(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(3B): inserted, on 10 May 2011, by section 10(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(6): substituted, on 10 May 2011, by section 10(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

22AC Minister may amend, replace, or disallow bylaws

(1) The Minister may, by notice published in the *Gazette*, amend, replace, or disallow, either wholly or in part, any bylaw made by a road controlling authority under section 22AB or any other enactment (whether before or after the commencement of this section) if the bylaw—

(a) is inconsistent with any enactment; or

(aa) is inconsistent with or duplicates any land transport record included in the register established by section 200E; or

(b) is unreasonable or undesirable in so far as it relates to or may affect traffic.

(2) On any disallowance under subsection (1), the bylaw must, to the extent to which it is disallowed, be treated as having been revoked.

(3) Any disallowance under subsection (1) takes effect either on the day of the publication of the notice of disallowance in the *Gazette* or on a later date that may be specified in the notice.

Section 22AC: inserted, on 1 December 2009, by section 8 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 22AC(1)(aa): inserted, on 1 September 2020, by section 28 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

22AD Consultation

(1) Section 156 of the Local Government Act 2002 applies to a bylaw under section 22AB made by a road controlling authority that is a local authority as if that bylaw had been made under that Act.

(1A) Section 9(4) and (5) of the Airport Authorities Act 1966 applies to any bylaw made under section 22AB by a local authority or an airport authority in respect of an airport operated by that local authority or airport authority.

(2) A road controlling authority that is not a local authority may not make a bylaw under section 22AB unless it has consulted with—

(a) the occupiers of any properties adjoining the road to which the proposed bylaw would apply; and

(b) any affected road controlling authorities that are responsible for roads that join, or are located near, the road to which the proposed bylaw would apply; and

(c) the territorial authority for the area where the road is located; and

(d) any affected local community; and

(e) the Commissioner of Police; and

(f) any other organisation or road user group that the road controlling authority considers affected; and

(g) the Agency (if the road controlling authority is not the Agency).

(3) The road controlling authority must—

(a) give notice in writing to the persons specified in subsection (2) of the road controlling authority's proposal to make, amend, or replace a bylaw; and

(b) give those persons a reasonable time, which must be specified in the notice, to make submissions on the proposal.

Section 22AD: inserted, on 1 December 2009, by section 8 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 22AD(1): replaced, on 22 July 2015, by section 12 of the Land Transport (Speed Limits Validation and Other Matters) Act 2015 (2015 No 64).

Section 22AD(1A): inserted, on 22 July 2015, by section 12 of the Land Transport (Speed Limits Validation and Other Matters) Act 2015 (2015 No 64).

22AE Publication and proof of bylaws

(1) As soon as practicable after a bylaw is made, the road controlling authority must give public notice of the making of the bylaw, stating—

(a) the date on which the bylaw comes into force; and

(b) that copies of the bylaw may be inspected and obtained at the office of the relevant road controlling authority on payment of a specified amount.

(2) A road controlling authority must—

(a) keep copies of all its bylaws at the office of the road controlling authority; and

(b) make its bylaws available for public inspection, without fee, at reasonable hours at the office of the road controlling authority; and

(c) supply to any person, on request and on payment of a reasonable charge, a copy of any of its bylaws.

(3) The production of any document purporting to contain a printed copy of any bylaw made under section 22AB and authenticated by the road controlling authority that made it is, until the contrary is proved, sufficient evidence of the existence and provisions of the bylaw.

Section 22AE: inserted, on 1 December 2009, by section 8 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

22AF Warning notices

(1) If a motor vehicle is operated in a manner that breaches a qualifying bylaw, an enforcement officer may attach a warning notice to the motor vehicle (instead of, or in addition to, issuing an applicable infringement notice).

(2) The warning notice must be—

(a) in the form prescribed by the Minister of Police by notice in the *Gazette*; and

(b) attached to the motor vehicle subject to the warning notice in a manner that—

(i) is visible; but

(ii) does not interfere with the driver's view of the road.

(3) A warning notice attached to a motor vehicle under subsection (1)—

(a) is in effect for a period of 90 days from the date of its attachment; and

(b) must remain attached to the motor vehicle for that period.

Section 22AF: inserted, on 1 December 2009, by section 8 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Traction engine safety

Heading: inserted, on 16 January 2006, by section 11 of the Land Transport Amendment Act 2005 (2005 No 77).

22B Operators of traction engines to hold appropriate current qualification

(1) A person may not use a traction engine in a public place—

(a) without an appropriate qualification provided for in the regulations or the rules; or

(b) if the person is not permitted under this Act to drive a motor vehicle.

(2) A person who uses a traction engine must produce without delay his or her qualification referred to in subsection (1)(a) for inspection whenever required to do so by an enforcement officer.

(3) In this section and sections 22C and 36B, **public place**—

(a) means a place that is open to, or being used by, the public, whether or not there is a charge for admission; and

(b) includes a road and any part of a public place.

Section 22B: inserted, on 16 January 2006, by section 11 of the Land Transport Amendment Act 2005 (2005 No 77).

22C Traction engine to be safe and operated in compliance with regulations and rules

(1) A person may not use a traction engine in a public place in a manner that, having regard to all the circumstances, is or might be dangerous to the public or to a person.

(2) If the regulations or the rules require a traction engine to have current evidence of vehicle inspection, or any other certificate, or both, a person may not use the traction engine in a public place without the appropriate current evidence of vehicle inspection, certificate, or both (as the case may require).

(3) A person who uses a traction engine that is required to have current evidence of vehicle inspection, or a certificate, must comply with the regulations and the rules concerning such evidence or certificate, and the use of the traction engine.

(4) Current evidence of vehicle inspection must be displayed on the traction engine to which it applies.

Section 22C: inserted, on 16 January 2006, by section 11 of the Land Transport Amendment Act 2005 (2005 No 77).

Part 4
Driver licensing

23 Issue of driver licences

(1) The Agency must issue driver licences in accordance with the regulations and the rules.

(2) Except as provided in subsection (3), a driver licence may be issued for a period not exceeding 10 years and, unless the licence is extended under that subsection or for any reason ceases to have effect on an earlier date, the licence expires on the expiry date specified on the licence.

(3) The Agency may—

(a) issue licences for a period not exceeding 11 years in cases provided for by the rules:

(b) extend, in accordance with the rules, the term of a driver licence by 1 further period not exceeding 12 months.

(4) All driver licences in force immediately before this subsection comes into force continue in force and expire on a date to be determined in accordance with the rules, even though they may have been valid for more than 10 years when issued.

Compare: 1986 No 6 s 4

Section 23(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 23(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

24 Agency may issue temporary driver licences

(1) If an applicant for a driver licence meets the requirements for the issue of a licence of the class sought and the Agency is satisfied there will be some delay in issuing the licence, the Agency may issue to the person a temporary driver licence which—

(a) must be in such form and contain such details as may be specified in the rules; and

(b) is valid for such period, not exceeding 21 days, as may be specified on the temporary licence.

(2) A temporary driver licence issued under this section has the same effect as a driver licence of the same class issued under section 23.

(3) Despite subsection (1), in the case of a person whose licence has expired or been revoked, the Agency may issue a temporary licence, valid for a period not exceeding 1 year as specified on the temporary licence, as necessary to enable the person to continue to drive while his or her fitness to drive is assessed by the Agency or a person authorised by the Agency.

Section 24 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 24(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 24(3): added, on 16 January 2006, by section 12 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 24(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

24A Authorised persons may request driver licences for certain persons

(1) Despite section 23, the following persons may make a written request to the Agency to create and issue a driver licence for an assumed identity:

(a) the Commissioner, for the purpose of protecting a person who—

(i) is a Police employee or a person who is, has been, or may be a witness in any proceedings:

(ii) needs protection because of his or her relationship to a person who is, has been, or may be a witness in any proceeding:

(iii) needs protection because of his or her relationship to a Police employee:

(b) the Director-General of an intelligence and security agency, for the purpose of protecting the identity of a person who is, has been, or will be an employee:

(c) the chief executive, for the purpose of protecting a person who is, has been, or will be—

(i) a fishery officer; or

(ii) approved by the chief executive to undertake activities for the Ministry.

(2) The Agency may create and issue a driver licence for an assumed identity if the Agency receives a request under subsection (1)(a), (b), or (c).

(3) New identity information is created by the Agency by omitting, amending, or adding to—

(a) birth information, description information, name change information, or address information (including, if necessary, the creation of other identities to support the person's new identity information); and

(b) operational or administrative information as necessary, so that it supports the information described in paragraph (a).

(4) The Agency may omit, amend, or add information as necessary if the Agency receives notification that the driver licence is no longer required, or has been compromised, from—

(a) the Commissioner, in relation to the driver licence created as a result of a request under subsection (1)(a); or

(b) the Director-General of an intelligence and security agency, in relation to new identity information created as the result of a request under subsection (1)(b); or

(c) the chief executive, in relation to the driver licence created as a result of a request under subsection (1)(c).

(5) In this section,—

chief executive, **fishery officer**, and **Ministry** have the same meanings as in section 2(1) of the Fisheries Act 1996

Director-General of an intelligence and security agency has the meaning given to it by section 4 of the Intelligence and Security Act 2017

employee, in relation to an intelligence and security agency, has the meaning given to it by section 22 of the Intelligence and Security Act 2017

intelligence and security agency has the meaning given to it by section 4 of the Intelligence and Security Act 2017

Police employee means—

(a) a person appointed under section 18 of the Policing Act 2008; or

(b) a person—

(i) who is a member of an overseas law enforcement agency that corresponds to the New Zealand Police; and

(ii) whose identity is concealed for the purpose of carrying out a policing function approved by the Commissioner.

Compare: 1995 No 16 s 65

Section 24A: inserted, on 10 May 2011, by section 11 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 24A(1)(b): replaced, on 28 September 2017, by section 281(1) of the Intelligence and Security Act 2017 (2017 No 10).

Section 24A(4)(b): replaced, on 28 September 2017, by section 281(2) of the Intelligence and Security Act 2017 (2017 No 10).

Section 24A(5) **Director-General of an intelligence and security agency**: inserted, on 28 September 2017, by section 281(4) of the Intelligence and Security Act 2017 (2017 No 10).

Section 24A(5) **Director of Security**, **employee**, and **officer**: repealed, on 28 September 2017, by section 281(3) of the Intelligence and Security Act 2017 (2017 No 10).

Section 24A(5) **employee**: inserted, on 28 September 2017, by section 281(4) of the Intelligence and Security Act 2017 (2017 No 10).

Section 24A(5) **intelligence and security agency**: inserted, on 28 September 2017, by section 281(4) of the Intelligence and Security Act 2017 (2017 No 10).

25 Minimum age for driver licensing

(1) A person who is younger than 16 years may not hold or obtain a driver licence.

(2) However, a person who holds a New Zealand driver licence immediately before 1 August 2011 and is younger than 16 years may continue to hold that driver licence.

(3) A person referred to in subsection (2) may apply to the Agency to reinstate or replace that licence as necessary, or apply for a limited licence if an order has been made under section 105.

Compare: 1986 No 6 s 40(2)

Section 25(1): amended, on 1 August 2011, by section 12(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 25(2): added, on 1 August 2011, by section 12(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 25(3): added, on 1 August 2011, by section 12(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

26 Drivers may be tested and examined

The Agency may require an applicant for a driver licence and holders of driver licences to—

(a) complete courses that are approved by the Agency:

(b) pass tests and examinations that are approved by the Agency.

Section 26: substituted, on 16 January 2006, by section 13 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 26: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 26(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 26(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

27 Suspension and revocation of licences

The Agency may suspend or revoke a driver licence in accordance with the regulations and the rules.

Section 27: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

28 Photographic driver licence

(1) A driver licence must be in the prescribed form and must have on it—

(a) a photographic image of the holder; and

(b) the holder's name and signature; and

(c) the holder's date of birth; and

(d) unique identifiers to distinguish the licence and the holder from other driver licences and holders; and

(e) the classes to which the licence applies; and

(f) the endorsements issued to the holder; and

(g) the original date of issue of the licence; and

(h) the date on which the licence expires; and

(i) organ donor information (if applicable); and

(j) an indication of any condition the holder must comply with while driving a motor vehicle; and

(k) such other features as may be specified in the rules for the purposes of verifying or protecting the integrity of the licence.

(2) In addition, a driver licence may show the holder's address if the holder requests that those details be shown.

(3) A driver licence may not have on it any photographic image, information, or features other than those referred to in subsection (1) or subsection (2).

(4) This section applies to licences issued or renewed on or after the date this section comes into force, subject to subsections (4A), (4B), and (4C).

(4A) Without limiting subsection (4), subsection (1)(g) applies to all new driver licences, including—

(a) renewal of a current driver licence; and

(b) renewal of an expired driver licence, whether the holder—

(i) was previously suspended or disqualified; or

(ii) failed to renew his or her driver licence on expiry; and

(c) a replacement driver licence.

(4B) Despite subsections (1)(g) and (4),—

(a) in the case of a driver licence that has been revoked, the new driver licence must show the date of issue of the new licence; and

(b) in the case of a person who applies to convert an overseas licence or permit to a New Zealand full driver licence, the licence must show the date of issue of that person's first New Zealand driver licence; and

(c) in the case of a learner licence or restricted licence issued under Part 4 of the Land Transport (Driver Licensing) Rule 1999, the original date of issue of the learner licence or restricted licence must be shown on that licence.

(4C) Subsection (4B)(c) does not apply if the learner licence or the restricted licence adds a class to an existing licence.

(5) The Agency—

(a) must store the photographic image used for each licence until the licence expires; and

(b) may store the photographic image used for each licence after the licence has expired.

Section 28(1)(g): amended, on 16 January 2006, by section 14(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 28(4): amended, on 16 January 2006, by section 14(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 28(4A): inserted, on 16 January 2006, by section 14(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 28(4B): inserted, on 16 January 2006, by section 14(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 28(4C): inserted, on 16 January 2006, by section 14(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 28(5): replaced, on 22 August 2017, by section 40 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

Section 28(5): amended, on 1 September 2020, by section 35 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

28A Transitional provisions for photographic driver licences

Despite section 28(1)(g) and (4), the date of issue of a driver licence continues to be shown on an existing licence until that licence is renewed or replaced under Part 12 of the Land Transport (Driver Licensing) Rule 1999.

Section 28A: inserted, on 16 January 2006, by section 15 of the Land Transport Amendment Act 2005 (2005 No 77).

29 Certain driver licences have no effect

(1) A driver licence has no effect if—

(a) a person is disqualified from holding, or unqualified to hold, a driver licence:

(b) the licence is invalid or is issued invalidly:

(c) the licence is revoked, cancelled, superseded, or replaced:

(d) the licence is for the time being suspended under any Act.

(2) An authority to drive vehicles of a specified class that is conferred by part of a driver licence or an endorsement on a driver licence has no effect if—

(a) the person who obtained the authority is not qualified to drive, or is disqualified from driving, vehicles of that class; or

(b) the relevant part of the licence or the endorsement is for the time being suspended, or has been revoked, under any Act.

Section 29(1): substituted, on 10 May 2011, by section 13 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

29A Persons convicted of specified serious offences prohibited from holding passenger endorsement

(1) A person who has been convicted of a specified serious offence on, before, or after the commencement of this section may not hold a passenger endorsement on his or her driver licence.

(2) A passenger endorsement is deemed to be expired and of no effect if held by a person who has been convicted of a specified serious offence on, before, or after the commencement of this section.

(3) Despite subsection (1), a person may hold a passenger endorsement if—

(a) the person has not, with respect to a conviction for a specified serious offence, been sentenced to imprisonment for a term exceeding 12 months; and

(b) the Agency is, having regard to the criteria in section 29B(2)(b), satisfied that allowing the person to hold a passenger endorsement would not—

(i) be contrary to the public interest; and

(ii) pose an undue risk to public safety or security.

(4) For the purposes of this section,—

imprisonment excludes—

(a) corrective training; or

(b) borstal training; or

(c) detention centre training

specified serious offence means—

(a) murder; or

(b) a sexual crime under Part 7 of the Crimes Act 1961 punishable by 7 or more years' imprisonment (other than an act that is no longer an offence); and includes a crime under section 144A or section 144C of that Act; or

(c) an offence against any of the following sections of the Crimes Act 1961:

(i) section 173 (attempt to murder):

(ii) section 174 (counselling or attempting to procure murder):

(iii) section 175 (conspiracy to murder):

(iv) section 176 (accessory after the fact to murder):

(v) section 188 (wounding with intent):

(vi) section 189(1) (intent to cause bodily harm by injury):

(vii) section 191 (aggravated wounding or injury):

(viii) section 198 (discharging firearm or doing dangerous act with intent):

(ix) section 199 (acid throwing):

(x) section 200(1) (intent to cause grievous bodily harm by poison):

(xi) section 201 (infecting with disease):

(xii) section 208 (abduction for purposes of marriage or sexual connection):

(xiii) section 209 (kidnapping):

(xiv) section 210 (abduction of young person under 16):

(xv) section 234 (robbery):

(xvi) section 235 (aggravated robbery):

(xvii) section 236 (assault with intent to rob):

(d) an offence committed outside New Zealand that, if committed in New Zealand, would constitute an offence specified in paragraphs (a) to (c).

Section 29A: inserted, on 16 January 2006, by section 16 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 29A heading: amended, on 21 March 2006, by section 4(1) of the Land Transport Amendment Act 2006 (2006 No 2).

Section 29A(1): amended, on 21 March 2006, by section 4(2) of the Land Transport Amendment Act 2006 (2006 No 2).

Section 29A(3): substituted, on 21 March 2006, by section 4(3) of the Land Transport Amendment Act 2006 (2006 No 2).

Section 29A(3)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 29A(3)(b): amended, on 20 September 2007, by section 4 of the Land Transport Amendment Act 2007 (2007 No 66).

Section 29A(4): added, on 21 March 2006, by section 4(3) of the Land Transport Amendment Act 2006 (2006 No 2).

29B Passenger endorsement may be reinstated in certain cases

(1) A person who has a conviction for a specified serious offence may apply to the Agency to have the passenger endorsement reinstated if—

(a) the person's passenger endorsement—

(i) is deemed to be expired and of no effect under section 29A(2); or

(ii) expired during the period beginning on 22 June 2005 and ending on the close of 15 January 2006; and

(b) the person has not, with respect to a conviction for an offence specified in paragraph (a) or paragraph (b) of the definition of specified serious offence in section 29A(4), been sentenced to imprisonment for a term exceeding 12 months.

(2) If an application is made under subsection (1), the Agency—

(a) may reinstate the applicant's passenger endorsement if satisfied that allowing the applicant to hold a passenger endorsement would not—

(i) be contrary to the public interest; and

(ii) pose an undue risk to public safety or security; and

(b) must, when determining whether reinstating the applicant's passenger endorsement would not be contrary to the public interest and would not pose an undue risk to public safety or security, have regard to—

(i) the sentence imposed for the applicant's last conviction for a specified serious offence; and

(ii) the length of time since the applicant's last conviction for a specified serious offence; and

(iii) the nature and circumstances of each specified serious offence for which the applicant has been convicted; and

(iv) any other convictions that the applicant has; and

(v) the general safety criteria set out in section 30C; and

(vi) any other matters that the Agency considers relevant, including (but not limited to) submissions by any affected party.

(3) If the Agency decides to reinstate the person's passenger endorsement under subsection (2) or allow a person to hold a passenger endorsement under section 29A(3), section 29A(1) does not apply with respect to the person unless the person commits a specified serious offence on or after the date of the Agency's decision.

(4) If the Agency decides not to reinstate the person's passenger endorsement under subsection (2) or allow a person to hold a passenger endorsement under section 29A(3), the person may appeal to the High Court.

(5) For the purposes of this section,—

imprisonment has the same meaning as in section 29A(4)

specified serious offence has the same meaning as in section 29A(4).

Section 29B: substituted, on 21 March 2006, by section 5(1) of the Land Transport Amendment Act 2006 (2006 No 2).

Section 29B(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 29B(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 29B(2)(b)(vi): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 29B(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 29B(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30 Driver licences are property of Agency and are to be surrendered in certain circumstances

(1) Driver licences are the property of the Agency and, except where section 19 or subsection (4B) applies, must be surrendered or forwarded to the Agency in accordance with subsections (2) to (4A).

(2) The holder of a driver licence must, immediately after receiving notice of the suspension or revocation, surrender his or her licence to the Agency if—

(a) the licence is suspended or revoked under any Act; or

(b) the suspension or revocation applies to any endorsement or class specified in the licence but not to the whole licence.

(3) If the holder of a driver licence is disqualified by order of a court from holding or obtaining a driver licence, the holder must (whether or not a demand is made on him or her) immediately surrender the licence to the court where the order was made or to a constable or at any office of the Agency.

(3A) If an enforcement officer has suspended a person's driver licence in accordance with section 90(2), the person must immediately surrender his or her licence to the officer.

(4) A person who receives a driver licence under subsection (3), (3A), (4A)(b) or (c), or (4B) must immediately forward it to the Agency.

(4A) The holder of a driver licence must, if that licence is superseded by another driver licence, surrender that driver licence to—

(a) the Agency; or

(b) a person appointed by the Agency; or

(c) a constable.

(4B) A person on whom a driver licence stop order is imposed must,—

(a) if the order is served in a way other than that described in section 91B(1)(a), deliver or post his or her driver licence to an employee or agent of the Ministry of Justice at an office of that Ministry or at the District Court:

(b) if the order is served in the way described in section 91B(1)(a), surrender his or her driver licence to the employee or agent of the Ministry of Justice, or to the enforcement officer, who serves the order.

(5) The Agency must, subject to sections 82A, 83, and 105(6A) and as soon as practicable after being satisfied that a person is entitled to apply for and be granted a driver licence,—

(a) issue a new driver licence to the person when the disqualification or suspension expires or is removed; or

(b) in the case where a court authorises the issue of an alcohol interlock licence, issue an alcohol interlock licence to the person; or

(c) in the case where a court authorises the issue of a zero alcohol licence, issue a zero alcohol licence to the person; or

(d) in the case where a court authorises the issue of a limited licence, issue a limited licence to the person.

Section 30 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30 heading: amended, on 22 June 2005, by section 17(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30(1): amended, on 1 November 2013, by section 5(1) of the Land Transport Amendment Act 2011 (2011 No 31).

Section 30(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30(1): amended, on 22 June 2005, by section 17(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 30(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30(3A): inserted, on 20 September 2007, by section 5(1) of the Land Transport Amendment Act 2007 (2007 No 66).

Section 30(4): amended, on 1 November 2013, by section 5(2) of the Land Transport Amendment Act 2011 (2011 No 31).

Section 30(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30(4): amended, on 20 September 2007, by section 5(2) of the Land Transport Amendment Act 2007 (2007 No 66).

Section 30(4A): inserted, on 22 June 2005, by section 17(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30(4A)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30(4A)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30(4A)(c): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 30(4B): inserted, on 1 November 2013, by section 5(3) of the Land Transport Amendment Act 2011 (2011 No 31).

Section 30(4B)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 30(5): substituted, on 10 May 2011, by section 14 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Part 4A
Transport services licensing

Part 4A: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Subpart 1—Primary responsibilities of holders of transport service licences

Subpart 1: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

30A Requirements for vehicles

(1) A holder of a transport service licence must ensure that—

(a) every vehicle to be used in the service is maintained in a fit and proper condition and that the requirements of any Act, regulation, or rule made for this purpose are met:

(b) no vehicle is used in the service unless and until all fees payable in respect of the vehicle and the service under any Act, regulation, or bylaw have been duly paid or appropriate arrangements have been made for payment.

(2) The holder of any transport service licence must, whenever required to do so by the Agency, present for inspection any transport service vehicle used in the service.

(2A) The driver of a small passenger service vehicle must, whenever required to do so by the Agency, present the vehicle for inspection.

(3) No evidence of vehicle inspection may be issued in respect of a transport service vehicle unless the person issuing the evidence of vehicle inspection has been notified of the transport service licence number under which the vehicle is being operated.

(4) No person may use a transport service vehicle if that vehicle has suffered serious damage until the vehicle has been inspected and passed as being safe by a person authorised by the Agency, or the owner of the vehicle has been informed by such a person that the vehicle is not to be inspected.

(5) Nothing in subsection (1), (3), or (4) applies to a vehicle used in a small passenger service.

(6) Nothing in this section applies to—

(a) the facilitator of a facilitated cost-sharing arrangement; or

(b) a vehicle used in a facilitated cost-sharing arrangement; or

(c) a vehicle designed or adapted to carry 12 or fewer persons (including the driver) provided by one of the passengers being carried.

Compare: 1989 No 74 ss 31, 33

Section 30A: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30A(1)(a): amended, on 1 October 2017, by section 62(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30A(1)(b): amended, on 1 October 2017, by section 62(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30A(2): amended, on 1 October 2017, by section 62(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30A(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30A(2A): inserted, on 1 October 2017, by section 62(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30A(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30A(5): inserted, on 1 October 2017, by section 62(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30A(6): inserted, on 1 October 2017, by section 62(4) of the Land Transport Amendment Act 2017 (2017 No 34).

30B Provision of identification information in Braille

[Repealed]

Section 30B: repealed, on 1 October 2017, by section 63 of the Land Transport Amendment Act 2017 (2017 No 34).

Subpart 2—Fit and proper person test

Subpart 2: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Assessment criteria

Heading: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

30C General safety criteria

(1) When assessing whether or not a person is a fit and proper person in relation to any transport service, the Agency must consider, in particular, any matter that the Agency considers should be taken into account—

(a) in the interests of public safety; or

(b) to ensure that the public is protected from serious or organised criminal activity.

(2) For the purpose of determining whether or not a person is a fit and proper person for any of the purposes of this Part, the Agency may consider, and may give any relative weight that the Agency thinks fit having regard to the degree and nature of the person's involvement in any transport service, to the following matters:

(a) the person's criminal history (if any):

(b) any offending by the person in respect of transport-related offences (including any infringement offences):

(c) any history of serious behavioural problems:

(d) any complaints made in relation to any transport service provided or operated by the person or in which the person is involved, particularly complaints made by users of the service:

(e) any history of persistent failure to pay fines incurred by the person in respect of transport-related offences:

(f) any other matter that the Agency considers it is appropriate in the public interest to take into account.

(3) In determining whether or not a person is a fit and proper person for any of the purposes of this Part, the Agency may consider—

(a) any conviction for an offence, whether or not—

(i) the conviction was in a New Zealand court; or

(ii) the offence was committed before the commencement of this Part or corresponding former enactment; or

(iii) the person incurred demerit points under this Act or a corresponding former enactment in respect of the conviction; and

(b) the fact that the person has been charged with any offence that is of such a nature that the public interest would seem to require that a person convicted of committing such an offence not be considered to be fit and proper for the purposes of this section.

(4) Despite subsection (3), the Agency may take into account any other matters and evidence as the Agency considers relevant.

Compare: 1989 No 74 s 24(1), (2)(d), (3)

Section 30C: inserted, on 1 October 2007 (with effect on 21 March 2006 for the purposes of section 29B(2)(b)(v)), by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30C(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30C(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30C(2)(f): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30C(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30C(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30D Additional criteria for small passenger service and vehicle recovery service

Without in any way limiting the matters that the Agency may consider under section 30C(2), when the Agency is assessing whether or not a person is a fit

and proper person in relation to any small passenger service, or to any vehicle recovery service, the Agency must consider, in particular,—

(a) any history of serious behavioural problems:

(b) any offending in respect of offences of violence, sexual offences, drugs offences, arms offences, or offences involving organised criminal activities:

(c) any offending in respect of major transport-related offences, particularly offences relating to safety or to road user charges:

(d) any persistent offending of any kind:

(e) any complaints in respect of the person or any transport service operated by the person that are of a persistent or serious nature.

Compare: 1989 No 74 s 24(2)(a)

Section 30D: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30D heading: amended, on 1 October 2017, by section 64(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30D: amended, on 1 October 2017, by section 64(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30D: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30E Additional criteria for large passenger service

Without in any way limiting the matters that the Agency may have regard to under section 30C(2), when the Agency is assessing whether or not a person is a fit and proper person in relation to any large passenger service, the Agency must consider, in particular,—

(a) any history of serious behavioural problems that indicate a propensity for violence:

(b) any offending in respect of offences of violence or sexual offences:

(c) any offending in respect of major transport-related offences, particularly offences relating to safety or to road user charges.

Compare: 1989 No 74 s 24(2)(b)

Section 30E: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30E heading: amended, on 1 October 2017, by section 65(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30E: amended, on 1 October 2017, by section 65(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30E: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30F Additional criteria for goods service

Without in any way limiting the matters that the Agency may have regard to under section 30C(2), when the Agency is assessing whether or not a person is a fit and proper person in relation to any goods service, the Agency must consider, in particular,—

(a) any criminal activity conducted in the course of any transport service or transport-related business or employment:

(b) any offending in respect of major transport-related offences, particularly offences relating to safety or to road user charges.

Compare: 1989 No 74 s 24(2)(c)

Section 30F: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30F: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Information requirements

Heading: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

30G Agency may require information for fit and proper person assessment

The Agency may, for the purpose of determining whether or not a person is a fit and proper person for any of the purposes of this Act,—

(a) seek and receive any information that the Agency thinks fit; and

(b) consider information obtained from any source.

Compare: 1989 No 74 s 24(4)

Section 30G: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30G heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30G: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30G(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30H Agency's duties concerning prejudicial information

If the Agency proposes to take into account any information that is or may be prejudicial to the person, the Agency must, subject to section 30I(1) and to subpart 5, disclose that information to the person and, in accordance with subpart 5, give the person a reasonable opportunity to refute or comment on it.

Compare: 1989 No 74 s 24(5)

Section 30H: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30H heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30H: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30I Non-disclosure by Agency of information for safety reasons

(1) Nothing in section 30H requires the Agency to disclose any information the disclosure of which would be likely to endanger the safety of any person.

(2) If the Agency determines not to disclose any information in reliance on subsection (1), the Agency must inform the person of the fact of non-disclosure and,—

(a) in the case of non-disclosure to an individual of information about the individual,—

(i) inform the individual that he or she may, under the Privacy Act 2020, complain to the Privacy Commissioner about that non-disclosure; and

(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information has been withheld in reliance on section 49(1)(a)(i) of that Act; and

(b) in any other case,—

(i) inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and

(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld in reliance on section 6(d) of that Act.

Compare: 1989 No 74 s 24(6), (7)

Section 30I: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30I heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30I(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30I(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30I(2)(a)(i): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Section 30I(2)(a)(ii): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Subpart 3—Licensing of transport services

Subpart 3: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

30J Transport service operators must be licensed

A transport service operator may not carry on (or, in relation to a small passenger service operator, facilitate) any of the following transport services unless licensed to do so:

(a) a goods service:

(b) a large passenger service:

(c) a rental service:

(d) a small passenger service:

(e) a vehicle recovery service.

Section 30J: replaced, on 1 October 2017, by section 66 of the Land Transport Amendment Act 2017 (2017 No 34).

30K Application for transport service licence

(1) Every application for a transport service licence must be—

(a) made in accordance with the regulations and the rules; and

(b) accompanied by the fee (if any) required by the regulations.

(2) A person may not hold or apply for a transport service licence while he or she is disqualified under this Act or any other Act from holding or obtaining a transport service licence.

Compare: 1989 No 74 s 6

Section 30K: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

30L Grant of licence

(1) After considering an application for a transport service licence, the Agency may grant the licence only if the Agency is satisfied that—

(a) the applicant is a fit and proper person to hold a transport service licence; and

(b) any person who is to have, or is likely to have, control of the transport service is a fit and proper person to have such control; and

(c) any representative meeting the requirements of subsection (1A)(b) is a fit and proper person to be a representative; and

(d) the applicant or any person who is to have control of the transport service is the holder of the appropriate certificate (if any) required by the regulations or the rules; and

(e) all relevant requirements of this Act, the regulations, and the rules have been complied with.

(1A) The Agency may grant a small passenger service licence only if the Agency is satisfied that—

(a) a person who is to have control of the small passenger service in New Zealand lives in New Zealand; or

(b) the small passenger service operator has a representative who lives in New Zealand.

(2) In determining whether or not a person is a fit and proper person in relation to any transport service, the Agency must consider the matters specified in subpart 2.

(3) Subpart 5 applies to a decision not to grant a transport service licence.

Compare: 1989 No 74 s 8(1), (2)

Section 30L: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30L(1): replaced, on 1 October 2017, by section 67(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30L(1A): inserted, on 1 October 2017, by section 67(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30L(2): amended, on 1 October 2017, by section 67(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30L(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30M Conditions of goods service licence

Despite section 30L(1) and (2), the Agency may grant the licence on such conditions as the Agency may specify on the licence or in writing to the holder if the applicant applies for a goods service licence and the Agency—

(a) is not satisfied that the applicant is a fit and proper person to operate a goods service under the licence sought; but

(b) is satisfied that—

(i) the applicant is a fit and proper person to operate a goods service under a licence to carry the applicant's own goods, if specified conditions are imposed; and

(ii) the grant of such a licence is not contrary to the public interest.

Compare: 1989 No 74 s 8(3)

Section 30M: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30M heading: amended, on 1 October 2017, by section 68 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30M: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30N Transfer, assignment, or lease of transport service licence prohibited

(1) A transport service licence may not be transferred, leased, or assigned to any person.

(2) Nothing in subsection (1) prevents the carrying on of a transport service under a transport service licence that was previously held by a deceased person or a person permanently mentally incapacitated, for a period not exceeding 6 months following the death or incapacitation of the person,—

(a) by the personal representative of the deceased or incapacitated person; or

(b) by any other person under an arrangement with the personal representative.

Compare: 1989 No 74 s 26(1), (2)

Section 30N: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

30O Term of transport service licence

(1) A transport service licence takes effect on the day it is granted and continues in force until it is—

(a) surrendered under subsection (2); or

(b) deemed to be surrendered under subsection (3); or

(c) revoked under section 30S.

(2) The holder of a transport service licence may surrender the transport service licence at any time by written notice to the Agency.

(3) If no vehicle has been operated under a transport service licence for a period of 2 years, the licence is deemed to have been surrendered.

(4) No transport service licence for a transport service operated by any of the following may be suspended or revoked for any reason:

(a) the New Zealand Defence Force; or

(b) Fire and Emergency New Zealand; or

(c) the Police; or

(d) any emergency service organisation approved by the Agency for the purposes of this section.

Compare: 1989 No 74 ss 3(2), 27, 28

Section 30O: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30O(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30O(4)(a): amended, on 11 August 2017, by section 50 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30O(4)(b): replaced, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

Section 30O(4)(d): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30P Driver must have or drive under transport service licence

A transport service driver must, when using a vehicle in a transport service,—

(a) have the relevant transport service licence; or

(b) drive on behalf of the holder of the relevant transport service licence; or

(c) have been facilitated to connect with passengers by a facilitator who holds a small passenger service licence.

Section 30P: replaced, on 1 October 2017, by section 69 of the Land Transport Amendment Act 2017 (2017 No 34).

30Q Records to be kept by facilitator of facilitated cost-sharing arrangement

(1) A facilitator of a facilitated cost-sharing arrangement must keep—

(a) all records of payments to the driver; and

(b) all records of payments made by passengers to the facilitator; and

(c) a record of the distance travelled on each trip.

(2) The person who keeps the records required under subsection (1) must—

(a) keep each record for 12 months from the date it is made; and

(b) make all records referred to in subsection (1) in the possession or control of that person available for immediate inspection on demand at any reasonable time by the Agency.

(3) A person employed by the Agency to whom records are made available for inspection under subsection (2)(b) is entitled to make copies of those records.

Section 30Q: replaced, on 1 October 2017, by section 69 of the Land Transport Amendment Act 2017 (2017 No 34).

30R Agency may revoke approval

[Repealed]

Section 30R: repealed, on 1 October 2017, by section 69 of the Land Transport Amendment Act 2017 (2017 No 34).

Subpart 4—Revocation of transport service licences

Subpart 4: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

30S When Agency may revoke transport service licence

(1) The Agency may revoke a transport service licence if the Agency is satisfied that—

(a) the holder of the transport service licence is not a fit and proper person to be the holder of a transport service licence; or

(b) any person who has control of the transport service is not a fit and proper person to have control of the service; or

(c) any representative who lives in New Zealand is not a fit and proper person to be a representative; or

(d) any driver is not a fit and proper person.

(1A) Subsection (1)(c) does not apply in relation to drivers who are facilitated to connect with passengers under a facilitated cost-sharing arrangement.

(2) Subpart 5 applies to a decision to revoke a transport service licence.

Compare: 1989 No 74 s 11(1)

Section 30S: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30S heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30S(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30S(1)(b): replaced, on 1 October 2017, by section 70(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30S(1)(c): inserted, on 1 October 2017, by section 70(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30S(1)(d): inserted, on 1 October 2017, by section 70(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30S(1A): inserted, on 1 October 2017, by section 70(2) of the Land Transport Amendment Act 2017 (2017 No 34).

30T Procedure Agency must follow before revoking transport service licence

If the proposed revocation of a licence under section 30S is on the ground that a person other than the licence holder is not a fit and proper person,—

(a) the notice required to be given to the licence holder by section 30W must specify the steps that the Agency will require to be taken if the licence is not to be revoked, which steps may include a requirement that the person concerned cease all involvement in the service within a specified period; and

(b) the licence must not be revoked where the licence holder complies with any such requirements of the Agency.

Compare: 1989 No 74 s 11(2), (3)

Section 30T: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30T heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30T: amended, on 1 October 2017, by section 71 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30T(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30T(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30U Suspension of transport service licence or imposition of conditions

(1) The Agency may suspend or impose conditions on a licence if—

(a) the holder of a transport service licence, or any person who has control of the service, does not hold a certificate required by the regulations or the rules; or

(b) the holder of a transport service licence, or any person who has control of the service, does not comply with the applicable requirements in this Part, Part 4B, the regulations, or the rules; or

(c) the holder of a small passenger service licence does not have—

(i) a person with control of the service in New Zealand who lives in New Zealand; or

(ii) a representative who lives in New Zealand.

(2) A suspension ceases immediately when the Agency is satisfied that subsection (1)(a), (b), or (c) no longer applies.

(2A) Any conditions imposed are immediately removed when the Agency is satisfied that subsection (1)(a), (b), or (c) no longer applies.

(3) Subpart 5 applies to a decision to suspend a transport service licence.

(4) Subpart 5 applies to a decision to impose conditions on a transport service licence as if the licence had been suspended and with any necessary modifications.

Compare: 1989 No 74 s 18(4), (5)

Section 30U: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30U heading: amended, on 1 September 2020, by section 53(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 30U(1): replaced, on 1 October 2017, by section 72 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30U(1): amended, on 1 September 2020, by section 53(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 30U(1)(b): amended, on 1 September 2020, by section 53(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 30U(2): replaced, on 1 October 2017, by section 72 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30U(2A): inserted, on 1 September 2020, by section 53(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 30U(4): inserted, on 1 September 2020, by section 53(5) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Subpart 5—Adverse decisions

Subpart 5: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

30V Interpretation

In sections 30W to 30Y, unless the context otherwise requires,—

adverse decision means any decision of the Agency—

(a) that a person is not a fit and proper person under subpart 2; or

(b) to refuse to grant a transport service licence under section 30L; or

(c) to grant a licence on conditions under section 30M; or

(d) to revoke a transport service licence under section 30S; or

(e) to suspend or impose conditions on a transport service licence under section 30U; or

(f) to disqualify—

(i) a transport service driver under section 87A; or

(ii) a transport service licence holder or person in control of a transport service under section 87B

affected licence holder, in relation to any person directly affected by an adverse decision, means the holder of or the applicant for the transport service licence for the transport service in which that person has or is to have control, whether as a driver or otherwise

person directly affected, in relation to any adverse decision, means the person who would be entitled under section 106 to appeal against that adverse decision

person on the basis of whose character the adverse decision arises, in relation to any adverse decision made or proposed to be made on the ground that any person is not a fit and proper person for the purposes of the relevant service, licence, or other matter to which the decision relates, means the person whom the Agency assesses as not being a fit and proper person.

Compare: 1989 No 74 s 25(1)

Section 30V: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30V **adverse decision**: replaced, on 1 October 2017, by section 73(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30V **adverse decision** paragraph (e): amended, on 1 September 2020, by section 54 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 30V **affected licence holder**: amended, on 1 October 2017, by section 73(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30V **person on the basis of whose character the adverse decision arises**: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30W Agency to notify proposal to make adverse decision

(1) If the Agency proposes to make an adverse decision under this Part in respect of any person, the Agency must, by notice in writing,—

(a) notify the person directly affected of the proposed decision; and

(b) subject to subsection (3), inform that person of the grounds for the proposed decision; and

(c) specify a date by which submissions may be made to the Agency in respect of the proposed decision (which date must not be less than 21 days after the date on which the notice is given); and

(d) if appropriate, specify the date on which the proposed decision will, unless the Agency otherwise determines, take effect, being a date not earlier than 28 days after the date the notice is given; and

(e) notify the person of the person's right of appeal under section 106, in the event of the Agency proceeding with the proposed decision; and

(f) specify such other matters as in any particular case may be required by this Act or any other Act.

(2) If the Agency gives a notice under subsection (1), the Agency—

(a) must also supply a copy of the notice to—

(i) any person on the basis of whose character the adverse decision arises, where that person is not the person directly affected:

(ii) any affected licence holder, if the Agency considers that the proposed adverse decision is likely to have a significant impact on the operations of that licence holder:

(b) may supply a copy of the notice to any other affected licence holder.

(3) No notice or copy of a notice given under this section may include or be accompanied by any information referred to in section 30H except to the extent that—

(a) the notice or copy is supplied to the person to whom the information relates; or

(b) that person consents to the supply of that information to any other person.

Compare: 1989 No 74 s 25(2)–(4)

Section 30W: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30W heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30W(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30W(1)(c): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30W(1)(d): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30W(1)(e): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30W(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30W(2)(a)(ii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30X Procedure for consideration of information

If any notice or copy of a notice is given to any person under section 30W,—

(a) it is the responsibility of the person to ensure that all information that the person wishes to have considered by the Agency in relation to the proposed adverse decision is received by the Agency within the period specified in the notice under section 30W(1)(c), or within any further period that the Agency may allow in any case:

(b) the Agency may, but is not obliged to, consider any information supplied by the person after the expiry of the period referred to in paragraph (a), other than information requested by the Agency and supplied by the person within such reasonable time as the Agency may specify:

(c) the Agency must consider any submissions made in accordance with paragraph (a), and any information supplied pursuant to a request referred to in paragraph (b), but is not obliged to hear any person on the matter.

Compare: 1989 No 74 s 25(5)

Section 30X: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30X(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30X(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30X(c): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30Y Agency's determination

After considering the matters referred to in section 30X(c), the Agency must—

(a) finally determine whether or not to make the proposed adverse decision; and

(b) as soon as practicable thereafter, notify in writing to the person directly affected, and any other person of a kind referred to in section 30W(2)(a), of—

(i) the Agency's decision; and

(ii) if appropriate, the date on which the decision will take effect; and

(iii) if appropriate, the right of appeal under section 106.

Compare: 1989 No 74 s 25(6)

Section 30Y: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30Y heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30Y: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30Y(b)(i): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Part 4B
Work time and logbooks

Part 4B: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

30Z Application of Part

Nothing in this Part applies in relation to—

(a) a vehicle used in a facilitated cost-sharing arrangement; or

(b) any rail service vehicle.

Section 30Z: replaced, on 1 October 2017, by section 74 of the Land Transport Amendment Act 2017 (2017 No 34).

30ZA Agency may grant exemptions or approve alternative fatigue management schemes

(1) If the Agency takes into account the criteria specified in section 166(2), the Agency may, upon any conditions that the Agency considers appropriate,—

(a) with respect to subpart 1, grant written variations to work time requirements specified in subpart 1 or the rules:

(b) with respect to subpart 2, grant partial or total written exemptions from some or all of the requirements to maintain logbooks:

(c) approve, in accordance with the rules, an alternative fatigue management scheme that varies the work time restrictions or rest time requirements of any rule for specified drivers covered by the relevant transport service licence.

(2) A variation or exemption granted, or an approval given under subsection (1), in relation to work time or logbooks may be amended or revoked at any time by the Agency in writing.

(3) The Agency may revoke, by notice in writing, any exemption from logbook use granted under the rules if the Agency has reason to believe that the person has breached the rules or any conditions imposed under subsection (1).

(4) Before approving an alternative fatigue management scheme under subsection (1)(c), the Agency must be satisfied that the applicant has consulted any representatives of the drivers covered by the relevant transport licence (including, but not limited to, unions).

Compare: 1962 No 135 s 70B(4), (5)

Section 30ZA: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30ZA heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30ZA(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30ZA(1)(c): amended, on 7 August 2011, by section 16 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 30ZA(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30ZA(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30ZA(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subpart 1—Work time

Subpart 1: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

30ZB Application of subpart

(1) This subpart applies if, in a cumulative work period, a driver drives a vehicle that—

(a) requires a class 2, 3, 4, or 5 licence (as specified in the rules); or

(b) is used in—

(i) a transport service (other than a rental service); or

(ii) circumstances in which that vehicle must, or ought to, be operated under a transport service licence; or

(c) is used to carry goods for hire or reward.

(2) Subsection (1) applies whether or not the vehicle is—

(a) engaged in any transport service; or

(b) carrying any load or passengers.

(3) Subsection (1) does not apply to the driver of a goods service vehicle that—

(a) requires a class 2 licence (as specified in the rules); and

(b) is used within a 50 km radius of the vehicle's normal base of operation; and

(c) is not used for hire or reward.

(4) This section is subject to section 30Z.

Section 30ZB: substituted, on 7 August 2011, by section 17 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 30ZB(4): inserted, on 1 October 2017, by section 75 of the Land Transport Amendment Act 2017 (2017 No 34).

30ZC Limits on work time

(1) A driver subject to this subpart—

(a) may not exceed the work time restrictions specified in this section, the rules, or any variation granted under section 30ZA; and

(b) must comply with the rest time requirements specified in this section, the rules, or any variation granted under section 30ZA.

(2) In any cumulative work day, a driver—

(a) may not exceed 13 hours of work time; and

(b) must have at least 10 hours of continuous rest time.

(3) In any cumulative work period, a driver may not exceed 70 hours of work time.

(4) To avoid doubt, the rules may extend the limits for a cumulative work day or period for a specified activity or service.

(5) This section does not apply to a driver of an ambulance service or a fire brigade who is proceeding to or returning from an incident attended in response to a priority call specified in the rules.

Section 30ZC: substituted, on 7 August 2011, by section 17 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 30ZC(5): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

30ZD Records must be kept

(1AA) Subsection (1) applies to—

(a) a person who employs a person to drive a vehicle referred to in section 30ZB; and

(b) a self-employed driver who drives a vehicle referred to in section 30ZB; and

(c) a facilitator who facilitates a driver who drives a vehicle referred to in section 30ZB to connect with passengers.

(1) A person to whom this section applies must keep all—

(a) time records, records of payments to the driver, and employment or contractual records relating to the driver; and

(b) accommodation records and receipts for the driver that are relevant to the driver's transport service or transport service vehicle; and

(c) fuel records and receipts for the relevant transport service vehicles.

(2) The person who keeps the records required under subsection (1) must—

(a) keep each record for 12 months from the date it is made; and

(b) make all relevant records referred to in subsection (1) in the possession or control of that person available for immediate inspection on demand at any reasonable time by an enforcement officer.

(3) Every enforcement officer to whom records are made available for inspection under subsection (2)(b) is entitled to make copies of those records.

Compare: 1962 No 135 s 70B(6), (6A)

Section 30ZD: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30ZD(1AA): inserted, on 1 October 2017, by section 76(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30ZD(1): replaced, on 1 October 2017, by section 76(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30ZD(2)(b): replaced, on 1 October 2017, by section 76(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Subpart 2—Logbooks

Subpart 2: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

30ZE Application of subpart

(1) This subpart applies if, in a cumulative work period,—

(a) a driver drives a vehicle that requires a class 2, 3, 4, or 5 licence (as specified in the rules); or

(b) a driver drives a vehicle that is used in—

(i) a transport service (other than a rental service); or

(ii) circumstances in which the vehicle must, or ought to, be operated under a transport service licence; or

(c) a driver drives a vehicle that is used to carry goods for hire or reward if that vehicle is a heavy motor vehicle.

(2) Despite subsection (1), this subpart—

(a) applies whether or not the vehicle is—

(i) engaged in any transport service; or

(ii) carrying any load or passengers; but

(b) does not apply to a driver of a goods service vehicle that—

(i) requires a class 1 or class 2 licence (as specified in the rules); and

(ii) is used within a 50 km radius of the vehicle's normal base of operation; and

(iii) is not used for hire or reward.

(3) This section is subject to section 30Z.

Section 30ZE: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30ZE(3): inserted, on 1 October 2017, by section 77 of the Land Transport Amendment Act 2017 (2017 No 34).

30ZF Drivers must maintain logbooks

Unless exempted under section 30ZA(1), the regulations, or the rules, a driver must maintain a logbook in the—

(a) manner prescribed by the rules; and

(b) form approved by the Agency in accordance with the rules.

Compare: 1962 No 135 s 70C(1)

Section 30ZF: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30ZF(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30ZG Agency may approve or revoke alternative means of recording matters

The Agency may, in accordance with the rules, approve or revoke an alternative means of recording matters relevant to the monitoring of work time.

Section 30ZG: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30ZG heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30ZG: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30ZH Duties regarding logbooks

(1) A driver must—

(a) retain a logbook required to be maintained by that driver under section 30ZF for a period of 12 months after the date of the last entry in that logbook; and

(b) in the case of a driver who is an employee, or who is driving on behalf of a transport service operator, or who is facilitated to connect with passengers by a small passenger service operator, deliver a copy of each completed logbook record to the driver's employer or transport service operator within 14 days after completing that record, and the employer or transport service operator must retain the copy of each logbook record for a period of 12 months from the date of the record.

(1A) Despite anything in subsection (1), if the logbook only contains entries for a light RUC vehicle (as defined in section 5(1) of the Road User Charges Act 2012), the driver must retain the logbook only for a period of 12 months.

(2) A driver must—

(a) carry a logbook with him or her at all times when driving a vehicle to which section 30ZE applies; and

(b) produce, on demand by any enforcement officer and without delay, any logbook that—

(i) the driver is required to maintain; and

(ii) relates to—

(A) the day of the driver's last rest time of at least 24 hours; and

(B) all the days since that rest time.

(3) If the form of the logbook required to be maintained under section 30ZF includes an identical copy made simultaneously with the original of that logbook, and the logbook has been produced to an enforcement officer, that enforcement officer is entitled, on demand,—

(a) to remove that identical copy; or

(b) if that identical copy has previously been removed or is illegible, to make a copy of that logbook.

(4) A person who is required to retain a logbook or a copy of a logbook under subsection (1) must make it and all relevant time records, records of payments to the driver, and employment or contractual records relating to the driver available for immediate inspection on demand by an enforcement officer at any reasonable time during the period for which it is required to be retained.

(5) A person to whom a logbook or a copy of a logbook or records are required to be made available for inspection under subsection (4) is entitled to make a copy of that logbook or that copy or those records.

Compare: 1962 No 135 s 70C(5)–(7A)

Section 30ZH: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30ZH(1)(a): amended, on 17 December 2016, by section 59 of the Statutes Amendment Act 2016 (2016 No 104).

Section 30ZH(1)(b): amended, on 1 October 2017, by section 78(1)(a) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30ZH(1)(b): amended, on 1 October 2017, by section 78(1)(b) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30ZH(1)(b): amended, on 1 October 2017, by section 78(1)(c) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 30ZH(1)(b): amended, on 17 December 2016, by section 59 of the Statutes Amendment Act 2016 (2016 No 104).

Section 30ZH(1A): inserted, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Section 30ZH(2)(a): amended, on 1 October 2007, by section 6 of the Land Transport Amendment Act 2007 (2007 No 66).

Section 30ZH(4): amended, on 1 October 2017, by section 78(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Subpart 3—Evidence in proceedings

Subpart 3: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

30ZI Evidence in proceedings for offences against subpart 1 or subpart 2

(1) In proceedings for an offence against subpart 1 or subpart 2, the following is sufficient evidence of the contents of a log-book, unless the contrary is proved by production to the court of the logbook or of an identical copy of the logbook made simultaneously with the original logbook,—

(a) evidence given by an enforcement officer authorised to demand the production of logbooks under section 30ZH(2)(b), or by any person who had that status at the time when the alleged offence was committed, as to the contents of any logbook as seen and recorded by that person at the time it was produced; and

(b) an identical copy of any logbook removed, or a copy of any logbook made, by an enforcement officer in accordance with section 30ZH(3) or section 30ZH(4).

(2) In any proceedings in respect of an offence against subpart 1 it is presumed, until the contrary is proved, that the contents of any logbook produced to an enforcement officer authorised to demand production of the logbook or removed by an enforcement officer from an accident scene where the driver is incapacitated are an accurate statement of the truth of the matter required to be recorded in the logbook by section 30ZF.

Compare: 1962 No 135 s 70D(8), (9)

Section 30ZI: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

Part 5
Offences relating to driving (other than alcohol-related offences) and penalties

Offences relating to driver licensing

31 Contravention of section 5(1)(a) or (b) or (4) or 30(2), (3), (3A), (4A), or (4B)

(1) A person commits an offence if the person—

(a) drives a motor vehicle on a road—

(i) with an expired driver licence; or

(ii) without an appropriate driver licence; or

(b) drives a motor vehicle contrary to the conditions of his or her driver licence; or

(c) is the driver of a motor vehicle and fails to produce his or her driver licence for inspection without delay after being required to do so by an enforcement officer; or

(d) fails to surrender or return his or her driver licence to—

(i) the Agency, a person appointed by the Agency, a court, a constable, or an enforcement officer when required to do so by section 30(2), (3), (3A), or (4A):

(ii) an employee or agent of the Ministry of Justice, or an enforcement officer, when required to do so by section 30(4B)(b).

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $1,000.

Compare: 1986 No 6 s 37(3), (4)

Section 31 heading: amended, on 14 November 2018, by section 148(1) of the Courts Matters Act 2018 (2018 No 50).

Section 31(1)(a): substituted, on 22 June 2005, by section 20(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 31(1)(d): replaced, on 14 November 2018, by section 148(2) of the Courts Matters Act 2018 (2018 No 50).

32 Contravention of section 5(1)(c)

(1) A person commits an offence if the person drives a motor vehicle on a road—

(a) while disqualified from holding or obtaining a driver licence; or

(b) contrary to an alcohol interlock licence, a zero alcohol licence, or a limited licence; or

(c) while his or her driver licence is suspended or revoked.

(2) Nothing in subsection (1) applies to any person—

(a) who has been ordered by a court to attend an approved driving improvement course under section 92(1) or a programme approved by the Agency under section 99A or to undergo any test or examination approved by the Agency; and

(b) who, in the course of his or her attendance at that course or programme or while undergoing such a test or examination,—

(i) in the case of a motorcyclist, drives under the supervision of a person who holds a driving instructor or testing officer endorsement under Part 5 of the Land Transport (Driver Licensing) Rule 1999 that is relevant to a class of licence for a motorcycle:

(ii) in any other case, drives while accompanied by a person who holds a driving instructor or testing officer endorsement under Part 5 of the Land Transport (Driver Licensing) Rule 1999.

(3) If a person is convicted of a first or second offence against subsection (1),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding $4,500; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 6 months or more.

(3A) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (3)(b) does not apply and section 65AH(3)(b) applies.

(4) If a person is convicted of a third or subsequent offence against subsection (1) (whether or not of the same kind of offence as the previous offences),—

(a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding $6,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more.

(4A) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (4)(b) does not apply and section 65AH(3)(b) applies.

(5) For the purposes of this section, a conviction for an offence against a provision of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 or the Transport Act 1962 corresponding to an offence specified in subsection (1) is to be treated as a conviction for an offence specified in that subsection.

(6) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Compare: 1962 No 135 ss 30AA(2B), (4), 35(1), (1A)

Section 32(1)(b): amended, on 10 September 2012, by section 18(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 32(2)(a): amended, on 10 September 2012, by section 18(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 32(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 32(2)(a): amended, on 16 January 2006, by section 21(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 32(2)(b): amended, on 16 January 2006, by section 21(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 32(2)(b)(i): substituted, on 16 January 2006, by section 21(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 32(2)(b)(ii): substituted, on 16 January 2006, by section 21(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 32(3A): inserted, on 1 July 2018, by section 6(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 32(4): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 32(4A): inserted, on 1 July 2018, by section 6(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 32(6): replaced, on 1 July 2018, by section 6(3) of the Land Transport Amendment Act 2017 (2017 No 34).

33 Contravention of section 5(2) or (3)

(1) A person commits an offence if the person holds or applies for a driver licence while disqualified from doing so or while his or her driver licence is suspended.

(1A) Subsection (1) does not apply in relation to—

(a) an application for an alcohol interlock licence made in accordance with an alcohol interlock sentence; or

(b) an application for a zero alcohol licence made in accordance with section 65B.

(2) If a person is convicted of an offence against subsection (1),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding $4,500; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 6 months or more.

(2A) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (2)(b) does not apply and section 65AH(3)(b) applies.

(3) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Compare: 1962 No 135 ss 30AA(3)(a), 34, 50

Section 33(1A): inserted, on 1 July 2018, by section 7(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 33(2A): inserted, on 1 July 2018, by section 7(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 33(3): replaced, on 1 July 2018, by section 7(3) of the Land Transport Amendment Act 2017 (2017 No 34).

33A Offence to operate as driving instructor without authorisation

(1) A person commits an offence if the person provides, or offers or agrees to provide, driving instruction in a motor vehicle for financial or commercial gain without an appropriate current driver licence authorising the person to operate as a driving instructor.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $1,000.

Section 33A: inserted, on 22 June 2005, by section 22 of the Land Transport Amendment Act 2005 (2005 No 77).

Offences relating to driving (other than offences involving alcohol)

34 Contravention of section 6

(1) A person commits an offence if the person—

(a) operates an unsafe motor vehicle on a road; or

(b) operates a vehicle on a road without displaying current evidence of vehicle inspection or a certificate of loading or both (as may be required by the regulations or the rules); or

(c) fails to comply with the provisions of the regulations or the rules concerning evidence of vehicle inspection, certificates of loading, or the operation of a vehicle that is required to have such evidence or certificate or both.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $2,000.

Compare: 1962 No 135 ss 79(8), 79B(6); SR 1976/227 rr 80, 85

35 Contravention of section 7, or section 22 where no injury or death involved

(1) A person commits an offence if the person—

(a) operates a motor vehicle recklessly on a road; or

(b) drives or causes a motor vehicle to be driven on a road at a speed or in a manner which, having regard to all the circumstances, is or might be dangerous to the public or to a person; or

(c) without reasonable excuse, contravenes section 22 by failing to stop and ascertain whether any person has been injured, after an accident where no other person has been injured or killed.

(2) If a person is convicted of an offence against subsection (1),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding $4,500; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 6 months or more.

(2A) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (2)(b) does not apply and section 65AH(3)(b) applies.

(3) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Compare: 1962 No 135 ss 30AA(3)(d), 57, 65(5)

Section 35(2A): inserted, on 1 July 2018, by section 8(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 35(3): replaced, on 1 July 2018, by section 8(2) of the Land Transport Amendment Act 2017 (2017 No 34).

36 Contravention of section 7 or section 22 involving injury

(1) A person commits an offence if the person—

(a) drives or causes to be driven a motor vehicle recklessly and by that act or omission causes an injury to another person; or

(b) drives or causes a motor vehicle to be driven at a speed or in a manner which, having regard to all the circumstances, is or might be dangerous to the public or to a person and by that act or omission causes an injury to another person; or

(c) without reasonable excuse, contravenes section 22 by failing to stop and ascertain whether any person has been injured, and render assistance, after an accident where a person has been injured or killed.

(2) If a person is convicted of an offence against subsection (1),—

(a) the maximum penalty is imprisonment for a term not exceeding 5 years or a fine not exceeding $20,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more.

(2A) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (2)(b) is the period of disqualification for the purposes of section 65AE(d) (*see* section 65AH(3)(a)).

(3) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Compare: 1962 No 135 ss 30AA(1), (2A)(b), (d), 55(1), 65(4)

Section 36 heading: amended, on 10 May 2011, by section 19(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 36(1): substituted, on 22 June 2005, by section 23 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 36(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 36(1)(a): amended, on 10 May 2011, by section 19(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 36(1)(b): amended, on 10 May 2011, by section 19(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 36(2A): inserted, on 1 July 2018, by section 9(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 36(3): replaced, on 1 July 2018, by section 9(2) of the Land Transport Amendment Act 2017 (2017 No 34).

36AA Contravention of section 7 by causing death of another person

(1) A person commits an offence if the person—

(a) drives or causes to be driven a motor vehicle recklessly and by that act or omission causes the death of another person; or

(b) drives or causes a motor vehicle to be driven at a speed or in a manner that, having regard to all the circumstances, is or might be dangerous to the public or to a person and, by that act or omission, causes the death of another person.

(2) If a person is convicted of an offence against subsection (1),—

(a) the maximum penalty is imprisonment for a term not exceeding 10 years or a fine not exceeding $20,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more.

(2A) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (2)(b) is the period of disqualification for the purposes of section 65AE(d) (*see* section 65AH(3)(a)).

(3) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Section 36AA: inserted, on 10 May 2011, by section 20 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 36AA(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 36AA(2A): inserted, on 1 July 2018, by section 10(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 36AA(3): replaced, on 1 July 2018, by section 10(2) of the Land Transport Amendment Act 2017 (2017 No 34).

36A Contravention of section 22A

(1) A person commits an offence if the person—

(a) operates a motor vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road in contravention of section 22A(1); or

(b) without reasonable excuse, intentionally pours onto, places on, or allows to spill onto a road—

(i) any petrol, oil, or diesel fuel; or

(ii) any other substance likely to cause a vehicle to undergo loss of traction; or

(c) without reasonable excuse, operates a motor vehicle on a road in a manner that causes the vehicle to undergo sustained loss of traction in contravention of section 22A(3).

(2) A person who commits an offence against subsection (1)(a) or (c) and by that act or omission causes an injury to another person—

(a) is liable on conviction to imprisonment for a term not exceeding 5 years or a fine not exceeding $20,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more.

(2A) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (2)(b) is the period of disqualification for the purposes of section 65AE(d) (*see* section 65AH(3)(a)).

(3) A person who commits an offence against subsection (1)(a) or (c) and by the act or omission causes the death of another person—

(a) is liable on conviction to imprisonment for a term not exceeding 10 years or a fine not exceeding $20,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more.

(3A) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (3)(b) is the period of disqualification for the purposes of section 65AE(d) (*see* section 65AH(3)(a)).

(4) A person who commits an offence against subsection (1)(a) or (c) but does not, by that act or omission, cause injury to, or the death of, another person is liable on conviction to the penalties set out in section 35(2), and section 35(2), (2A), and (3) apply as if the offence were an offence against section 35(1)(a) (operating a motor vehicle recklessly on a road).

(5) A person who commits an offence against subsection (1)(b) is liable on conviction to a fine not exceeding $3,000.

(6) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Section 36A: inserted, on 2 May 2003, by section 6 of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 36A(2): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 36A(2A): inserted, on 1 July 2018, by section 11(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 36A(3): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 36A(3A): inserted, on 1 July 2018, by section 11(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 36A(4): amended, on 1 July 2018, by section 11(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 36A(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 36A(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 36A(6): replaced, on 1 July 2018, by section 11(4) of the Land Transport Amendment Act 2017 (2017 No 34).

36AB Contravention of sections 7 and 114

[Repealed]

Section 36AB: repealed, on 11 August 2017, by section 39 of the Land Transport Amendment Act 2017 (2017 No 34).

36B Contravention of section 22B or section 22C

(1) A person commits an offence if the person—

(a) uses a traction engine without an appropriate qualification provided for in the regulations or the rules, for the purpose of qualifying the person to safely use the traction engine in a public place; or

(b) uses a traction engine in a public place in a manner that, having regard to all the circumstances, is or might be dangerous to the public or to a person; or

(c) uses a traction engine in a public place without displaying current evidence of vehicle inspection or any other certificate or both (as may be required by the regulations or the rules); or

(d) fails to comply with the regulations or the rules concerning evidence of vehicle inspection or any other certificate required by the regulations or the rules, or concerning the use of a traction engine that is required to have such evidence or certificate or both.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $5,000.

(3) For the purposes of this section, **public place** has the meaning set out in section 22B(3).

Section 36B: inserted, on 16 January 2006, by section 24 of the Land Transport Amendment Act 2005 (2005 No 77).

37 Contravention of section 8

(1) A person commits an offence if the person operates a vehicle on a road carelessly or without reasonable consideration for other persons using the road.

(2) If a person is convicted of an offence against subsection (1),—

(a) the maximum penalty is a fine not exceeding $3,000; and

(b) the court may order the person to be disqualified from holding or obtaining a driver licence for such period as the court thinks fit.

Compare: 1962 No 135 ss 30AA(6), 60

38 Contravention of section 8 causing injury or death

(1) A person commits an offence if the person operates a vehicle on a road carelessly or without reasonable consideration for other persons using the road, and by that act or omission causes an injury to or the death of another person.

(1A) A person commits an offence if—

(a) the person drives a motor vehicle, or causes a motor vehicle to be driven, carelessly; and

(b) by that act or omission, causes an injury to or the death of another person.

(2) If a person is convicted of an offence against subsection (1) or subsection (1A),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding $4,500; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 6 months or more.

(2A) If an offence against subsection (1) or (1A) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (2)(b) is the period of disqualification for the purposes of section 65AE(d) (*see* section 65AH(3)(a)).

(3) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Compare: 1962 No 135 ss 30AA(3)(b), 56(1)

Section 38(1A): inserted, on 22 June 2005, by section 25(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 38(2): amended, on 22 June 2005, by section 25(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 38(2A): inserted, on 1 July 2018, by section 12(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 38(3): replaced, on 1 July 2018, by section 12(2) of the Land Transport Amendment Act 2017 (2017 No 34).

39 Aggravated careless use of vehicle causing injury or death

(1) A person commits an offence if the person causes bodily injury to or the death of a person by carelessly using a motor vehicle while—

(a) driving the motor vehicle at a speed exceeding the applicable speed limit; or

(b) driving the motor vehicle in such a manner as to commit an offence against the regulations or the rules concerning the manner in which a driver may overtake another vehicle or concerning the part of the road on which a driver may drive his or her motor vehicle.

(2) If a person is convicted of an offence against subsection (1),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 years or a fine not exceeding $10,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more.

(2A) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (2)(b) is the period of disqualification for the purposes of section 65AE(d) (*see* section 65AH(3)(a)).

(3) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Compare: 1962 No 135 ss 30AA(2), (2A), 56(1A)

Section 39(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 39(2A): inserted, on 1 July 2018, by section 13(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 39(3): replaced, on 1 July 2018, by section 13(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Offences relating to rules

40 Contravention of ordinary rules

(1) A person commits an offence if the person contravenes a provision of an ordinary rule and the contravention of that provision is for the time being prescribed as an offence by regulations made under section 167.

(2) If a person is convicted of an offence referred to in subsection (1), the person is liable to the applicable penalty set out in the regulations.

Compare: 1993 No 88 s 30

41 Contravention of emergency rules

(1) A person commits an offence if the person, without reasonable excuse, acts in contravention of or fails to comply with an emergency rule.

(2) If a person is convicted of an offence against subsection (1),—

(a) the maximum fine for an individual is $2,000:

(b) the maximum fine for a body corporate is $10,000.

Compare: 1993 No 88 s 30

Loading offences

42 Failure to secure load

(1) A person operating a motor vehicle on a road, and any person loading that vehicle, commits an offence if the person fails to ensure that any load carried in

or on the vehicle, or in or on a vehicle being towed by the vehicle driven by the operator, is secured and contained in such a manner that it cannot fall or escape from the vehicle.

(2) If a person is convicted of an offence against subsection (1),—

(a) the maximum fine for an individual is $2,000 and the court may disqualify the person from holding or obtaining a driver licence for such period as the court thinks fit:

(b) the maximum fine for a body corporate is $10,000.

Compare: 1962 No 135 s 70(1)

Section 42(1): amended, on 22 June 2005, by section 26 of the Land Transport Amendment Act 2005 (2005 No 77).

43 Overloading and over-dimension offences

(1) A person operating a heavy motor vehicle or combination of vehicles commits an infringement offence if the vehicle or combination of vehicles breaches any of the following:

(a) the prescribed maximum mass limits for axles:

(b) the prescribed maximum mass limits for axle sets:

(c) the prescribed maximum mass limits for groups of axles:

(d) the prescribed maximum gross mass limits for motor vehicles.

(2) Separate offences are committed in respect of every axle, axle set, group of axles, and the total number of axles of a heavy motor vehicle or combination of vehicles if the mass on that axle or those axles exceeds the relevant prescribed maximum gross mass limit or prescribed maximum mass limit.

(3) A person operating a heavy motor vehicle or combination of vehicles commits an infringement offence if the vehicle or combination of vehicles breaches the prescribed requirements in relation to dimensions.

(4) A person operating a heavy motor vehicle or combination of vehicles commits an infringement offence if the vehicle or combination of vehicles exceeds the gross vehicle mass for that vehicle or vehicles.

(5) If a person commits an infringement offence against this section, the person must pay the penalty prescribed by the regulations.

Section 43: replaced, on 11 August 2017, by section 51 of the Land Transport Amendment Act 2017 (2017 No 34).

43A Courts may impose appropriate fines for infringement offences that are not overloading offences

A court may impose a fine for an infringement offence, other than an overloading offence, that is not more than the maximum fine prescribed for that offence, whether the fine imposed is more than, the same as, or less than the prescribed infringement fee for that offence.

Section 43A: inserted, on 22 June 2005, by section 27 of the Land Transport Amendment Act 2005 (2005 No 77).

Other offences

44 Contravention of section 14

(1) A person commits an offence if the person is required by or under this Act to give any specified information or gives a statutory declaration for any purpose under this Act, and, in response to that requirement, or in that declaration, gives information that the person knows to be false or misleading.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $10,000.

(3) Nothing in this section affects section 111 of the Crimes Act 1961.

Compare: 1962 No 135 s 41B(7)

45 Contravention of section 17

(1) A person commits an offence if the person, with intent to cause a false record of the distance travelled by a motor vehicle to be shown or recorded, makes or causes to be made any alteration to the distance recorder or to the vehicle.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $2,000.

Compare: 1962 No 135 s 192B

46 Contravention of section 20

(1) A person commits an offence if the person, without reasonable excuse,—

(a) conducts a traffic survey to which section 20 applies without the prior written consent of the Agency; or

(b) fails to comply with any condition or direction given under section 20.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $2,000.

Compare: 1962 No 135 ss 30, 193

Section 46(1)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

47 Contravention of section 22(2), (3), (4), or (5)

(1) A person commits an offence if the person, without reasonable excuse, fails to provide the particulars specified under section 22(2) when required to do so under that section.

(2) A person commits an offence if the person, without reasonable excuse, fails to report an accident involving an injury to or the death of a person, in accordance with section 22(3), when required to do so by that section.

(3) A person commits an offence if the person, without reasonable excuse, fails to report damage to a motor vehicle or other property, in accordance with section 22(4) or (5), when required to do so by the applicable section.

(4) The maximum penalty on conviction for an offence against subsection (1) or subsection (2) or subsection (3) is a fine not exceeding $5,000.

Section 47: substituted, on 22 June 2005, by section 28 of the Land Transport Amendment Act 2005 (2005 No 77).

48 Contravention of section 92(4)

(1) A person commits an offence if the person, without reasonable excuse, fails to—

(a) attend a driving improvement course or dangerous goods course in accordance with section 92(4), or neither attends nor pays the fee; or

(b) complete a driving improvement course or dangerous goods course in accordance with section 92(4), or neither attends nor pays the fee; or

(c) pay the fee for a driving improvement course or dangerous goods course in accordance with section 92(4).

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $2,000.

Section 48(1): replaced, on 10 September 2012, by section 23 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

49 Contravention of section 97(5) or (6)

(1) A person commits an offence if—

(a) the person, without reasonable excuse and acting without authority under this Act, removes or releases from storage a motor vehicle impounded under any of sections 96, 96A, 122, 123, and 249; or

(b) the person is a storage provider and fails or refuses, without reasonable excuse, to comply immediately with a direction under this Act to release a vehicle impounded under any of sections 96, 96A, 122, 123, and 249 to the owner or a person authorised by the owner.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $5,000.

Section 49(1)(a): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 49(1)(a): amended, on 1 October 2007, by section 29(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 49(1)(b): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 49(1)(b): amended, on 1 October 2007, by section 29(2) of the Land Transport Amendment Act 2005 (2005 No 77).

50 Contravention of section 117(2)

(1) A person commits an offence if the person fails or refuses to release immediately a motor vehicle to another person when required to do so by section 117(2).

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $2,000.

51 Contravention of section 198(4)

(1) A person commits an offence if the person, without reasonable excuse, fails or refuses to comply with a requirement made under section 198 in relation to an audit or inspection.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $5,000.

52 Contravening notices, requirements, etc, given or imposed by enforcement officers

(1) A person commits an offence if the person—

(aa) *[Repealed]*

(a) removes, obscures, or renders indistinguishable a notice affixed to a vehicle under section 115, unless new evidence of vehicle inspection has been obtained for the vehicle or (if the notice was given under section 96(1B)) the direction requiring the vehicle not to be driven on a road has been cancelled under section 102(3)(b) or section 110(3)(a)(ii) or, if section 115(2A) applies, the enforcement officer has been notified in writing that the vehicle complies with the regulations and the rules; or

(b) drives a vehicle to which a notice under section 115 applies (other than when driving in compliance with a condition imposed under subsection (4) or subsection (5) of that section or under section 96(1D)) before new evidence of vehicle inspection has been obtained for, and is displayed on, the vehicle; or

(c) fails or refuses to comply with any lawful requirement, direction, notice, request, or prohibition given to or imposed on him or her under this Act by an enforcement officer or a dangerous goods enforcement officer (except for any described in section 52A); or

(d) whether or not he or she is the person to whom the direction was given, knowingly drives a heavy motor vehicle on a road in breach of a direction given by an enforcement officer under section 128.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $10,000.

(3) *[Repealed]*

(4) *[Repealed]*

(5) *[Repealed]*

(6) A person commits an offence if the person, in response to any request for information by an enforcement officer under section 118 and without reasonable excuse,—

(a) fails or refuses to provide information; or

(b) provides false or misleading information.

(7) The maximum penalty on conviction for an offence against subsection (6) is a fine not exceeding $20,000.

(8) If a person removes, obscures, or makes indistinguishable a warning notice attached to a motor vehicle while the notice is in effect, the person commits an offence and is liable on conviction to a fine not exceeding $10,000.

Compare: 1962 No 135 ss 30AA(5), (7), 70A(2)(b)

Section 52(1)(aa): repealed, on 11 August 2017, by section 40(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 52(1)(a): amended, on 16 January 2006, by section 30(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 52(1)(a): amended, on 2 May 2003, by section 7(a) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 52(1)(b): amended, on 2 May 2003, by section 7(b) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 52(1)(c): amended, on 11 August 2017, by section 40(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 52(3): repealed, on 11 August 2017, by section 40(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 52(4): repealed, on 11 August 2017, by section 40(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 52(5): repealed, on 11 August 2017, by section 40(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 52(6): replaced, on 11 August 2017, by section 40(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 52(7): added, on 1 December 2009, by section 12 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 52(8): added, on 1 December 2009, by section 12 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

52A Contravention of section 114

(1) A person commits an offence if the person—

(a) is the driver of a vehicle that fails to stop—

(i) as soon as practicable when signalled or requested to stop under section 114(1); or

(ii) when required to stop under section 114(2); or

(b) is the driver of a vehicle that is stopped and fails to remain stopped in accordance with section 114(2A) or (3)(a); or

(c) fails or refuses to provide information or provides false or misleading information in response to a demand for information made by an enforcement officer under section 114(3)(b).

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $10,000.

(3) If a person is convicted of a first offence against subsection (1)(a) or (b) and committed the offence while exceeding the applicable speed limit or operating a motor vehicle in an otherwise dangerous manner, a court must order the person to be disqualified from holding or obtaining a driver licence for 6 months.

(4) If a person is convicted of a second offence against subsection (1), a court must order the person to be disqualified from holding or obtaining a driver licence for 1 year.

(5) If a person is convicted for a third or subsequent offence against subsection (1),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 months; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 2 years.

(6) A disqualification ordered under subsection (3), (4), or (5) is cumulative on, and not concurrent with, any other disqualification that a court may order in respect of the facts that gave rise to the person's conviction for an offence described in subsection (1).

(7) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then in relation to that alcohol interlock sentence—

(a) section 65AH(3) does not apply; and

(b) the mandatory disqualification in subsection (3), (4), or (5) is the period of disqualification for the purposes of section 65AE(d).

(8) Subsection (6) does not apply to offending that occurs after the facts that gave rise to the person's conviction for an offence described in subsection (1).

Section 52A: inserted, on 11 August 2017, by section 41 of the Land Transport Amendment Act 2017 (2017 No 34).

53 Obstruction of enforcement officer or dangerous goods enforcement officer

(1) A person commits an offence if the person, without reasonable excuse, obstructs or hinders, or incites any other person to obstruct or hinder, an enforcement officer or dangerous goods enforcement officer in the execution of his or her functions or powers under this Act.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $10,000.

Compare: 1962 No 135 s 80(2)(a)

54 Personation of enforcement officer

(1) A person commits an offence if the person (other than an enforcement officer or a dangerous goods enforcement officer), without reasonable excuse, by words, conduct, or demeanour pretends to be an enforcement officer or a dangerous goods enforcement officer, or puts on or assumes the dress, name, designation, or description of an enforcement officer or dangerous goods enforcement officer.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $10,000.

(3) Subsection (1) does not affect section 48 of the Policing Act 2008.

Compare: 1962 No 135 s 192A

Section 54(3): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

55 Tampering with vehicle surveillance equipment

(1) A person commits an offence if the person—

(a) tampers with approved vehicle surveillance equipment; or

(b) interferes with—

(i) approved vehicle surveillance equipment; or

(ii) the operation of approved vehicle surveillance equipment.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $5,000.

Compare: 1962 No 135 s 42(2)

55A Offences concerning alcohol interlock devices

(1) This section applies if a person tampers with, or attempts to tamper with, an alcohol interlock device, or uses an alcohol interlock device in contravention of an alcohol interlock sentence.

(2) If this section applies,—

(a) the person who holds the alcohol interlock licence to which the alcohol interlock device applies commits an offence; or

(b) the person who tampered with, or attempted to tamper with, the alcohol interlock device or used the alcohol interlock device in contravention of an alcohol interlock sentence commits an offence.

(3) It is a defence to proceedings for an offence against subsection (2)(a) if the person who holds an alcohol interlock licence establishes that the person—

(a) did not tamper with, or attempt to tamper with, the alcohol interlock device or use the alcohol interlock device in contravention of an alcohol interlock sentence; and

(b) was not involved in the commission of the offence against subsection (2)(b).

(4) The maximum penalty on conviction for an offence against subsection (2)(a) or (b) is a fine not exceeding $3,000.

Section 55A: inserted, on 10 September 2012, by section 24 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 55A(1): amended, on 1 July 2018, by section 14(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 55A(2)(b): amended, on 1 July 2018, by section 14(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 55A(3)(a): amended, on 1 July 2018, by section 14(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Part 6
Driving offences involving drink or drugs, and penalties and procedures

Offences and penalties

56 Contravention of specified breath or blood-alcohol limit

(1) A person commits an offence if the person drives or attempts to drive a motor vehicle on a road while the proportion of alcohol in the person's breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, exceeds 400 micrograms of alcohol per litre of breath.

(1A) A person commits an infringement offence if the person drives or attempts to drive a motor vehicle on a road while the proportion of alcohol in the person's breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, exceeds 250 micrograms of alcohol per litre of breath but does not exceed 400 micrograms of alcohol per litre of breath.

(2) A person commits an offence if the person drives or attempts to drive a motor vehicle on a road while the proportion of alcohol in the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or section 73, exceeds 80 milligrams of alcohol per 100 millilitres of blood.

(2A) A person commits an infringement offence if the person drives or attempts to drive a motor vehicle on a road while the proportion of alcohol in the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72(1)(b) to (e) or 73, exceeds 50 milligrams of alcohol per 100 millilitres of blood but does not exceed 80 milligrams of alcohol per 100 millilitres of blood.

(2B) A person commits an infringement offence if—

(a) the person fails or refuses to undergo an evidential breath test after having been required to do so under section 69; and

(b) analysis of a blood specimen subsequently taken from the person under section 72(1)(a) indicates that the person drove or attempted to drive a motor vehicle on a road while the proportion of alcohol in the person's blood exceeded 50 milligrams of alcohol per 100 millilitres of blood but did not exceed 80 milligrams of alcohol per 100 millilitres of blood.

(3) If a person is convicted of a first or second offence against subsection (1) or subsection (2),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding $4,500; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 6 months or more.

(3A) The mandatory disqualification in subsection (3)(b) does not apply if—

(a) an order is made under section 65; or

(b) an alcohol interlock sentence is ordered under section 65AC(1).

(4) If a person is convicted of a third or subsequent offence against subsection (1) or subsection (2), or any of sections 57A(1), 58(1), 60(1), or 61(1) or (2) (whether or not that offence is of the same kind as the person's first or second offence against any of those provisions),—

(a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding $6,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for more than 1 year.

(4A) The mandatory disqualification in subsection (4)(b) does not apply if—

(a) an order is made under section 65; or

(b) an alcohol interlock sentence is ordered under section 65AC(1).

(5) For the purposes of this section, a conviction for an offence against a provision of the Transport Act 1962 corresponding to an offence specified in subsection (4) is to be treated as a conviction for an offence specified in that subsection.

(6) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Compare: 1962 No 135 ss 30AB(2), 58(1)(a), (c)

Section 56(1A): inserted, on 1 December 2014, by section 5(1) of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 56(2A): inserted, on 1 December 2014, by section 5(2) of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 56(2B): inserted, on 1 December 2014, by section 5(2) of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 56(3A): inserted, on 1 July 2018, by section 15(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 56(4): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 56(4A): replaced, on 1 July 2018, by section 15(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 56(6): replaced, on 1 July 2018, by section 15(3) of the Land Transport Amendment Act 2017 (2017 No 34).

57 Contravention of specified breath or blood-alcohol limit by person younger than 20

(1) A person younger than 20 commits an offence if the person drives or attempts to drive a motor vehicle on a road while the proportion of alcohol in the person's breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, exceeds 150 micrograms of alcohol per litre of breath.

(1A) A person younger than 20 commits an infringement offence if the person drives or attempts to drive a motor vehicle on a road while the person's breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, contains alcohol but the proportion of alcohol does not exceed 150 micrograms of alcohol per litre of breath.

(2) A person younger than 20 commits an offence if the person drives or attempts to drive a motor vehicle on a road while the proportion of alcohol in the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or section 73, exceeds 30 milligrams of alcohol per 100 millilitres of blood.

(2A) A person younger than 20 commits an infringement offence if the person drives or attempts to drive a motor vehicle on a road while the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, contains alcohol but the proportion of alcohol does not exceed 30 milligrams of alcohol per 100 millilitres of blood.

(3) If a person commits an offence against subsection (1) or subsection (2),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding $2,250; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 3 months or more.

(4) The mandatory disqualification in subsection (3)(b) does not apply if—

(a) an order is made under section 65; or

(b) an alcohol interlock sentence is ordered under section 65AC(1).

(5) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Compare: 1962 No 135 ss 30AB(2A), 58(1)(f), (g)

Section 57(1A): inserted, on 7 August 2011, by section 25(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 57(2A): inserted, on 7 August 2011, by section 25(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 57(4): replaced, on 1 July 2018, by section 16 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 57(5): inserted, on 1 July 2018, by section 16 of the Land Transport Amendment Act 2017 (2017 No 34).

57AA Contravention of specified breath or blood alcohol limit by holder of alcohol interlock licence or zero alcohol licence

(1) A person who holds an alcohol interlock licence or a zero alcohol licence commits an offence if the person drives or attempts to drive a motor vehicle on a road while the person's breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, contains alcohol but the proportion of alcohol does not exceed 250 micrograms of alcohol per litre of breath.

(2) A person who holds an alcohol interlock licence or a zero alcohol licence commits an offence if the person drives or attempts to drive a motor vehicle on a road while the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, contains alcohol but the proportion of alcohol does not exceed 50 milligrams of alcohol per 100 millilitres of blood.

(3) If a person is convicted of an offence against subsection (1) or (2),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding $2,250; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 3 months or more.

(3A) The mandatory disqualification in subsection (3)(b) does not apply if—

(a) an order is made under section 65; or

(b) an alcohol interlock sentence is ordered under section 65AC(1).

(4) A person who holds an alcohol interlock licence or a zero alcohol licence commits an offence if the person drives or attempts to drive a motor vehicle on a road while the proportion of alcohol in the person's breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, exceeds 250 micrograms of alcohol per litre of breath.

(5) A person who holds an alcohol interlock licence or a zero alcohol licence commits an offence if the person drives or attempts to drive a motor vehicle on a

road while the proportion of alcohol in the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, exceeds 50 milligrams of alcohol per 100 millilitres of blood.

(6) If a person is convicted of an offence against subsection (4) or (5),—

(a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding $6,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more.

(7) The mandatory disqualification in subsection (6)(b) does not apply if—

(a) an order is made under section 65; or

(b) an alcohol interlock sentence is ordered under section 65AC(1).

(8) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Section 57AA: inserted, on 10 September 2012, by section 26 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 57AA(1): amended, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 57AA(1): amended, on 1 July 2013, pursuant to section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 57AA(2): amended, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 57AA(2): amended, on 1 July 2013, pursuant to section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 57AA(3A): inserted, on 1 July 2018, by section 17(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 57AA(4): amended, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 57AA(4): amended, on 1 July 2013, pursuant to section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 57AA(5): amended, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 57AA(5): amended, on 1 July 2013, pursuant to section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 57AA(7): replaced, on 1 July 2018, by section 17(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 57AA(8): inserted, on 1 July 2018, by section 17(2) of the Land Transport Amendment Act 2017 (2017 No 34).

57A Driving while impaired and with blood that contains evidence of use of qualifying drug

(1) A person who drives or attempts to drive a motor vehicle on a road commits an offence if—

(a) the person does not complete a compulsory impairment test in a manner satisfactory to an enforcement officer, who is trained to give the test, when required to do so by an enforcement officer under section 71A; and

(b) the person's blood, as ascertained from an analysis of a blood specimen subsequently taken under section 72 or 73, contains evidence of the use of a qualifying drug.

(2) If a person is convicted of a first or second offence against subsection (1),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding $4,500; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 6 months or more.

(2A) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (2)(b) does not apply and section 65AH(3)(b) applies.

(3) If a person is convicted of a third or subsequent offence against subsection (1) or any of sections 56(1), 56(2), 58(1), 60(1), 61(1), and 61(2) (whether or not that offence is of the same kind as the person's first or second offence against any of those provisions),—

(a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding $6,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for more than 1 year.

(3A) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (3)(b) does not apply and section 65AH(3)(b) applies.

(4) Subsection (3)(b) does not apply if an order is made under section 65.

(5) For the purposes of this section, a conviction for an offence against a provision of the Transport Act 1962 that corresponds to an offence specified in subsection (3) is to be treated as a conviction for an offence specified in that subsection.

(6) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Section 57A: inserted, on 1 November 2009, by section 7 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 57A heading: amended, on 1 November 2009, by section 13(1) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 57A(1)(b): substituted, on 1 November 2009, by section 13(2) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 57A(2A): inserted, on 1 July 2018, by section 18(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 57A(3): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 57A(3A): inserted, on 1 July 2018, by section 18(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 57A(6): replaced, on 1 July 2018, by section 18(3) of the Land Transport Amendment Act 2017 (2017 No 34).

58 Contravention of section 12

(1) A person commits an offence if the person drives or attempts to drive a motor vehicle on a road—

(a) while under the influence of drink or a drug, or both, to such an extent as to be incapable of having proper control of the vehicle; or

(b) if the person's blood, as ascertained from an analysis of a blood specimen subsequently taken under section 73, contains evidence of the use of a controlled drug specified in Schedule 1 of the Misuse of Drugs Act 1975.

(1A) To avoid doubt, subsection (1)(b) does not limit subsection (1)(a).

(2) If a person is convicted of a first or second offence against subsection (1),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding $4,500; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 6 months or more.

(2A) The mandatory disqualification in subsection (2)(b) does not apply to an offence against subsection (1)(a) that is a qualifying offence if—

(a) an order is made under section 65; or

(b) an alcohol interlock sentence is ordered under section 65AC(1).

(2B) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (3)(b) does not apply and section 65AH(3)(b) applies.

(3) If a person is convicted of a third or subsequent offence against subsection (1) or any of sections 56(1), 56(2), 57A(1), 60(1), and 61(1) and (2) (whether or not that offence is of the same kind as the person's first or second offence against any of those provisions),—

(a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding $6,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for more than 1 year.

(3A) The mandatory disqualification in subsection (3)(b) does not apply to an offence against subsection (1)(a) that is a qualifying offence if—

(a) an order is made under section 65; or

(b) an alcohol interlock sentence is ordered under section 65AC(1).

(3B) If an offence against subsection (1) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (3)(b) does not apply and section 65AH(3)(b) applies.

(4) For the purposes of this section, a conviction for an offence against a provision of the Transport Act 1962 corresponding to an offence specified in subsection (3) is to be treated as a conviction for an offence specified in that subsection.

(5) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Compare: 1962 No 135 s 58(1)(e)

Section 58(1): substituted, on 1 November 2009, by section 8 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 58(1)(b): amended, on 9 August 2011, by section 12(3) of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Section 58(1A): inserted, on 1 November 2009, by section 8 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 58(2A): inserted, on 1 July 2018, by section 19(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 58(2B): inserted, on 1 July 2018, by section 19(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 58(3): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 58(3A): replaced, on 1 July 2018, by section 19(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 58(3B): inserted, on 1 July 2018, by section 19(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 58(5): replaced, on 1 July 2018, by section 19(3) of the Land Transport Amendment Act 2017 (2017 No 34).

59 Failure or refusal to remain at specified place or to accompany enforcement officer

(1) A person commits an offence if the person—

(a) fails or refuses to remain at the place where the person underwent a breath screening test under section 68 until after the result of the test is ascertained; or

(b) fails or refuses to accompany without delay an enforcement officer to a place when required to do so under section 69, 71A, or 72; or

(c) having accompanied an enforcement officer to a place under a requirement under section 69, 71A, or 72,—

(i) fails or refuses to remain at that place until the person is required either to undergo an evidential breath test or a blood test or a compulsory impairment test under this Act; or

(ii) fails or refuses to accompany an enforcement officer to another place under any of those sections; or

(d) having undergone an evidential breath test under a requirement under section 69 or a compulsory impairment test under section 71A, fails or refuses to remain at the place where the person underwent the test until after the result of the test is ascertained.

(2) If a person is convicted of an offence against subsection (1),—

(a) the maximum penalty is a fine not exceeding $4,500; and

(b) the court may disqualify the person from holding or obtaining a driver licence for such period as the court thinks fit.

Compare: 1962 No 135 ss 30AB(3), 58A(4), 58B(5), 58C(5)

Section 59(1)(b): amended, on 1 November 2009, by section 9(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 59(1)(c): amended, on 1 November 2009, by section 9(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 59(1)(c)(i): amended, on 1 November 2009, by section 9(3) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 59(1)(c)(ii): amended, on 1 November 2009, by section 9(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 59(1)(d): amended, on 1 November 2009, by section 9(5) of the Land Transport Amendment Act 2009 (2009 No 17).

60 Failure or refusal to permit blood specimen to be taken or to undergo compulsory impairment test

(1) A person commits an offence if the person—

(a) fails or refuses to permit a blood specimen to be taken after having been required to do so under section 72 by an enforcement officer; or

(b) fails or refuses to permit a blood specimen to be taken without delay after having been requested to do so under section 72 by a health practitioner or medical officer; or

(c) is a person from whom a health practitioner or medical officer may take a blood specimen under section 73 and refuses or fails to permit such a person to take a blood specimen; or

(d) fails or refuses to undergo a compulsory impairment test under section 71A.

(2) If a person is convicted of a first or second offence against subsection (1),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding $4,500; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 6 months or more.

(2A) The mandatory disqualification in subsection (2)(b) does not apply if—

(a) an order is made under section 65; or

(b) an alcohol interlock sentence is ordered under section 65AC(1).

(3) If a person is convicted of a third or subsequent offence against subsection (1) or any of sections 56(1), 56(2), 57A(1), 58(1), and 61(1) and (2) (whether or not that offence is of the same kind as the person's first or second offence against any of those provisions),—

(a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding $6,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for more than 1 year.

(3A) The mandatory disqualification in subsection (3)(b) does not apply if—

(a) an order is made under section 65; or

(b) an alcohol interlock sentence is ordered under section 65AC(1).

(3B) Subsection (3C) applies to a person who—

(a) is required to permit a blood specimen to be taken under section 72(1)(a), (b), or (e); and

(b) when required, on a previous occasion, to permit a blood specimen to be taken under section 72(1)(a), (b), or (e), was medically or physically unable to provide a blood specimen.

(3C) A person described in subsection (3B) who is medically or physically unable to provide a blood specimen is presumed, in the absence of proof to the contrary, to have refused to permit a blood specimen to be taken.

(4) For the purposes of this section, a conviction for an offence against a provision of the Transport Act 1962 corresponding to an offence specified in subsection (3) is to be treated as a conviction for an offence specified in that subsection.

(5) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Compare: 1962 No 135 ss 30AB(2), 58E

Section 60 heading: amended, on 1 November 2009, by section 10(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 60(1)(b): amended, on 7 November 2018, by section 7(1) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 60(1)(b): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 60(1)(c): amended, on 7 November 2018, by section 7(2) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 60(1)(c): amended, on 1 November 2009, by section 10(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 60(1)(c): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 60(1)(d): added, on 1 November 2009, by section 10(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 60(2A): inserted, on 1 July 2018, by section 20(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 60(3): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 60(3A): replaced, on 1 July 2018, by section 20(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 60(3B): inserted, on 1 December 2014, by section 6 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 60(3C): inserted, on 1 December 2014, by section 6 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 60(5): replaced, on 1 July 2018, by section 20(3) of the Land Transport Amendment Act 2017 (2017 No 34).

61 Person in charge of motor vehicle causing injury or death

(1) A person commits an offence if the person is in charge of a motor vehicle and causes bodily injury to or the death of a person while—

(a) the proportion of alcohol in the breath of the person in charge, as ascertained by an evidential breath test subsequently undergone by that person under section 69, exceeds 400 micrograms of alcohol per litre of breath; or

(b) the proportion of alcohol in the blood of the person in charge, as ascertained from an analysis of a blood specimen subsequently taken from that person under section 72 or section 73, exceeds 80 milligrams of alcohol per 100 millilitres of blood.

(2) A person commits an offence if the person is in charge of a motor vehicle and causes bodily injury to, or the death of, a person—

(a) while under the influence of drink or a drug, or both, to such an extent as to be incapable of having proper control of the vehicle; or

(b) if the blood of the person in charge, as ascertained from an analysis of a blood specimen subsequently taken under section 73, contains evidence of the use of a controlled drug specified in Schedule 1 of the Misuse of Drugs Act 1975; or

(c) if—

(i) the person does not complete a compulsory impairment test in a manner satisfactory to an enforcement officer, who is trained to

give the test, when required to do so by an enforcement officer under section 71A; and

(ii) the person's blood, as ascertained from an analysis of a blood specimen subsequently taken under section 72 or 73, contains evidence of the use of a qualifying drug.

(2A) To avoid doubt, subsection (2)(b) or (2)(c) does not limit subsection (2)(a).

(3) If a person is convicted of an offence against subsection (1) or (2) that causes bodily injury to another person,—

(a) the maximum penalty is imprisonment for a term not exceeding 5 years or a fine not exceeding $20,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more in the case of a first or second offence against this section or section 56(1) or (2), or section 58(1), or section 60(1).

(3AA) If a person is convicted of an offence against subsection (1) or (2) that causes the death of another person,—

(a) the maximum penalty is imprisonment for a term not exceeding 10 years or a fine not exceeding $20,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more in the case of a first or second offence against this section or section 56(1) or (2), 58(1), or 60(1).

(3A) If a person is convicted of a third or subsequent offence against this section or section 56(1) or (2), or section 57A(1), or section 58(1), or section 60(1) (whether or not that offence is of the same kind as the person's first or second offence against any of those provisions), the court must order the person to be disqualified from holding or obtaining a driver licence for more than 1 year.

(3B) Subsection (3A) does not apply if an order is made under section 65.

(3BA) If an alcohol interlock sentence is ordered under section 65AC(1) for an offence against subsection (1) or (2)(a) that is a qualifying offence, then the mandatory disqualification in subsection (3)(b), (3AA)(b), or (3A) (whichever applies) is the period of disqualification for the purposes of section 65AE(d) (*see* section 65AD).

(3BB) If an offence against subsection (2) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (3)(b), (3AA)(b), or (3A) (whichever applies) is the period of disqualification for the purposes of section 65AE(d) (*see* section 65AH(3)(a)).

(3C) For the purposes of this section, a conviction for an offence against a provision of the Transport Act 1962 corresponding to an offence specified in subsection (3A) is to be treated as a conviction for an offence specified in that subsection.

(4) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Compare: 1962 No 135 ss 30AB(1), (1A), 55(2)

Section 61(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 61(1): amended, on 16 January 2006, by section 34(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 61(2): substituted, on 1 November 2009, by section 11 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 61(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 61(2)(b): amended, on 9 August 2011, by section 12(4) of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Section 61(2)(b): amended, on 10 May 2011, by section 27(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 61(2)(c): added, on 10 May 2011, by section 27(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 61(2A): inserted, on 1 November 2009, by section 11 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 61(2A): amended, on 10 May 2011, by section 27(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 61(3): amended, on 10 May 2011, by section 27(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 61(3)(b): substituted, on 16 January 2006, by section 34(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 61(3AA): inserted, on 10 May 2011, by section 27(4) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 61(3A): inserted, on 16 January 2006, by section 34(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 61(3A): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 61(3B): inserted, on 16 January 2006, by section 34(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 61(3BA): inserted, on 1 July 2018, by section 21(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 61(3BB): inserted, on 1 July 2018, by section 21(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 61(3C): inserted, on 10 May 2011, by section 27(5) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 61(4): replaced, on 1 July 2018, by section 21(2) of the Land Transport Amendment Act 2017 (2017 No 34).

62 Causing injury or death in circumstances to which section 61 does not apply

(1) A person commits an offence if the person causes bodily injury to or the death of a person by carelessly driving a motor vehicle (in a manner that is not an offence against section 61)—

(a) while under the influence of drink or a drug, or both; or

(b) if the blood of the person driving, as ascertained from an analysis of a blood specimen subsequently taken under section 73, contains evidence of the use of a controlled drug specified in Schedule 1 of the Misuse of Drugs Act 1975.

(1A) To avoid doubt, subsection (1)(b) does not limit subsection (1)(a).

(1B) A person commits an offence if—

(a) the person causes bodily injury to, or the death of, a person by driving or attempting to drive a motor vehicle; and

(b) the person does not complete a compulsory impairment test in a manner satisfactory to an enforcement officer, who is trained to give the test, when required to do so by an enforcement officer under section 71A; and

(c) the person's blood, as ascertained from an analysis of a blood specimen subsequently taken under section 72 or 73, contains evidence of the use of a qualifying drug.

(2) If a person commits an offence against subsection (1) or (1B),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 years or a fine not exceeding $10,000; and

(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more.

(3) Subsection (2)(b) does not apply if an order is made under section 65.

(4) If an alcohol interlock sentence is ordered under section 65AC(1) for an offence described in subsection (1)(a) that is a qualifying offence, then the mandatory disqualification in subsection (2)(b) is the period of disqualification for the purposes of section 65AE(d) (*see* section 65AD).

(5) If an offence against subsection (1) or (1B) is a concurrent offence in relation to a qualifying offence for an alcohol interlock sentence, then the mandatory disqualification in subsection (2)(b) is the period of disqualification for the purposes of section 65AE(d) (*see* section 65AH(3)(a)).

(6) The imposition of a mandatory disqualification under this section is subject to section 81 (which allows a court not to order disqualification for special reasons relating to the offence).

Compare: 1962 No 135 ss 30AA(2), (2A), 56(1A)(b)

Section 62(1): substituted, on 1 November 2009, by section 12(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 62(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 62(1)(b): amended, on 9 August 2011, by section 12(5) of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Section 62(1A): inserted, on 1 November 2009, by section 12(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 62(1B): inserted, on 1 November 2009, by section 12(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 62(1B): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 62(1B)(c): substituted, on 1 November 2009, by section 14 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 62(2): amended, on 1 November 2009, by section 12(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 62(3): replaced, on 1 July 2018, by section 22 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 62(4): inserted, on 1 July 2018, by section 22 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 62(5): inserted, on 1 July 2018, by section 22 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 62(6): inserted, on 1 July 2018, by section 22 of the Land Transport Amendment Act 2017 (2017 No 34).

63 Further penalty in certain cases where person driving vehicle used in transport service

(1) If a person is convicted of an offence against any of sections 56 to 62 that relates to the driving or attempted driving by that person of a vehicle being used in a transport service (other than a rental service), the court must, in addition to any other penalty the court may impose, disqualify that person from driving a vehicle being used in a transport service (other than a rental service) for such period exceeding 1 year but not more than 10 years as the court thinks fit.

(2) This section does not limit the power of a court under any other provision of this Act to disqualify a person for a period exceeding 10 years.

(3) This section overrides section 94 (which allows a court to substitute disqualification with a community-based sentence).

Compare: 1962 No 135 s 30AD

Section 63(3): amended, on 1 July 2018, by section 23 of the Land Transport Amendment Act 2017 (2017 No 34).

Defences

64 Defences

(1) It is a defence to proceedings for an offence against section 60 (which relates to failing or refusing to supply a blood specimen) if the court is satisfied, on the evidence of a health practitioner, that the taking of a blood specimen from the defendant would have been prejudicial to the defendant's health.

(1AA) Subsection (1) is subject to section 60(3B) and (3C).

(1A) It is a defence to proceedings for an offence against section 57A(1) or 62(1B) if the court is satisfied that the person has consumed the relevant qualifying drug—

(a) in accordance with—

(i) a current and valid prescription written for that person by a health practitioner; and

(ii) any instructions from a health practitioner or from the manufacturer of the qualifying drug; or

(b) because it was administered by a health practitioner, provided that the person complied with the instructions (if any) that the health practitioner has given.

(1B) It is a defence to proceedings for an offence against section 60(1)(d) if the court is satisfied that the person's failure or refusal to undergo a compulsory impairment test is because of—

(a) a pre-existing medical condition or pre-existing disability that precludes undergoing the test:

(b) an injury, sustained in a motor vehicle accident giving rise to an obligation to undergo the test, that precludes undergoing the test.

(2) It is no defence to proceedings for an offence that a provision forming part of sections 68 to 75A, and 77 has not been strictly complied with or has not been complied with at all, provided there has been reasonable compliance with such of those provisions as apply.

(3) In any proceedings against any person for an offence against section 52(1)(c) arising out of circumstances in which an enforcement officer exercised powers under section 121(2) and in respect of which a breath screening test or an evidential breath test or a blood test was undergone by the person, it is no defence that—

(a) the breath screening test or evidential breath test indicated that,—

(i) in the case of a person apparently younger than 20, the person's breath did not contain alcohol; or

(ii) in the case of a person who holds an alcohol interlock licence or a zero alcohol licence, the person's breath did not contain alcohol; or

(iii) in any other case, the proportion of alcohol in the person's breath did not exceed 250 micrograms of alcohol per litre of breath; or

(b) any evidence given in respect of the results of a blood test indicates that,—

(i) in the case of a person apparently younger than 20, the person's blood did not contain alcohol; or

(ii) in the case of a person who holds an alcohol interlock licence or a zero alcohol licence, the person's blood did not contain alcohol; or

(iii) in any other case, the proportion of alcohol in the person's blood did not exceed 50 milligrams of alcohol per 100 millilitres of blood.

(3A) It is no defence to proceedings for an offence against section 60 (which relates to failing or refusing to supply a blood specimen) that—

(a) there was or may have been an error in the result of the breath screening test or evidential breath test; or

(b) the occurrence or likely occurrence of any such error did not entitle or empower a person to request or require an evidential breath test or a blood test.

(4) It is no defence to proceedings for an offence against this Act in respect of the proportion of alcohol in a person's breath—

(a) that there was or may have been an error in the result of the breath screening test or evidential breath test; or

(b) that the occurrence or likely occurrence of any such error did not entitle or empower a person to request or require an evidential breath test.

(5) It is no defence to proceedings for an offence against this Act in respect of the proportion of alcohol in a person's blood—

(a) that there was or may have been an error in the result of the breath screening test or evidential breath test; or

(b) that the occurrence or likely occurrence of any such error did not entitle or empower a person to request or require an evidential breath test or a blood test.

Compare: 1962 No 135 ss 58(6), 58I, 63(3)

Section 64(1): amended, on 7 November 2018, by section 8 of the Land Transport Amendment Act 2016 (2016 No 77).

Section 64(1): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 64(1AA): inserted, on 1 December 2014, by section 7 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 64(1A): inserted, on 1 November 2009, by section 13 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 64(1A): amended, on 1 November 2009, by section 15(1) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 64(1A)(a)(ii): amended, on 1 November 2009, by section 15(2) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 64(1B): inserted, on 1 November 2009, by section 13 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 64(2): amended, on 29 December 2001, by section 5(1) of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Section 64(3): substituted, on 7 August 2011, by section 28 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 64(3)(a)(iii): amended, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 64(3)(b)(iii): amended, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 64(3A): inserted, on 22 June 2005, by section 35 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 64(4)(a): amended, on 29 December 2001, by section 5(2) of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Mandatory disqualification and assessment for repeat offences

Heading: replaced, on 1 July 2018, by section 24 of the Land Transport Amendment Act 2017 (2017 No 34).

65 Mandatory disqualification and assessment for repeat offences

(1) This section applies to offences against any of sections 56 to 62.

(2) A court must make an order requiring a person to attend an assessment centre and disqualifying the person from holding or obtaining a driver licence until the Agency removes that disqualification under section 100 if—

(a) the court convicts that person of a second or subsequent offence against any of sections 56 to 62; and

(b) the previous offence was committed within 5 years of the date of the commission of the offence being dealt with by the court.

(3) Despite subsection (2), the court may not make an order referred to in subsection (2) unless at least 1 of the offences was—

(a) an offence to which this section applies where either—

(i) the proportion of alcohol in the person's breath, as ascertained by an evidential breath test, exceeded 1 000 micrograms of alcohol per litre of breath; or

(ii) the proportion of alcohol in the person's blood, as ascertained from an analysis of a blood specimen, exceeded 200 milligrams of alcohol per 100 millilitres of blood; or

(b) an offence against section 59 or section 60 (which relate to failing to remain or to accompany or to permit a blood specimen to be taken for the purposes of the administration of breath tests and blood tests).

(3A) The mandatory disqualification in subsection (2) is replaced by any alcohol interlock sentence ordered under section 65AC(1) (whether or not the alcohol interlock sentence is ordered at the same time as, or after, the order made under subsection (2)).

(4) The court must make an order that requires a person to attend an assessment centre and that disqualifies that person from holding or obtaining a driver licence until the Agency removes that disqualification under section 100 if—

(a) the court convicts that person of a third or subsequent offence to which this section applies; and

(b) the 2 or more previous offences were committed within 5 years of the date of the commission of the offence being dealt with by the court.

(4A) The mandatory disqualification in subsection (4) is replaced by any alcohol interlock sentence ordered under section 65AC(1) (whether or not the alcohol interlock sentence is ordered at the same time as, or after, the order made under subsection (4)).

(5) For the purposes of this section, a conviction for an offence against a provision of the Transport Act 1962 corresponding to an offence to which this section applies is to be treated as a conviction for an offence specified in subsection (1).

Compare: 1962 No 135 s 30A

Section 65 heading: replaced, on 1 July 2018, by section 25(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 65(2): substituted, on 10 May 2011, by section 29(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 65(3): amended, on 10 May 2011, by section 29(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 65(3A): inserted, on 1 July 2018, by section 25(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 65(4): substituted, on 16 January 2006, by section 36 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 65(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 65(4A): inserted, on 1 July 2018, by section 25(3) of the Land Transport Amendment Act 2017 (2017 No 34).

65A Alcohol interlock requirements for repeat offences or certain first time offences involving use of alcohol

[Repealed]

Section 65A: repealed, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

Mandatory alcohol interlock sentence for repeat offences and certain first offences

Heading: inserted, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

65AB Qualifying offences

(1) Section 65AC applies if a court convicts a person of an offence in relation to alcohol against any of sections 56(1), 56(2), 57(1), 57(2), 57AA, 58(1)(a), 60(1)(a) to (c), 61(1), 61(2)(a), and 62(1)(a) and either—

(a) the person convicted has previously been convicted of such an offence committed within 5 years of the date of the commission of the offence being dealt with by the court (whether or not section 65(2) or (4) also applies); or

(b) the offence for which the person is convicted involves either or both of the following:

(i) the proportion of alcohol in the person's breath, as ascertained by an evidential breath test subsequently undergone by the person under section 69, is or exceeds 800 micrograms of alcohol per litre of breath:

(ii) the proportion of alcohol in the person's blood, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, is or exceeds 160 milligrams of alcohol per 100 millilitres of blood.

(2) However, section 65AI applies instead of section 65AC if a person described in subsection (1)—

(a) has a medical condition (as certified by an appropriately qualified health practitioner) that renders him or her incapable of providing a valid breath sample to activate an alcohol interlock device; or

(b) usually lives in a non-serviced area and is not prepared to drive to a serviced area for an initial installation and any necessary service; or

(c) has never held a New Zealand licence; or

(d) holds a licence that has been revoked or is suspended (except one that is suspended under section 90, 95, or 95A); or

(e) is not likely, during the term of any alcohol interlock sentence that would otherwise apply, to—

(i) have lawful possession of a motor vehicle to the extent of being able to use it and fit it with an alcohol interlock device; or

(ii) have the type of possession described in subparagraph (i) of a motor vehicle that is technically able to be fitted with an alcohol interlock device.

Section 65AB: inserted, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

65AC Alcohol interlock sentence

(1) If this section applies, the court must order an alcohol interlock sentence.

(2) An alcohol interlock sentence—

(a) disqualifies the person from holding or obtaining a driver licence for the period required by section 65AE; and

(b) authorises the person to apply for an alcohol interlock licence at the end of that period; and

(c) disqualifies the person from holding or obtaining any licence except an alcohol interlock licence; and

(d) authorises the person, after complying with the alcohol interlock licence requirements, to apply to replace the alcohol interlock licence with a zero alcohol licence.

(3) Subsection (1) applies unless for special reasons relating to the qualifying offence the court thinks fit to order otherwise and, if so,—

(a) section 94 may apply (and a reference to disqualification in section 94 must be treated as if it referred to an alcohol interlock sentence); but

(b) an alcohol interlock sentence may not otherwise be substituted by a community-based sentence.

Section 65AC: inserted, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

65AD Injury or death

If a qualifying offence resulted in injury or death, the court must disqualify the person from holding or obtaining a driver licence for the period of disqualification that is appropriate under the provision relating to the qualifying offence.

Section 65AD: inserted, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

65AE Period of disqualification

The period of disqualification for an alcohol interlock sentence is the greatest of the following periods:

(a) 28 days; and

(b) any period when the person's licence is expired or suspended under section 90, 95, or 95A; and

(c) any period when the person is in prison (because of the qualifying offence or otherwise); and

(d) any period when the person is disqualified from holding or obtaining a driver licence, including—

(i) under section 65AD; or

(ii) under section 65AH(3); or

(iii) because of an existing disqualification (except a disqualification under section 65(2) or (4): *see* section 65(3A) and (4A)).

Section 65AE: inserted, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

65AF Alcohol interlock sentence disqualifies person from driving except under alcohol interlock licence

A person who is subject to an alcohol interlock sentence and who does not apply for an alcohol interlock licence is disqualified from holding or obtaining a driver licence.

Section 65AF: inserted, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

65AG Alcohol interlock licence requirements

(1) An alcohol interlock licence replaces any licence held by a person.

(2) An alcohol interlock licence requires a person holding it to drive only a motor vehicle or vehicles to which an alcohol interlock device is fitted.

(3) A person may apply under section 100A to replace an alcohol interlock licence with a zero alcohol licence if—

(a) every motor vehicle the person has driven for 12 months (or more) had an alcohol interlock device fitted and operating; and

(b) in relation to a person who is required to attend an assessment centre under section 65 (or any other section), the person has attended and been assessed as being a fit person to hold a driver licence; and

(c) during the previous 6 months, the person—

(i) has not attempted to drive while the person's breath contained a proportion of alcohol above the level to which the device is set; and

(ii) has not committed a qualifying offence or an offence against section 55A; and

(iii) has complied with any relevant regulations made under this Act.

(4) The 6-month period referred to in subsection (3)(c) may be reduced to 3 months if the person has been assessed at an assessment centre (whether the attendance was voluntary or ordered by a court) as a fit person to hold a driver licence.

Section 65AG: inserted, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

65AH When court may take alcohol interlock sentence into account

Fines, imprisonment, assessments, or community-based sentences

(1) A court must order any fine, imprisonment, assessment, or community-based sentence that is appropriate for a qualifying offence or a concurrent offence regardless of the requirement to impose an alcohol interlock sentence.

(2) However, the court may take into account the cost of an alcohol interlock sentence and may discount the amount of any fine.

Disqualifications

(3) For a concurrent offence,—

Injury or death

(a) that resulted in injury or death, the court must disqualify the person from holding or obtaining a driver licence for the period of disqualification that is appropriate under the provision relating to the concurrent offence:

No injury or death

(b) that did not result in injury or death, the court may, taking into account the alcohol interlock sentence that must be ordered for the qualifying offence under section 65AC, choose not to order any disqualification that might otherwise apply to the concurrent offence.

Section 65AH: inserted, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

65AI Exceptions: persons who are not to be given alcohol interlock sentence

If this section applies because an exception described in section 65AB(2) applies to the person, a court must—

(a) disqualify the person from holding or obtaining a driver licence for the period that is appropriate under the provision relating to the qualifying offence; and

(b) order any fine, imprisonment, assessment, or community-based sentence that is appropriate for the qualifying offence; and

(c) if a disqualification is ordered, authorise the person to apply for a zero alcohol licence at the end of the period of disqualification.

Section 65AI: inserted, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

65AJ Effect of subsequent qualifying offences on alcohol interlock sentence

(1) This section applies to a person with an alcohol interlock sentence who is convicted of a subsequent qualifying offence.

(2) The court must replace the alcohol interlock sentence with a new alcohol interlock sentence under section 65AC unless—

(a) section 65AC(3) applies to the subsequent qualifying offence; or

(b) an exception described in section 65AB(2) now applies to the person (in which case, section 65AI applies).

(3) Sections 65AC to 65AI apply to the new alcohol interlock sentence as if a reference to a qualifying offence in those sections were a reference to the subsequent qualifying offence.

Section 65AJ: inserted, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

65AK Effect of other subsequent offences on alcohol interlock licence

(1) This section applies to a person with an existing alcohol interlock licence—

(a) who is convicted of a subsequent offence that is not a qualifying offence; and

(b) who is disqualified under this Act or under section 124 of the Sentencing Act 2002 from holding or obtaining a driver licence for that subsequent offence.

(2) In order to continue the existing alcohol interlock licence, the court must authorise the person to apply for a new alcohol interlock licence at the end of the disqualification referred to in subsection (1)(b).

(3) Sections 65AG, 65AJ, and this section continue to apply to the new alcohol interlock licence as if it were the previous alcohol interlock licence and the previous alcohol interlock licence had not been interrupted by the disqualification.

(4) When the person applies under section 100A(1) in relation to the new alcohol interlock licence, the Agency must accept any compliance with the requirements of section 65AG in relation to the person's previous alcohol interlock licence as compliance with the requirements of section 65AG in relation to the person's new alcohol interlock licence.

Section 65AK: inserted, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

Mandatory zero alcohol requirements for repeat offences

Heading: inserted, on 1 July 2018, by section 26 of the Land Transport Amendment Act 2017 (2017 No 34).

65B Mandatory zero alcohol requirements for repeat offences and certain first offences

(1) This section applies if a court has authorised a person to apply for a zero alcohol licence under any of the following sections:

(a) section 65AC(2)(d):

(b) section 65AI(c):

(c) section 100B(2)(b).

(2) A zero alcohol licence has effect for a period of 3 years from the date the licence is issued.

(3) A person authorised under a section referred to in subsection (1) may apply for a zero alcohol licence,—

(a) in the case of a person who is subject to 1 or more orders of disqualification, no earlier than the day after the end of the last period of disqualification to which the person is subject; or

(b) in the case of a person who is subject to an alcohol interlock sentence, when the Agency makes an order under section 100A(1).

(4) A person who has been authorised to apply for a zero alcohol licence and who does not apply for a zero alcohol licence is disqualified from holding or obtaining a driver licence.

Section 65B: inserted, on 10 September 2012, by section 30 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 65B heading: amended, on 1 July 2018, by section 27(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 65B(1): replaced, on 1 July 2018, by section 27(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 65B(2): replaced, on 1 July 2018, by section 27(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 65B(3): amended, on 1 July 2018, by section 27(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 65B(3)(b): amended, on 1 July 2018, by section 27(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 65B(4): replaced, on 1 July 2018, by section 27(5) of the Land Transport Amendment Act 2017 (2017 No 34).

Name suppression

[Repealed]

Heading: repealed, on 5 March 2012, pursuant to section 393 of the Criminal Procedure Act 2011 (2011 No 81).

66 Names of drivers convicted of alcohol or drug-related offences may not be suppressed

[Repealed]

Section 66: repealed, on 5 March 2012 (applying in relation to a proceeding for an offence that was commenced before that date), by section 393 of the Criminal Procedure Act 2011 (2011 No 81).

Blood test fee

67 Blood test fee

(1) The following persons who undergo a blood test are liable to pay the blood test fee that applied on the date of that test and any associated medical expenses:

(a) any person who—

(i) elects or is required to undergo the blood test under section 70A(1) or 72(1); and

(ii) before undergoing the blood test is advised in accordance with section 69(4A)(d), 72(1D), or 72(1E):

(b) any person who undergoes a blood test under section 73.

(1A) Subsection (1) does not apply if the result of the blood test indicates that the person has committed an infringement offence against section 56(2B).

(1B) The blood test fee and any associated medical expenses payable by a person under subsection (1),—

(a) in the case of a person who is convicted of an offence against any of sections 56(2), 57(2), 57AA, 57A, 58, 61(1)(b), 61(2), and 62, are deemed to be a fine imposed on the conviction of the person for that offence; and

(b) in all other cases, are recoverable from the person as a debt due to the Crown.

(1C) An enforcement officer may waive or refund the blood test fee and any associated medical expenses payable or paid by a person under subsection (1) if—

(a) the result of the blood test does not indicate that the person contravened a specified blood-alcohol limit; and

(b) the blood test—

(i) was taken under section 72(1)(a) and the enforcement officer is satisfied, on the evidence of a medical practitioner, that the person's failure or refusal to undergo an evidential breath test was because of—

(A) a pre-existing medical condition or pre-existing disability that precluded undergoing the test; or

(B) an injury, sustained in a motor vehicle accident that gave rise to the obligation to undergo the test; or

(ii) was taken under section 73.

(2) For the purposes of subsection (1), the Minister of Police may from time to time, by notice in the *Gazette*, prescribe a fee for each type of blood test that is carried out under this Act.

(3) The medical expenses referred to in subsection (1) may not exceed the actual and reasonable medical expenses associated with the taking of a blood specimen.

Compare: 1962 No 135 s 30AB(4)

Section 67(1): replaced, on 1 December 2014, by section 8 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 67(1A): inserted, on 1 December 2014, by section 8 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 67(1B): inserted, on 1 December 2014, by section 8 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 67(1C): inserted, on 1 December 2014, by section 8 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 67(2): substituted, on 1 November 2009, by section 14(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 67(3): added, on 1 November 2009, by section 14(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Enforcement procedures for offences involving intoxication

68 Who must undergo breath screening test

(1) An enforcement officer may require any of the following persons to undergo a breath screening test without delay:

(a) a driver of, or a person attempting to drive, a motor vehicle on a road:

(b) a person whom the officer has good cause to suspect has recently committed an offence against this Act that involves the driving of a motor vehicle:

(c) if an accident has occurred involving a motor vehicle,—

(i) the driver of the vehicle at the time of the accident; or

(ii) if the enforcement officer is unable to ascertain who the driver of the motor vehicle was at the time of the accident, a person whom the officer has good cause to suspect was in the motor vehicle at the time of the accident.

(2) An enforcement officer may not require a person who is in a hospital or medical centre as a result of an accident involving a motor vehicle to undergo a breath screening test.

(3) A person who has undergone a breath screening test under this section must remain at the place where the person underwent the test until after the result of the test is ascertained, and an enforcement officer may arrest the person without warrant if the person refuses or fails to remain at that place.

(4) If an enforcement officer is entitled to require a person to undergo a breath screening test, the officer may also require that person to undergo a test using a passive breath-testing device, which test is one where the officer holds a passive breath-testing device near the person's mouth for the purpose of ascertaining whether or not there is any alcohol in the person's breath.

(5) The use or non-use of a passive breath-testing device does not of itself affect the validity of a breath screening test.

Compare: 1962 No 135 s 58A

Section 68(2): amended, on 7 November 2018, by section 9 of the Land Transport Amendment Act 2016 (2016 No 77).

69 Who must undergo evidential breath test

(1) An enforcement officer may require a person to accompany an enforcement officer to a place where it is likely that the person can undergo an evidential breath test or a blood test (or both) when required to do so by the officer, if,—

(a) in the case of a person who holds an alcohol interlock licence or a zero alcohol licence, the person has undergone a breath screening test under section 68 and it appears to the officer that the breath of the person who underwent the test contains alcohol; or

(aa) in the case of a person who is apparently younger than 20, the person has undergone a breath screening test under section 68 and it appears to the officer that the breath of the person who underwent the test contains alcohol; or

(ab) in the case of any other person, the person has undergone a breath screening test under section 68 and it appears to the officer that the proportion of alcohol in the breath of the person who underwent the test exceeds 250 micrograms of alcohol per litre of breath; or

(b) *[Repealed]*

(c) the person fails or refuses to undergo a breath screening test without delay after having been required to do so by the officer under section 68; or

(d) the person could be required to undergo a breath screening test without delay under section 68 but cannot be tested because either a breath screening device is not readily available or for any reason a breath screening test cannot then be carried out, and there is good cause to suspect that the person has consumed drink.

(2) If it is not practicable for a person to undergo an evidential breath test at a place to which the person has accompanied an enforcement officer under subsection (1), an enforcement officer may require the person to accompany the officer to any other place where it is likely that the person can undergo an evidential breath test or a blood test (or both).

(3) For the avoidance of doubt, it is declared that an enforcement officer may require a person to accompany the officer to a place under subsection (1) if—

(a) it is likely that the person can undergo an evidential breath test at that place, whether or not it is likely that the person can undergo a blood test at that place; or

(b) it is likely that the person can undergo a blood test at that place, whether or not it is likely that the person can undergo an evidential breath test at that place.

(4) If a person—

(a) has accompanied an enforcement officer to a place under this section; or

(b) has been arrested under subsection (6) and taken to or detained at a place,—

an enforcement officer may require the person to undergo without delay at that place an evidential breath test (whether or not the person has already undergone a breath screening test).

(4A) An enforcement officer who requires a person to undergo an evidential breath test under subsection (4) must, without delay, advise the person—

(a) that if the person fails or refuses to undergo the evidential breath test, the person will be required to permit the taking of a blood specimen under section 72(1)(a); and

(b) that if the result of a blood test indicates the presence of alcohol in the person's blood the person may be issued with an infringement offence notice or charged with an offence, depending on the proportion of alcohol; and

(c) of the infringement fee payable for a breach of section 56(2B); and

(d) that the person may be liable to pay a blood test fee and associated medical costs, whether or not the result of the blood test establishes that the person has committed an offence against this Act.

(5) A person must—

(a) accompany the officer to a place when required to do so under this section:

(b) if the person has accompanied an enforcement officer to a place under this section, remain at that place until the person is required either to undergo an evidential breath test or a blood test under this Act, or to accompany an enforcement officer to another place under this section:

(c) if the person has undergone an evidential breath test under this section, remain at the place where the person underwent the test until after the result of the test is ascertained.

(6) An enforcement officer may arrest without warrant a person who contravenes subsection (5).

(7) An enforcement officer may not require a person who is in a hospital or medical centre as a result of an accident involving a motor vehicle to undergo an evidential breath test.

Compare: 1962 No 135 s 58B

Section 69(1): amended, on 7 August 2011, by section 32(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 69(1)(a): substituted, on 7 August 2011, by section 32(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 69(1)(aa): inserted, on 7 August 2011, by section 32(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 69(1)(ab): inserted, on 7 August 2011, by section 32(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 69(1)(ab): amended, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 69(1)(b): repealed, on 7 August 2011, by section 32(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 69(4A): inserted, on 1 December 2014, by section 9 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 69(7): amended, on 7 November 2018, by section 10 of the Land Transport Amendment Act 2016 (2016 No 77).

70 Person may be required to undergo further evidential breath test if initial test fails to produce result

(1) If for any reason an evidential breath test carried out under section 69 by an enforcement officer fails to produce a result, the enforcement officer may, at his or her discretion, either require the person to undergo without delay a further evidential breath test or proceed as if section 72(1)(c) applies.

(2) A requirement made under subsection (1) is deemed to be a requirement under section 69(4).

70A Right to elect blood test

(1) A person has the right, within 10 minutes of being advised by an enforcement officer of the matters specified in section 77(3)(a) (which sets out the conditions of the admissibility of the test), to elect to have a blood test to assess the proportion of alcohol in his or her blood, if the result of that person's evidential breath test appears to be positive, and—

(a) the result of the person's evidential breath test indicates that the proportion of alcohol in the person's breath exceeds 400 micrograms of alcohol per litre of breath; or

(b) the person is apparently younger than 20; or

(c) the person holds an alcohol interlock licence or a zero alcohol licence.

(2) A person does not have the right to elect to have a blood test to assess the proportion of alcohol in his or her blood if the result of the person's positive evidential breath test indicates that the proportion of alcohol in the person's breath exceeds 250 micrograms of alcohol per litre of breath but does not exceed 400 micrograms of alcohol per litre of breath.

(3) Subsection (2) does not apply to a person who is apparently younger than 20 or who holds an alcohol interlock licence or a zero alcohol licence.

Section 70A: replaced, on 1 December 2014, by section 10 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

71 Meaning of apparently younger than 20

(1) For the purposes of section 69(1)(aa), an enforcement officer is entitled to regard a person as being **younger than 20** if—

(a) the person produces a driver licence showing that the person is younger than 20; or

(b) the person produces a driver licence showing that the person is 20 or older, but the officer has good cause to suspect that the licence has been issued to some other person or is invalid or that the person who produced the licence is younger than 20; or

(c) the person fails to produce a driver licence and is unable to satisfy the officer by some other means that the person is 20 or older.

(2) An enforcement officer is not obliged to take any further steps, other than requiring the production of a driver licence, to ascertain the age of a person for the purposes of section 69.

Compare: 1962 No 135 s 58B(1A)

Section 71(1): amended, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

71A Requirement to undergo compulsory impairment test

(1) An enforcement officer may require any of the following persons to undergo a compulsory impairment test given by an enforcement officer trained to give the test if the enforcement officer has good cause to suspect that the person has consumed a drug or drugs:

(a) a driver of, or a person attempting to drive, a motor vehicle on a road:

(b) a person whom the officer has good cause to suspect has recently committed an offence against this Act that involves the driving of a motor vehicle:

(c) if an accident has occurred involving a motor vehicle,—

(i) the driver of the vehicle at the time of the accident; or

(ii) if the enforcement officer is unable to ascertain who the driver of the motor vehicle was at the time of the accident, a person whom the officer has good cause to suspect was in the motor vehicle at the time of the accident.

(2) An enforcement officer may require a person specified under subsection (1) to—

(a) remain in the place where stopped, for a period of time that is reasonable in the circumstances, to undergo the compulsory impairment test; or

(b) accompany an enforcement officer to another place to undergo the compulsory impairment test if it would enhance road safety, personal safety, the person's privacy, or the giving or taking of the test.

(3) A person who has undergone a compulsory impairment test must remain at the place where the person underwent the test until after the result of the test is ascertained.

(4) An enforcement officer may arrest a person without warrant if the person refuses or fails to comply with subsection (2) or (3).

(5) An enforcement officer may exercise the powers in subsections (1) and (2) in addition to any breath screening tests under section 68 or evidential breath tests under section 69 and regardless of the outcome of any such tests.

Section 71A: inserted, on 1 November 2009, by section 15 of the Land Transport Amendment Act 2009 (2009 No 17).

72 Who must give blood specimen at places other than hospital or medical centre

(1) A person must permit a health practitioner or medical officer to take a blood specimen from the person when required to do so by an enforcement officer if—

(a) the person fails or refuses to undergo without delay an evidential breath test after having been required to do so by an enforcement officer under section 69; or

(b) the person has undergone an evidential breath test under section 69(4), and—

(i) it appears to the officer that the test is positive; and

(ii) within 10 minutes of being advised by an enforcement officer of the matters specified in section 77(3)(a) (which sets out the conditions of the admissibility of the test), the person advises the officer that the person wishes to undergo a blood test; or

(c) an evidential breath testing device is not readily available at the place to which the person has accompanied an enforcement officer under section 69 (whether or not at the time the requirement was made it was likely that the person could undergo an evidential breath test at that place) or to which the person has been taken under arrest (as the case may be), or for any reason an evidential breath test cannot then be carried out at that place; or

(d) the officer has arrested the person under section 120(1) and has good cause to suspect that the person has committed an offence against any of sections 56 to 62, and either—

(i) a health practitioner has examined the person and believes that the person may be under the influence of drink or a drug, or both; or

(ii) the person has refused to be examined by a health practitioner for the purposes of this paragraph; or

(e) the person does not complete a compulsory impairment test in a manner satisfactory to an enforcement officer, who is trained to give the test, when required to do so by an enforcement officer under section 71A.

(1AA) Subsection (1)(b) does not apply in the case of a person (other than a person who is apparently younger than 20 or who holds an alcohol interlock licence or a zero alcohol licence) if the result of the evidential breath test under section 69(4) indicates that the proportion of alcohol in the person's breath exceeds 250 micrograms of alcohol per litre of breath but does not exceed 400 micrograms of alcohol per litre of breath.

(1A) Subsection (1)(e) only applies if an enforcement officer has good cause to suspect that the person has consumed a drug or drugs.

(1B) Subsection (1)(e) applies regardless of whether the person has failed any breath screening tests under section 68 or evidential breath tests under section 69 and regardless of the outcome of any such tests.

(1C) An enforcement officer may exercise the powers in subsections (1) and (2) in addition to any breath screening tests under section 68 or evidential breath tests under section 69.

(1D) An enforcement officer who advises a person of the matters specified in section 77(3)(a) (which sets out the conditions of the admissibility of an evidential breath test) must also, without delay, advise the person that if the person elects to have a blood test the person may be liable to pay a blood test fee and associated medical costs, whether or not the result of that blood test establishes that the person has committed an offence against this Act.

(1E) An enforcement officer who requires a person to permit the taking of a blood specimen under subsection (1)(c), (d), or (e) must advise the person that the person may be liable to pay a blood test fee and associated medical costs, whether or not the result of the blood test establishes that the person has committed an offence against this Act.

(2) A person who has been required by an enforcement officer under subsection (1) to permit the taking of a blood specimen must, without delay after being requested to do so by a health practitioner or medical officer, permit that practitioner or medical officer to take a blood specimen from that person.

(3) If it is not practicable for a blood specimen to be taken from a person by a health practitioner or medical officer at a place where the person has been required under this section to permit the taking of a blood specimen, the person must accompany an enforcement officer to any other place where it is likely that a blood specimen can be taken from the person by a health practitioner or medical officer if the officer requires the person to do so.

(4) If a blood specimen taken under this section is insufficient for the purposes of the relevant blood specimen collecting procedure,—

(a) the person from whom the specimen was taken must permit a health practitioner or medical officer to take a further blood specimen immediately after being requested to do so by the health practitioner or medical officer; and

(b) a further blood specimen so taken is to be treated as part of the original blood specimen taken from the person.

(5) An enforcement officer may arrest a person without warrant if the person—

(a) fails or refuses to accompany an enforcement officer to a place when required to do so under this section; or

(b) having accompanied an enforcement officer to a place under this section, fails or refuses to remain at that place until requested by a health practitioner or medical officer to permit a blood specimen to be taken under this section.

Compare: 1962 No 135 s 58C

Section 72 heading: amended, on 7 November 2018, by section 11(1) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 72(1): amended, on 7 November 2018, by section 11(2) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 72(1): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 72(1)(b): amended, on 29 December 2001, by section 7 of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Section 72(1)(d)(i): amended, on 7 November 2018, by section 11(2) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 72(1)(d)(i): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 72(1)(d)(ii): amended, on 7 November 2018, by section 11(2) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 72(1)(d)(ii): amended, on 1 November 2009, by section 16(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 72(1)(d)(ii): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 72(1)(e): added, on 1 November 2009, by section 16(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 72(1AA): inserted, on 1 December 2014, by section 11(1) of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 72(1A): inserted, on 1 November 2009, by section 16(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 72(1B): inserted, on 1 November 2009, by section 16(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 72(1C): inserted, on 1 November 2009, by section 16(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 72(1D): inserted, on 1 December 2014, by section 11(2) of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 72(1E): inserted, on 1 December 2014, by section 11(2) of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 72(2): amended, on 7 November 2018, by section 11(3) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 72(2): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 72(3): amended, on 7 November 2018, by section 11(4) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 72(3): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 72(4): amended, on 5 November 2011, by section 33(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 72(4)(a): amended, on 7 November 2018, by section 11(5) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 72(4)(a): amended, on 5 November 2011, by section 33(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 72(4)(a): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 72(5)(b): amended, on 7 November 2018, by section 11(6) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 72(5)(b): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

73 Who must give blood specimen in hospital or medical centre

(1) A person who is under examination, care, or treatment in a hospital or medical centre must permit a blood specimen to be taken from the person by—

(a) the health practitioner who is in immediate charge of the examination, care, or treatment of the person; or

(b) another health practitioner or a medical officer.

(2) If a person under examination, care, or treatment in a hospital or medical centre is unconscious, a blood specimen may be taken from the person under this section by—

(a) the health practitioner who is in immediate charge of the examination, care, or treatment of the person; or

(b) another health practitioner or a medical officer.

(3) The health practitioner who is in immediate charge of the examination, care, or treatment of the person in a hospital or medical centre—

(a) may take a blood specimen or cause a blood specimen to be taken by another health practitioner or a medical officer; and

(b) must either take a blood specimen or cause a blood specimen to be taken by another health practitioner or a medical officer, if an enforcement officer requests him or her to do so,—

whether or not the person has consented to the taking of the specimen and whether or not the person is capable of giving consent.

(4) If the specimen originally taken is insufficient for the purposes of the relevant blood specimen collecting procedure, the health practitioner who is in immediate charge of the examination, care, or treatment of the person may take or cause to be taken by another health practitioner or a medical officer a further blood specimen (which further specimen is for the purposes of this Act to be

treated as a part of the original blood specimen taken from the person), whether or not the person has consented to the taking of the specimen and whether or not the person is capable of giving consent.

(5) Despite subsection (3), a blood specimen may be taken under any provision of this section only if the health practitioner—

(a) has reasonable grounds to suspect that the person is in the hospital or medical centre as a result of—

(i) an accident or incident involving a motor vehicle:

(ii) an injury or a medical condition arising subsequent to an accident or incident involving a motor vehicle; and

(b) has examined the person and is satisfied that the taking of the blood specimen would not be prejudicial to the person's proper care or treatment; and

(c) tells the person (unless the person is unconscious) that the blood specimen is being or was taken under this section for evidential purposes.

(6) If a blood specimen is taken under this section from a person who is unconscious, the health practitioner or medical officer who took the specimen must notify the person in writing as soon as practicable that the specimen was taken under this section for evidential purposes.

(7) No civil or criminal proceedings may be taken against the Crown, a district health board, or any other person in respect of the taking of a blood specimen under this section, or in respect of the sending of a blood specimen to an approved laboratory, on the ground of lack of consent of a person whose consent to the taking of the blood specimen would have been otherwise required by law if this section had not been enacted.

(8) Nothing in subsection (7) applies to any proceeding on the ground of any negligent act or omission in the taking of a blood specimen.

Compare: 1962 No 135 s 58D

Section 73 heading: amended, on 7 November 2018, by section 12(1) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(1): amended, on 7 November 2018, by section 12(2)(a) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(1)(a): amended, on 7 November 2018, by section 12(2)(b) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(1)(a): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 73(1)(b): amended, on 7 November 2018, by section 12(2)(b) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(1)(b): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 73(2): amended, on 7 November 2018, by section 12(3)(a) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(2)(a): amended, on 7 November 2018, by section 12(3)(b) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(2)(a): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 73(2)(b): amended, on 7 November 2018, by section 12(3)(b) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(2)(b): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 73(3): amended, on 7 November 2018, by section 12(4)(a) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(3): amended, on 7 November 2018, by section 12(4)(b) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(3): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 73(3)(a): amended, on 7 November 2018, by section 12(4)(a) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(3)(a): amended, on 5 November 2011, by section 34(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 73(3)(a): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 73(3)(b): amended, on 7 November 2018, by section 12(4)(a) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(3)(b): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 73(4): amended, on 7 November 2018, by section 12(5) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(4): amended, on 5 November 2011, by section 34(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 73(4): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 73(5): amended, on 7 November 2018, by section 12(6) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(5): amended, on 5 November 2011, by section 34(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 73(5): amended, on 22 June 2005, by section 37(a) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 73(5): amended, on 22 June 2005, by section 37(b) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 73(5): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 73(5)(a): substituted, on 1 November 2009, by section 17 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 73(5)(a): amended, on 7 November 2018, by section 12(7) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(6): amended, on 7 November 2018, by section 12(8) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 73(7): amended, on 5 November 2011, by section 34(4) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 73(7): amended, on 1 January 2001, by section 111(1) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

73A Evidence of controlled drug in blood sample taken under section 72 or 73 may not be used as evidence of use of controlled drugs in prosecutions under Misuse of Drugs Act 1975

Evidence of a controlled drug in a blood sample taken under section 72 or 73 may not be used as evidence of the use of a controlled drug in a prosecution for an offence under the Misuse of Drugs Act 1975.

Section 73A: inserted, on 1 November 2009, by section 18 of the Land Transport Amendment Act 2009 (2009 No 17).

74 Procedure for dealing with blood specimens

(1) A blood specimen taken under section 72 or 73 must be dealt with in accordance with the relevant blood specimen collecting procedure.

(2) *[Repealed]*

(3) In the case of a blood specimen taken under section 72, an enforcement officer must, within 7 days after the date on which the specimen was taken, deliver or cause to be delivered (whether by courier or otherwise), or post by registered post or cause to be posted by registered post, the blood specimen to an approved laboratory for its analysis and custody in accordance with the relevant blood specimen collecting procedure.

(4) In the case of a blood specimen taken under section 73, the health practitioner or medical officer by whom the specimen was taken must,—

(a) within 7 days after the date on which the specimen was taken, deliver or cause to be delivered (whether by courier or otherwise), or post or cause to be posted by registered post, the blood specimen to an approved laboratory for its analysis and custody in accordance with the relevant blood specimen collecting procedure; and

(b) if, at the time the blood specimen is taken, there is more than 1 approved laboratory, give the Commissioner a written notification—

(i) identifying the approved laboratory to whom the blood specimen was (or is being) delivered or posted; and

(ii) naming the person from whom the blood specimen was taken.

(5) If a person from whom a blood specimen was taken wishes to have the specimen analysed by a private analyst,—

(a) the person (or the person's solicitor or counsel) may apply to the Commissioner in accordance with subsection (7); and

(b) if the application complies with subsection (7),—

(i) the Commissioner, or a person authorised for the purpose by the Commissioner, must forward a copy of the application to the approved laboratory to whom the blood specimen taken from the

person was delivered or posted under subsection (3) or subsection (4); and

(ii) that laboratory must send by registered post, personal delivery, or delivery by courier the blood specimen, held for the purpose, to the private analyst specified in the application.

(6) If an application under subsection (5) does not comply with subsection (7), the Commissioner or authorised person may refuse to forward a copy of the application to the approved laboratory.

(7) An application under subsection (5)(a) must—

(a) be made in writing to the Commissioner not later than 28 days after—

(i) the date on which a summons in respect of an offence against this Act (which offence is an offence arising out of the circumstances in respect of which the blood specimen was taken) is served on the defendant; or

(ii) if the defendant is arrested under a warrant under section 34 of the Criminal Procedure Act 2011 in respect of any such offence, the date on which the defendant is so arrested; or

(iia) in the case of an infringement offence, the date on which the defendant is served with an infringement notice in respect of the infringement offence; or

(iii) in any case to which subparagraph (i), (ii), or (iia) does not apply, the date on which the defendant is first charged in court with any such offence; and

(b) state the full name and address and the occupation of the person and the date of the alleged offence; and

(c) identify the private analyst to whom the blood specimen is to be sent and the address of the private analyst.

(8) A blood specimen sent to an approved laboratory under subsection (3) or subsection (4) may be destroyed at any time later than 1 year after the date the specimen was so sent.

Compare: 1962 No 135 s 58F

Section 74(1): substituted, on 5 November 2011, by section 35(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 74(2): repealed, on 5 November 2011, by section 35(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 74(3): amended, on 5 November 2011, by section 35(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 74(4): amended, on 7 November 2018, by section 13 of the Land Transport Amendment Act 2016 (2016 No 77).

Section 74(4): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 74(4)(a): amended, on 5 November 2011, by section 35(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 74(4)(b): amended, on 5 November 2011, by section 35(4) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 74(4)(b)(i): substituted, on 5 November 2011, by section 35(5) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 74(5)(b)(i): amended, on 5 November 2011, by section 35(6) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 74(5)(b)(ii): substituted, on 5 November 2011, by section 35(7) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 74(6): amended, on 5 November 2011, by section 35(8) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 74(7)(a)(ii): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 74(7)(a)(iia): inserted, on 1 December 2014, by section 12 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 74(7)(a)(iii): replaced, on 1 December 2014, by section 12 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 74(7)(c): amended, on 26 March 2015, by section 4 of the Land Transport Amendment Act 2015 (2015 No 17).

Section 74(8): amended, on 5 November 2011, by section 35(9) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Evidential provisions

75 Certificates in blood-alcohol proceedings

(1) Except as provided in section 79, production of a certificate to which this section applies in proceedings for an offence against this Part is sufficient evidence, in the absence of proof to the contrary, of such of the matters as are stated in the certificate and of the sufficiency of the authority and qualifications of the person by whom the certificate is made and, in the case of a certificate referred to in subsection (5), of the person who carried out the analysis.

(2) This section applies to a certificate purporting to be signed by a health practitioner or medical officer and certifying that—

(a) a specimen of venous blood was taken by the practitioner or medical officer in accordance with the blood specimen collecting procedure specified in the certificate from a person named in the certificate; and

(b) for the purposes of the specified blood specimen collecting procedure,—

(i) the specimen was sufficient; or

(ii) the specimen was insufficient and the practitioner or medical officer took a further specimen; and

(c) in accordance with the specified blood specimen collecting procedure, the practitioner or medical officer kept the specimen in the appropriate container or containers (as applicable); and

(d) each such container was received by the practitioner or medical officer in a sealed blood specimen collecting kit; and

(e) the practitioner or medical officer handed each such container to an enforcement officer named in the certificate.

(3) This section also applies to a certificate purporting to be signed by a health practitioner and certifying that—

(a) the person named in the certificate was in a hospital or medical centre; and

(b) the practitioner, being a health practitioner in immediate charge of the examination, care, or treatment of that person, took a blood specimen or caused a blood specimen to be taken by any other health practitioner or any medical officer from the person under section 73; and

(c) the practitioner has reasonable grounds to suspect that the person is in the hospital or medical centre as a result of—

(i) an accident or incident involving a motor vehicle:

(ii) an injury or a medical condition arising subsequent to an accident or incident involving a motor vehicle; and

(d) before taking the blood specimen or causing the blood specimen to be taken from the person, the practitioner examined the person and was satisfied that the taking of the blood specimen would not be prejudicial to the person's proper care or treatment; and

(e) the practitioner either—

(i) told the person that the blood specimen was being or had been taken under section 73 for evidential purposes; or

(ii) if the person was unconscious when the specimen was taken, notified the person in writing as soon as practicable that the blood specimen was taken under section 73 for evidential purposes.

(4) This section also applies to a certificate purporting to be signed by a health practitioner or medical officer and certifying—

(a) all the matters referred to in paragraphs (a) to (d) of subsection (2); and

(b) that the practitioner or medical officer sent or caused to be sent by registered post, personal delivery, or delivery by courier, on a specified date, the specimen to a specified approved laboratory in accordance with section 74; and

(c) that, if at the time the blood specimen was taken more than 1 approved laboratory exists, the practitioner or medical officer has notified the Commissioner in writing of the approved laboratory to which the specimen was delivered or posted.

(5) This section also applies to a certificate purporting to be signed by an approved analyst and certifying that—

(a) a blood specimen in a sealed container was, on a specified date, delivered to an approved analyst (or a person employed by an approved laboratory and approved for the purpose by an approved analyst) for analysis, and was delivered by registered post or personal delivery or delivery by courier; and

(b) on analysis of the blood specimen by an analyst specified in the certificate, the presence or a specified proportion of alcohol or of a drug, or both (as the case may be), was found in the specimen; and

(c) no such deterioration or congealing was found as would prevent a proper analysis.

(6) This section also applies to a certificate purporting to be signed by an approved analyst and certifying that, following an application under section 74, a blood specimen was posted to a specified private analyst by registered post, personal delivery, or delivery by courier, and addressed to the private analyst at the address given in the application.

(7) For the purposes of this section, it is not necessary for the person making a certificate to specify his or her entitlement to give the certificate if the certificate indicates that the person belongs to the general category of persons who may make such a certificate.

Compare: 1962 No 135 s 58G

Section 75(2): substituted, on 5 November 2011, by section 36(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 75(2): amended, on 7 November 2018, by section 14(1) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 75(3): amended, on 7 November 2018, by section 14(2)(a) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 75(3): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 75(3)(a): amended, on 7 November 2018, by section 14(2)(b) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 75(3)(b): amended, on 7 November 2018, by section 14(2)(a) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 75(3)(b): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 75(3)(c): substituted, on 5 November 2011, by section 36(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 75(3)(c): amended, on 7 November 2018, by section 14(2)(b) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 75(4): amended, on 7 November 2018, by section 14(3) of the Land Transport Amendment Act 2016 (2016 No 77).

Section 75(4): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 75(4)(b): amended, on 5 November 2011, by section 36(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 75(4)(b): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 75(4)(c): substituted, on 5 November 2011, by section 36(4) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 75(5)(a): amended, on 5 November 2011, by section 36(5) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 75(5)(b): amended, on 1 November 2009, by section 19 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 75(6): amended, on 5 November 2011, by section 36(6) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

75A Certificates of compliance for evidential breath-testing devices

(1) An evidential breath-testing device must be supported by a certificate of compliance given under this section by a person authorised for the purpose by the Science Minister.

(2) At any trial for an offence involving excess breath alcohol recorded by the device (being an offence committed on or after the commencement of this section), the prosecution must produce to the court a certified copy of the certificate of compliance. The certification must be given by a person authorised for the purpose by the Commissioner and must state that the copy is a true copy of the original certificate.

(3) Subject to subsection (4), a certificate of compliance or a certified copy of it that is produced under subsection (2) is for all purposes conclusive evidence of the matters stated in the certificate, and neither the matters stated in the certificate nor the manufacturer's specifications for the device concerned may be challenged, called into question, or put in issue in any proceedings in respect of an offence involving excess breath alcohol recorded by the device.

(4) In the absence of proof to the contrary, a document purporting to be a certificate of compliance or a certified copy of a certificate of compliance—

(a) must be treated as such a certificate or certified copy; and

(b) is conclusive evidence of the sufficiency of the authority of the person who signed the document.

(5) After consultation with the Minister and the Minister of Justice, the Minister of Police must, by notice in the *Gazette*, specify for each kind of evidential breath-testing device the matters that are required to be stated in a certificate of compliance.

(6) Without limiting subsection (5),—

(a) in the case of any kind of evidential breath-testing device approved after the commencement of this section, the notice under subsection (5) must be given in conjunction with the notice approving that kind of device:

(b) a notice under subsection (5) must specify the maximum period of service for the relevant kind of device, and must require a certificate of compliance to specify the date on which that period began or begins:

(c) a notice under subsection (5) must specify the maximum period permitted between the date on which a certificate of compliance is issued and the date by which a test result must be obtained, and must require a certificate of compliance to specify the date on which the certificate of compliance was issued:

(d) a notice under subsection (5) must require a certificate of compliance to include a statement to the effect that the device is being maintained within the manufacturer's specifications.

Section 75A: inserted, on 29 December 2001, by section 8 of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Section 75A(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

76 Presumptions relating to blood specimens

(1) In proceedings for an offence against this Act it is to be presumed, in the absence of proof to the contrary, that,—

(a) if a certificate referred to in section 75 names a person having the same name, address, and occupation as the defendant as the person from whom the specimen of blood was taken, the specimen was taken from the defendant:

(b) every approved analyst who signed a certificate referred to in section 75(5) was duly authorised to sign it:

(c) if the container in which a blood specimen (or part of a blood specimen) was placed was received by a health practitioner or medical officer in a sealed blood specimen collecting kit, the container contained a substance (whether or not a combination or mixture of 2 or more substances) and that substance was a preservative and anti-coagulant.

(2) On the request of a person from whom a blood specimen has been taken under section 72 or section 73, or of the person's solicitor or counsel, copies of any certificates referred to in subsection (1) that relate to that blood specimen must be supplied by the prosecutor to the person making the request.

Compare: 1962 No 135 s 58G

Section 76(1)(c): amended, on 7 November 2018, by section 15 of the Land Transport Amendment Act 2016 (2016 No 77).

Section 76(1)(c): amended, on 5 November 2011, by section 37 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 76(1)(c): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

77 Presumptions relating to alcohol-testing

(1) For the purposes of proceedings for an offence against this Act arising out of the circumstances in respect of which an evidential breath test was undergone by the defendant, it is to be conclusively presumed that the proportion of alco-

hol in the defendant's breath at the time of the alleged offence was the same as the proportion of alcohol in the defendant's breath indicated by the test.

(2) For the purposes of proceedings for an offence against this Act arising out of the circumstances in respect of which a blood specimen was taken from the defendant under section 72 or section 73, it is to be conclusively presumed that the proportion of alcohol in the defendant's blood at the time of the alleged offence was the same as the proportion of alcohol in the blood specimen taken from the defendant.

(3) Except as provided in subsections (3B) and (4), the result of a positive evidential breath test is not admissible in evidence in proceedings for an offence against any of sections 56 to 62 if—

(a) the person who underwent the test is not advised by an enforcement officer, without delay after the result of the test is ascertained,—

(i) that the test was positive; and

(ii) of the consequences specified in subsection (3A), so far as applicable, if he or she does not request a blood test within 10 minutes; or

(b) the person who underwent the test—

(i) advises an enforcement officer, within 10 minutes of being advised of the matters specified in paragraph (a), that the person wishes to undergo a blood test; and

(ii) complies with section 72(2).

(3A) The consequences referred to in subsection (3)(a)(ii) are—

(a) that the positive test could of itself be conclusive evidence to lead to that person's conviction for an offence against this Act if—

(i) the test indicates that the proportion of alcohol in the person's breath exceeds 400 micrograms of alcohol per litre of breath; or

(ii) the person is younger than 20 and the proportion of alcohol in the person's breath exceeds 150 micrograms of alcohol per litre of breath; or

(iii) the person holds an alcohol interlock licence or a zero alcohol licence:

(b) that the positive test could of itself be conclusive evidence that the person has committed an infringement offence against this Act if the person is younger than 20 and the test indicates that the person's breath contains alcohol but the proportion of alcohol does not exceed 150 micrograms of alcohol per litre of breath.

(3B) Subsection (3) does not apply if the result of a positive evidential breath test indicates that the proportion of alcohol in a person's breath (other than a person who is apparently younger than 20 or who holds an alcohol interlock licence or

a zero alcohol licence) exceeds 250 micrograms of alcohol per litre of breath, but does not exceed 400 micrograms of alcohol per litre of breath.

(4) Subsection (3)(a) does not apply if the person who underwent the test fails or refuses to remain at the place where the person underwent the test until the person can be advised of the result of the test.

(5) *[Repealed]*

(6) If it is proved in proceedings for an offence against section 60 that the defendant failed or refused to comply with section 13 without reasonable cause, that failure or refusal may be treated as supporting any evidence given on behalf of the prosecution, or as rebutting any evidence given on behalf of the defendant, concerning the defendant's condition at the time of the alleged offence.

Compare: 1962 No 135 s 58(4), (5), (6)

Section 77(3): replaced, on 1 December 2014, by section 13 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 77(3A): inserted, on 1 December 2014, by section 13 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 77(3B): inserted, on 1 December 2014, by section 13 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 77(5): repealed, on 29 December 2001, by section 9(2) of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

78 Presumptions as to age of driver

If a certificate referred to in section 143 is produced in proceedings for an offence against this Part involving a person who is apparently younger than 20, it is to be presumed, in the absence of proof to the contrary, that the date stated in the certificate as being the date of birth of the person to whom the certificate relates is accurate.

Compare: 1962 No 135 s 58G(5)

79 Circumstances in which certificate not admissible in proceedings

(1) No certificate referred to in subsection (2) or subsection (3) or subsection (4) of section 75 (which certificates relate to the taking of a blood specimen by a health practitioner or medical officer) is admissible in evidence in proceedings for an offence against this Act if the court, on application made by the defendant not less than 14 days before the hearing, orders that the health practitioner or medical officer who gave the certificate ought to appear as a witness at the hearing.

(2) No certificate referred to in section 75(5) (which certificate is given by an approved analyst and relates to the presence or proportion of alcohol, a drug, or both, found to be in a blood specimen) is admissible in evidence in proceedings for an offence against this Act if—

(a) application has been made in accordance with section 74 for the blood specimen to be sent to a private analyst; and

(b) the specimen has not been sent to the private analyst in compliance with the application;—

but this subsection does not apply in respect of a specimen destroyed under the authority of section 74(8) before the date of the application.

(3) No certificate referred to in subsection (5) or subsection (6) of section 75 (which certificate is given by an approved analyst and relates to the presence or proportion of alcohol, a drug, or both, in a blood specimen, or to the sending of a specimen to a private analyst) is admissible in evidence in proceedings for an offence against this Act if the court, on application made by the defendant not less than 14 days before the hearing, orders that,—

(a) in the case of a certificate referred to in that subsection (5), the person who made the analysis or the approved analyst who gave the certificate ought to appear as a witness at the hearing; or

(b) in the case of a certificate referred to in that subsection (6), the person who posted or delivered the specimen, or the person who gave the specimen to the courier, or the approved analyst who gave the certificate ought to appear as a witness at the hearing.

(4) The court may not make an order under subsection (3) unless the application made by the defendant under that subsection is accompanied by an affidavit, sworn by the private analyst who is specified in the defendant's application under section 74, to the effect that,—

(a) since the date given to the private analyst as the date on which application was made under section 74 for the sending to the analyst of a blood specimen relating to the defendant, the analyst has not received any such specimen; or

(b) the blood specimen received by the private analyst relating to the defendant—

(i) was not suitable for analysis; or

(ii) was suitable for analysis but, for specified reasons, that analysis was not carried out; or

(iii) was suitable for analysis and that analysis was carried out but, for specified reasons, the results of the analysis are not available; or

(c) the blood specimen received by the private analyst relating to the defendant has been analysed and found to contain,—

(i) in the case of a defendant who (at the time of the commission of the offence) was younger than 20 or held an alcohol interlock licence or a zero alcohol licence, no alcohol; or

(ii) in any other case, not more than 50 milligrams of alcohol per 100 millilitres of blood; or

(d) the blood specimen received by the private analyst relating to the defendant has been analysed and found to contain 20 milligrams or more of alcohol per 100 millilitres of blood more or less than the proportion of alcohol per 100 millilitres of blood specified in the certificate referred to in section 75(5); or

(e) if a certificate certifies that there is evidence of a qualifying drug, the defendant's blood specimen has been received and analysed by the private analyst and found to contain no evidence of a qualifying drug.

(5) Where a blood specimen is destroyed in accordance with section 74(8), that act does not affect the admissibility in proceedings of a certificate given in respect of the specimen by an approved analyst for the purposes of this Act.

Compare: 1962 No 135 s 58H

Section 79(1): amended, on 7 November 2018, by section 16 of the Land Transport Amendment Act 2016 (2016 No 77).

Section 79(1): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 79(2): amended, on 1 November 2009, by section 20(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 79(2)(a): amended, on 5 November 2011, by section 39(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79(2)(b): amended, on 5 November 2011, by section 39(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79(3): amended, on 5 November 2011, by section 39(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79(3): amended, on 1 November 2009, by section 20(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 79(3)(b): amended, on 5 November 2011, by section 39(4) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79(4)(c)(i): substituted, on 5 November 2011, by section 39(5) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79(4)(c)(ii): amended, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 79(4)(d): amended, on 1 November 2009, by section 20(3) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 79(4)(e): added, on 1 November 2009, by section 20(3) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 79(4)(e): amended, on 1 November 2009, by section 16 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Part 6A
Offences relating to transport services and penalties

Part 6A: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

79A Offence to carry on transport service without licence

(1) A person commits an offence if the person carries on (or, in relation to a small passenger service operator, facilitates) any transport service without the appropriate current licence.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $10,000.

(3) A person who is convicted of a second or subsequent offence against subsection (1) is liable on conviction to a fine not exceeding $25,000 and the court may, if it thinks appropriate, order any or every transport service vehicle used under the transport service to be immediately impounded and held at a location that the Agency specifies, at the expense of the convicted person (which is in addition to the fine and any other costs (if any) ordered by the court), for a period specified by the court that does not exceed 90 days.

(4) Any fees and charges incurred with respect to an impoundment under subsection (3) are recoverable from the convicted person by the vehicle recovery service operator or storage provider.

(5) Nothing in subsection (4) limits or affects any rights against the owner of the vehicle, or in respect of the vehicle, that may be exercised by the vehicle recovery service operator or storage provider.

(6) A person may not remove or release from storage an impounded motor vehicle, unless allowed to do so under this Act.

(7) The storage provider must immediately comply with a direction under this Act to release the vehicle to the owner or a person authorised for the purpose by the owner.

(8) The Agency, or a person authorised for the purpose by the Agency, may enter into such arrangements with vehicle recovery service operators and storage providers as the Agency considers necessary for the purposes of this section.

Compare: 1989 No 74 s 5(2), (5), (6)

Section 79A: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 79A(1): replaced, on 1 October 2017, by section 79(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 79A(3): amended, on 1 October 2017, by section 79(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 79A(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 79A(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 79A(8): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

79AB Offence to drive vehicle used in transport service without licence

(1) A transport service driver commits an offence if the driver uses a vehicle in a transport service and there is no relevant transport service licence held by any of the following:

(a) the driver:

(b) a transport service operator on whose behalf the driver is driving:

(c) a facilitator who facilitated the driver to connect with passengers of the service.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $10,000.

Section 79AB: inserted, on 1 October 2017, by section 80 of the Land Transport Amendment Act 2017 (2017 No 34).

79B Provision of incorrect information

A licence holder or person having control of a transport service who notifies the Agency that the licence holder or person holds the appropriate certificate, knowing that the information is incorrect or being reckless as to whether or not it is correct, commits an offence and is liable on conviction to a fine not exceeding $10,000.

Compare: 1989 No 74 s 18(6)

Section 79B: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 79B: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 79B: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

79C Failure to present vehicle for inspection

(1) A transport service licence holder commits an offence if the holder fails to present a transport service vehicle used in the service for inspection when required to do so by the Agency.

(1A) A driver of a small passenger service vehicle commits an offence if the driver fails to present the vehicle for inspection when required to do so by the Agency.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $10,000.

Section 79C: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 79C(1): replaced, on 1 October 2017, by section 81 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 79C(1A): inserted, on 1 October 2017, by section 81 of the Land Transport Amendment Act 2017 (2017 No 34).

79D Contravention of section 30K

(1) A person commits an offence if the person applies for a transport service licence while disqualified from holding or obtaining a transport service licence.

(2) If a person is convicted of an offence against subsection (1),—

(a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding $4,500; and

(b) the court must order the person to be disqualified from holding or obtaining a transport service licence for 6 months or more.

(3) The imposition of a mandatory disqualification under this section is subject, with all necessary modifications, to the criteria specified in section 81.

Section 79D: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

79E Liability of persons who use unlicensed transport service

(1) A person commits an offence if the person uses a transport service and knows or ought reasonably to know that, at the time the person used the transport service,—

(a) the operator of the transport service did not hold an appropriate transport service licence; or

(b) the operator of the transport service was disqualified from holding or obtaining a transport service licence; or

(c) the transport service licence of the operator was suspended or revoked.

(1A) Subsection (1) does not apply to an enforcement officer acting in the performance or intended performance of the officer's official duties as an employee or agent of the Agency.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $25,000.

Section 79E: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 79E(1A): inserted, on 1 October 2017, by section 82 of the Land Transport Amendment Act 2017 (2017 No 34).

79F Contravention of section 30M

(1) A person who holds a goods service licence commits an offence if the person fails to comply with or contravenes any condition imposed in respect of the holder's licence under section 30M.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $10,000.

Compare: 1989 No 74 s 8(4)

Section 79F: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

79G Contravention of section 87G

(1) A person commits an offence if the person, having been prohibited under section 87G(1)(b) from driving a transport service vehicle, drives during the currency of the prohibition any vehicle being used in a transport service (other than a rental service) or a specified class of transport service.

(2) A person commits an offence if the person, having been prohibited under section 87G(1)(c) from carrying out duties or activities of a driving instructor or testing officer, does so during the currency of the prohibition.

(3) The maximum penalty on conviction for an offence against subsections (1) and (2) is a fine not exceeding $2,000 and disqualification from holding or obtaining a driver licence for such period (if any) as the court thinks fit.

(4) A person commits an offence if the person applies for or obtains a driver licence, other than a driver licence that relates principally to the use of private motor vehicles, while the person is disqualified under section 87G(1)(a) from obtaining the licence.

(5) The maximum penalty on conviction for an offence against subsection (4) is a fine not exceeding $500.

Compare: 1989 No 74 s 17(3)–(5)

Section 79G: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

79H Contravention of section 128A

(1) A person who holds a small passenger service licence or a driver of a small passenger service vehicle commits an offence if the person or the driver acts in contravention of or fails to comply with any direction given by an enforcement officer under section 128A.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $2,000.

Compare: 1989 No 74 s 37(3)

Section 79H: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 79H(1): amended, on 1 October 2017, by section 83 of the Land Transport Amendment Act 2017 (2017 No 34).

79HA Failure to keep or produce records

(1) A person commits an offence if the person fails or refuses to comply with any of the requirements of section 30Q.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $100,000.

Section 79HA: inserted, on 1 October 2017, by section 84 of the Land Transport Amendment Act 2017 (2017 No 34).

79I Contravention of section 128B

(1) A person who holds a vehicle recovery service licence or a driver of a vehicle recovery service vehicle commits an offence if the person or the driver acts in contravention of or fails to comply with any direction given by an enforcement officer under section 128B.

(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding $2,000.

Compare: 1989 No 74 s 38(3)

Section 79I: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

79J Liability of employers and principal

If an offence is committed against this Part by a person as the employee, agent, or contractor of another person, that offence must be treated as having been committed by both persons, whether or not it was done with the other person's knowledge or approval, if it is proved that—

(a) the other person—

(i) knew, or could reasonably be expected to have known, that the offence was to be, or was being, committed; and

(ii) failed to take the steps that were reasonably practicable to prevent the commission of the offence; and

(b) the other person failed to take the steps that were reasonable in the circumstances to remedy the effects of the act or omission that gave rise to the offence.

Compare: 1989 No 74 s 5(3)

Section 79J: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

79K Liability of directors of bodies corporate

If a body corporate is convicted of an offence against this Part, every director of the body corporate also commits the offence and is liable to the same penalty if it is proved that—

(a) the act or omission that constituted the offence took place with his or her express or implied authority; and

(b) he or she failed to take all reasonable steps to prevent or stop that act, or remedy that omission.

Compare: 1989 No 74 s 5(4)

Section 79K: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

79L Court may require convicted transport service licence holder to sit examination

The court may require a transport service licence holder to sit, or re-sit, the Certificate of Knowledge of Law and Practice examination if the transport service licence holder is convicted of—

(a) an offence under this Part or any regulations pertaining to the operation of a licensed transport service; or

(b) any other offence under this Act that is applicable to a vehicle used in a licensed transport service.

Section 79L: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

79M Penalties for failure to pay service fares, etc

(1) A person who fails to pay a passenger service fare that the person is liable to pay commits an infringement offence.

(2) A person commits an infringement offence if, in relation to a public transport service fare that the person is liable to pay, the person—

(a) fails to pay the fare; or

(b) fails to provide (in response to an enforcement officer's direction given in accordance with section 128F(1)) evidence of having paid the fare.

(3) A person commits an offence if, in relation to a public transport service fare that the person is liable to pay, the person—

(a) fails to provide (in response to an enforcement officer's direction given in accordance with section 128F(2)(a)) the identifying particulars referred to in section 128F(2)(a); or

(b) boards, or fails or refuses to disembark, the public transport service in contravention of an enforcement officer's direction given in accordance with section 128F(2)(b).

(4) It is a defence to an offence against subsection (1) or (2)(a) or (b) if a person made reasonable attempts to pay the fare and there were no available means of paying.

(5) The maximum penalty on conviction for an offence against subsection (1) or (2)(a) or (b) is a fine not exceeding $500.

(6) The maximum penalty on conviction for an offence against subsection (3)(a) or (b) is a fine not exceeding $1,000.

(7) For the purposes of this section, **public transport service** has the same meaning as in section 5 of the Land Transport Management Act 2003.

Section 79M: replaced, on 11 August 2017, by section 37 of the Land Transport Amendment Act 2017 (2017 No 34).

Part 6B
Offences relating to work time and logbooks

Part 6B: inserted, on 1 October 2007, by section 39 of the Land Transport Amendment Act 2005 (2005 No 77).

Subpart 1—Work time

Subpart 1: inserted, on 1 October 2007, by section 39 of the Land Transport Amendment Act 2005 (2005 No 77).

79N Failure to keep or produce records or comply with conditions of exemption or approval

Every person commits an offence who fails or refuses to comply with any of the requirements of section 30ZD or the conditions of any exemption granted or approval given under section 30ZA(1)(a) or (c), and is liable on conviction,—

(a) in the case of a driver, to a fine not exceeding $2,000, and the person may, for a period of 1 calendar month or such greater period as the court thinks fit, be disqualified from holding or obtaining a licence to drive any vehicle that—

(i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); or

(ii) is used in the relevant transport service; or

(iii) is used to carry goods for hire or reward; or

(b) in any other case, to a fine not exceeding $100,000.

Compare: 1962 No 135 s 70B(7)

Section 79N: inserted, on 1 October 2007, by section 39 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 79N(a): amended, on 7 August 2011, by section 40(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79N(a)(i): amended, on 7 August 2011, by section 40(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79N(a)(ii): amended, on 7 August 2011, by section 40(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

79O Failure to comply with prescribed work time restrictions or rest time requirements

Every person commits an offence who fails to comply with any work time restrictions or rest time requirements prescribed in this Act or the rules, and is liable on conviction to,—

(a) in the case of a person exceeding the work time restrictions or failing to comply with the rest time requirements by less than 60 minutes in a cumulative work day or less than 120 minutes in a cumulative work period, a fine not exceeding $2,000, and, as the court thinks fit,—

(i) the person may, for a period of 1 calendar month or any greater period that the court thinks fit, be disqualified from holding or obtaining a licence to drive any vehicle that—

(A) requires a class 2, 3, 4, or 5 licence (as specified in the rules); or

(B) is used in the relevant transport service; or

(C) is used to carry goods for hire or reward; or

(ii) the person must complete a work time and log-book course approved by the Agency:

(b) in the case of a person exceeding the work time restrictions or failing to comply with the rest time requirements by 60 minutes or more in a cumulative work day, a fine not exceeding $2,000, and the person must, for a period of 1 calendar month or any greater period that the court thinks fit, be disqualified from holding or obtaining a licence to drive any vehicle that—

(i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); or

(ii) is used in the relevant transport service; or

(iii) is used to carry goods for hire or reward; or

(c) in the case of a person exceeding the work time restrictions or failing to comply with the rest time requirements by 120 minutes or more in a cumulative work period, a fine not exceeding $2,000, and the person must, for a period of 1 calendar month or any greater period that the court thinks fit, be disqualified from holding or obtaining a licence to drive any vehicle that—

(i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); or

(ii) is used in the relevant transport service; or

(iii) is used to carry goods for hire or reward.

Section 79O: inserted, on 1 October 2007, by section 39 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 79O(a): amended, on 1 October 2007, by section 7 of the Land Transport Amendment Act 2007 (2007 No 66).

Section 79O(a)(i): amended, on 7 August 2011, by section 41(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79O(a)(i)(A): amended, on 7 August 2011, by section 41(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79O(a)(i)(B): amended, on 7 August 2011, by section 41(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79O(a)(ii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 79O(b): amended, on 7 August 2011, by section 41(4) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79O(b)(i): amended, on 7 August 2011, by section 41(5) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79O(b)(ii): amended, on 7 August 2011, by section 41(6) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79O(c): amended, on 7 August 2011, by section 41(7) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79O(c)(i): amended, on 7 August 2011, by section 41(8) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79O(c)(ii): amended, on 7 August 2011, by section 41(9) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

79P Defences to work time offences

(1) It is a defence in any proceedings for an offence under this subpart if the defendant proves that the failure to comply with subpart 1 of Part 4B was due to unavoidable delay in the completion of any journey arising out of—

(a) circumstances that could not reasonably have been foreseen by the defendant; or

(b) an emergency.

(2) For the purposes of subsection (1), **emergency** means—

(a) a state of emergency declared under the Civil Defence Emergency Management Act 2002; or

(b) an incident attended by an emergency service; or

(c) an event requiring immediate action to save life or prevent serious injury.

(3) It is not a defence in any proceedings for an offence against section 79O that a continuous period of rest time of at least 10 hours was taken before the commencement of the work time to which the relevant cumulative work day relates.

(4) It is not a defence in any proceedings for an offence against section 79O that a continuous period of rest time of at least 24 hours was taken before the commencement of the first cumulative work day to which the relevant cumulative work period relates.

Compare: 1962 No 135 s 70B(8)

Section 79P: inserted, on 1 October 2007, by section 39 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 79P(3): added, on 7 August 2011, by section 42 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79P(4): added, on 7 August 2011, by section 42 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

79PA Matters to be taken into account in imposing penalty for offence against section 79O

In determining the penalty to be imposed for an offence against section 79O, the court must take into account each of the following:

(a) the cumulative effect of abbreviated, broken, or omitted periods of rest time:

(b) the accumulated hours of work time:

(c) the degree of risk to the public.

Section 79PA: inserted, on 7 August 2011, by section 43 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Subpart 2—Logbooks

Subpart 2: inserted, on 1 October 2007, by section 39 of the Land Transport Amendment Act 2005 (2005 No 77).

79Q Failure to discharge duties regarding logbooks

Every person who fails or refuses to comply with any requirement of or demand made under section 30ZH commits an offence and is liable on conviction,—

(a) in the case of a driver, to a fine not exceeding $2,000, and the person may, for a period of 1 calendar month or any greater period that the court thinks fit, be disqualified from holding or obtaining a licence to drive any vehicle that—

(i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); or

(ii) is used in the relevant transport service; or

(iii) is—

(A) a heavy motor vehicle; and

(B) used to carry goods for hire or reward:

(b) in any other case, to a fine not exceeding $25,000.

Compare: 1962 No 135 s 70C(8)

Section 79Q: inserted, on 1 October 2007, by section 39 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 79Q(a): amended, on 7 August 2011, by section 44(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79Q(a)(i): amended, on 7 August 2011, by section 44(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79Q(a)(ii): amended, on 7 August 2011, by section 44(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

79R Offences and proceedings concerning logbooks

(1) Every person commits an offence who—

(a) maintains a logbook under section 30ZF while maintaining another logbook under that section; or

(b) makes or causes to be made any false statement in a logbook or allows any omission to occur in the logbook.

(2) Every person commits an offence who, being the driver of a vehicle to which section 30ZF or section 30ZG applies,—

(a) on demand by an enforcement officer fails to produce without delay all logbooks that are so demanded; or

(b) on demand by an enforcement officer produces any logbook that is false in a material particular, whether or not the driver knows of the falsehood; or

(c) on demand by an enforcement officer produces any logbook—

(i) that omits a material particular, whether or not the driver knows of the omission; or

(ii) in which any material particular is entered illegibly or in such a manner that the matters specified in the rules cannot be readily ascertained.

(3) Every person, not being the driver of the vehicle, commits an offence where the person requires, directs, or allows a vehicle to which section 30ZF or section 30ZG applies to be used and—

(a) a logbook is not maintained in respect of the driving of that vehicle, whether or not the person knows that a logbook is not maintained; or

(b) the logbook maintained in respect of the driving of that vehicle is false in a material particular, whether or not the person knows of the falsehood; or

(c) the logbook maintained in respect of the driving of that vehicle omits a material particular, whether or not the person knows of the omission.

(4) Every person who commits an offence against this section is liable on conviction,—

(a) in the case of a driver to a fine not exceeding $2,000, and the person may, for a period of 1 calendar month or any greater period that the court thinks fit, be disqualified from holding or obtaining a licence to drive any vehicle that—

(i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); or

(ii) is used in the relevant transport service; or

(iii) is—

(A) a heavy motor vehicle; and

(B) used to carry goods for hire or reward:

(b) in any other case, to a fine not exceeding $25,000.

Compare: 1962 No 135 s 70D(1)–(3), (10)

Section 79R: inserted, on 1 October 2007, by section 39 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 79R(4)(a): amended, on 7 August 2011, by section 45(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79R(4)(a)(i): amended, on 7 August 2011, by section 45(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 79R(4)(a)(ii): amended, on 7 August 2011, by section 45(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

79S Defences to logbook offences

(1) It is a defence to a charge under section 79R(1) or section 79R(2) or section 79R(3) if the defendant proves that the proceedings relate to a motor vehicle or service or individual that has been exempted from the requirement to maintain a logbook under this Act, the rules, or regulations.

(2) In the case of a defendant who was not the driver of the vehicle to which the charge relates, it is a defence to a charge under section 79R(1) or section 79R(3)(b) or section 79R(3)(c) if the defendant proves that—

(a) reasonable steps were taken by the defendant to prevent the false statement or material omission in the logbook; and

(b) as soon as reasonably practicable after the false statement or material omission was drawn to the person's attention by any enforcement officer authorised to demand the production of logbooks under section 30ZH(2), the person produced to the enforcement officer a logbook containing no false statement or material omission.

(3) Except as provided in subsection (4), subsection (2) does not apply unless within 7 days after the service of the summons, or within such further time as the court may allow, the defendant has delivered to the prosecutor a written notice—

(a) stating that the defendant intends to rely on subsection (2); and

(b) specifying the reasonable steps that the defendant will claim to have taken.

(4) In any proceedings relating to a charge to which subsection (2) applies, evidence that the defendant took a step not specified in the written notice required by subsection (3) is not, except with the leave of the court, admissible for the purpose of supporting a defence under subsection (2).

Compare: 1962 No 135 s 70D(4)–(7)

Section 79S: inserted, on 1 October 2007, by section 39 of the Land Transport Amendment Act 2005 (2005 No 77).

Part 6C
Offences relating to chain of responsibility

Part 6C: inserted, on 1 October 2007, by section 40 of the Land Transport Amendment Act 2005 (2005 No 77).

79T Offence to cause or require driver to breach speed limits, maximum work time, or rest time requirements

Every person commits an offence, and is liable on conviction to a fine not exceeding $25,000, who, by act or omission, directly or indirectly causes or requires (whether or not the sole cause) a driver to—

(a) exceed any applicable speed limit if that—

(i) person knew, or should have known, that the speed limit would be, or would likely be, exceeded; and

(ii) driver is a driver to whom subpart 1 of Part 4B applies; or

(b) exceed the maximum work time prescribed in this Act or the rules if that person knew, or should have known, that the maximum work time would be, or would likely be, exceeded; or

(c) fail to comply with the rest time requirements prescribed in this Act or the rules if that person knew, or should have known, that the rest time requirements would not be, or would likely not be, complied with; or

(d) fail to maintain a logbook in the prescribed manner if that person knew, or should have known, that the failure to maintain the logbook would contravene subpart 2 of Part 6B.

Section 79T: inserted, on 1 October 2007, by section 40 of the Land Transport Amendment Act 2005 (2005 No 77).

79U Offence to cause or require driver to breach maximum gross weight limits

Every person commits an offence, and is liable on conviction to a fine not exceeding $25,000, who, by act or omission, directly or indirectly causes or requires (whether or not the sole cause) a driver to operate a vehicle or combination of vehicles in breach of the applicable maximum gross weight limits for that vehicle or combination of vehicles if that person knew, or should have known, that the breach would, or would be likely to, occur.

Section 79U: inserted, on 22 June 2005, by section 41 of the Land Transport Amendment Act 2005 (2005 No 77).

79V Search warrants in relation to offences against section 79T or 79U

(1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) may issue a search warrant in relation to a place, vehicle, or other thing if, on application made by a constable in the manner provided in subpart 3 of Part 4 of that Act, he or she is satisfied that there are reasonable grounds—

(a) to suspect that an offence has been, is being, or will be committed against section 79T or 79U; and

(b) to believe that the search will find evidential material in respect of the offence in the place, vehicle, or other thing.

(2) The provisions of Part 4 of the Search and Surveillance Act 2012 apply.

(3) Despite subsection (2), sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.

Section 79V: replaced, on 26 March 2015, by section 5 of the Land Transport Amendment Act 2015 (2015 No 17).

Part 7
Disqualification, demerit points, licence suspension, and vehicle impoundment

Disqualification

80 General penalty of disqualification may be imposed if offence involves road safety

(1) If a person is convicted of an offence against this Act, and the court is satisfied that the offence relates to road safety, the court may order that the person be disqualified from holding or obtaining a driver licence for such period as the court thinks fit.

(2) The power conferred by subsection (1) is in addition to, and does not limit, any other powers of the court.

Compare: 1962 No 135 s 30(1)

81 Mandatory disqualification: court's discretion if special reasons relating to offence

(1) If any provision of this Act (other than section 63) requires a court to disqualify a person from holding or obtaining a driver licence or transport service licence for a period not less than the specified minimum period, the court must order that the person be disqualified accordingly unless for special reasons relating to the offence it thinks fit to order otherwise.

(2) Nothing in any provision referred to in subsection (1) or in section 65 restricts any other duty or power of the court to disqualify a person from holding or obtaining a driver licence or transport service licence or to impose any other penalty.

(3) This section is subject to section 94 (which allows a court to substitute disqualification with a community-based sentence).

Section 81 heading: replaced, on 1 July 2018, by section 28(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 81(1): amended, on 1 October 2007, by section 42(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 81(2): amended, on 1 October 2007, by section 42(2)(a) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 81(2): amended, on 1 October 2007, by section 42(2)(b) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 81(3): amended, on 1 July 2018, by section 28(2) of the Land Transport Amendment Act 2017 (2017 No 34).

82 Effect of disqualification

(1) If a person is disqualified from holding or obtaining a driver licence, the licence is suspended while the disqualification continues in force.

(2) If a person who holds a particular class of driver licence or a particular endorsement for a driver licence is disqualified from holding or obtaining a licence of that class or that endorsement, the authority conferred by that licence or endorsement is suspended while the disqualification continues in force.

Compare: 1962 No 135 s 33(1)

82A Application for reinstatement if suspended for any period (other than under section 95), or disqualified for period not exceeding 12 months

(1) This section applies to a person if—

(a) the person's driver licence is suspended for any period (other than under section 95); or

(b) the person's disqualification does not exceed 12 months.

(2) If this section applies, a person's driver licence remains of no effect when the period of suspension or disqualification ends until—

(a) the person applies to the Agency to have the licence reinstated; and

(b) the Agency reinstates, if permitted by the regulations or the rules, the person's licence in accordance with the regulations and the rules.

Section 82A: inserted, on 10 May 2011, by section 48(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

82B Transitional provision concerning application of section 82A

To avoid doubt, section 82A applies if a period of disqualification or suspension ends after the commencement of that section, even though the period of disqualification or suspension began before the commencement of that section.

Section 82B: inserted, on 10 May 2011, by section 48(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

82C Application for reinstatement following expiry of alcohol interlock licence or zero alcohol licence

(1) This section applies to a person whose alcohol interlock licence or zero alcohol licence (as the case may be) has expired.

(2) If this section applies, a person's driver licence remains of no effect when the alcohol interlock licence or zero alcohol licence expires until—

(a) the person applies to the Agency to have the licence reinstated; and

(b) the Agency reinstates, if permitted by the regulations or the rules, the person's licence in accordance with the regulations and the rules.

Section 82C: inserted, on 10 September 2012, by section 48(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

83 Holder to undergo approved tests or courses if disqualified for more than 1 year

(1) If a person is disqualified from holding or obtaining a driver licence for a period of more than 12 months or for 2 or more cumulative periods totalling more than 12 months,—

(a) the licence continues to be of no effect after the disqualification ends until the person applies for the same class of licence and the person qualifies for the licence by any or all (as the case may be) of the following:

(i) completing any courses approved by the Agency for that purpose:

(ii) passing the tests and examinations approved by the Agency for that purpose; and

(b) the Agency may issue a new licence.

(1A) If a person to whom subsection (1) applies has passed the appropriate theory test, the Agency may—

(a) issue a new licence to that person with the supervisory condition (if any) applicable to a learner licence for that class of vehicle as specified in the rules; or

(b) endorse that person's existing licence with the supervisory condition (if any) applicable to a learner licence for that class of vehicle as specified in the rules.

(2) Subsection (1) applies to a person who has been authorised to obtain a limited licence by an order of a court made under section 105 only if the order was made not less than 12 months after the date the disqualification started or (in the case of a person disqualified for 2 or more cumulative periods) not less than 12 months after the date the first period of disqualification started.

Compare: 1962 No 135 s 33(2), (5)

Section 83 heading: amended, on 16 January 2006, by section 43(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 83(1)(a): substituted, on 16 January 2006, by section 43(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 83(1)(a)(i): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 83(1)(a)(ii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 83(1)(b): amended, on 1 December 2009, by section 19 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 83(1)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 83(1A): inserted, on 16 January 2006, by section 43(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 83(1A): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

84 New licence to be issued if disqualified driver qualifies for specified vehicle classes

(1) This section applies if—

(a) section 82A or 83(1) applies; and

(b) the person—

(i) applies for a class of licence that the person held immediately before that person was disqualified; and

(ii) qualifies for that class of licence by any or all of the following:

(A) completing any courses approved by the Agency for that purpose:

(B) passing the tests and examinations approved by the Agency for that purpose.

(2) If this section applies, then the Agency must issue a new licence to that person to authorise that person to drive the relevant class of motor vehicle and all lower classes of motor vehicles for which that person held a licence immediately before he or she was disqualified.

(3) A class of licence to drive a motorcycle does not entitle a person to drive a motor vehicle other than a motor vehicle authorised by that class of licence.

Section 84 heading: amended, on 10 May 2011, by section 49(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 84: substituted, on 16 January 2006, by section 44 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 84(1)(a): amended, on 10 May 2011, by section 49(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 84(1)(b)(ii)(A): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 84(1)(b)(ii)(B): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 84(2): substituted, on 10 May 2011, by section 49(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

85 When disqualification starts

(1) If an order is made by a court under any Act disqualifying a person from holding or obtaining a driver licence, the period of disqualification starts on the day the order is made unless the court otherwise directs or that Act otherwise provides.

(2) The person disqualified does not commit the offence of driving while disqualified contrary to section 32(1)(a) merely because, on the day of the making of the order, he or she drove a motor vehicle on a road on that day before the making of the order.

(3) In the case of a person who is at the time of the order already disqualified from holding or obtaining a driver licence, the period of disqualification ordered starts when the order or the last of the orders to which the person is already subject ceases to have effect.

Compare: 1962 No 135 s 36

86 Term of disqualification if person already disqualified

(1) If—

(a) a person is convicted of an offence that renders the person liable to be disqualified from holding or obtaining a driver licence; and

(b) at the time of the commission of the offence, the person was already disqualified or was the holder of a limited licence issued under section 105 (or the corresponding provisions of a former enactment),—

the court must order the person to be disqualified from holding or obtaining a driver licence for a period of 6 months, unless the court for special reasons relating to the offence thinks fit to order otherwise or the court makes an order under section 94.

(1A) Subsection (1) does not apply if an alcohol interlock sentence is ordered under section 65AC(1).

(2) Nothing in subsection (1) restricts the power of the court to impose any other penalty specified for the offence, and the imposition of a penalty under that subsection does not limit or affect any duty or power of the court to order a longer period of disqualification.

Compare: 1962 No 135 s 31

Section 86(1A): inserted, on 1 July 2018, by section 29 of the Land Transport Amendment Act 2017 (2017 No 34).

87 Particulars of certain court orders to be sent to Agency and offender

(1) This section applies to the following orders:

(a) an order disqualifying a person from holding or obtaining a driver licence:

(b) an order under section 65AC (authorising the person to apply for an alcohol interlock licence):

(c) an order authorising the person to apply for a zero alcohol licence under section 65AC(2)(d), 65AI(c), or 100B(2)(b):

(d) an order under section 99 (reducing a disqualification):

(e) an order under section 105 (authorising the issue of a limited licence).

(2) If a court makes an order to which this section applies, the Registrar of the court must notify the Agency and the offender in writing of the particulars of the order.

(3) A failure to comply with the notification requirements in subsection (1) does not affect the validity of the order concerned.

Section 87 heading: amended, on 10 September 2012, by section 50(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 87 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 87(1): replaced, on 10 September 2012, by section 50(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 87(1)(b): amended, on 1 July 2018, by section 30(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 87(1)(c): replaced, on 1 July 2018, by section 30(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 87(2): inserted, on 10 September 2012, by section 50(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Disqualification of transport service driver and other persons

Heading: inserted, on 1 October 2007, by section 45 of the Land Transport Amendment Act 2005 (2005 No 77).

87A Disqualification of transport service driver

If the Agency is satisfied that a transport service driver is not a fit and proper person within the meaning of subpart 2 of Part 4A to drive a transport service vehicle, the Agency may disqualify that person, for a period not exceeding 10 years, from driving any vehicle being used in a transport service (other than a rental service) or a specified class of transport service.

Compare: 1989 No 74 s 15(1)

Section 87A: inserted, on 1 October 2007, by section 45 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 87A: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

87B Disqualification of holder of transport service licence from holding transport service licence

If the Agency revokes a transport service licence, the Agency may disqualify, for a period not exceeding 10 years, the holder of the transport service licence, or any other person who was in control of the transport service and whose fitness and propriety was the basis of, or contributed to, a decision to revoke the transport service licence, from—

(a) holding or obtaining a transport service licence:

(b) having any form of control of a transport service.

Section 87B: inserted, on 1 October 2007, by section 45 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 87B: amended, on 1 October 2017, by section 85 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 87B: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

87C Procedure for disqualifying person under section 87A or section 87B

Subpart 5 of Part 4A applies to a decision to disqualify a person under section 87A or section 87B.

Compare: 1989 No 74 s 15(2)

Section 87C: inserted, on 1 October 2007, by section 45 of the Land Transport Amendment Act 2005 (2005 No 77).

Suspension of transport service driver and other persons

Heading: inserted, on 1 October 2007, by section 45 of the Land Transport Amendment Act 2005 (2005 No 77).

87D Immediate suspension of transport service driver and other persons in interests of public safety

(1) If the circumstances described in subsection (2) apply, the Agency may, by notice in writing to the person concerned, immediately suspend that person from—

(a) driving any vehicle used in a transport service (other than a rental service) or a specified class of transport service:

(b) being a driving instructor or testing officer, as the case may be.

(2) The circumstances referred to in subsection (1) are—

(a) the Agency considers that—

(i) the person concerned is not a fit and proper person within the meaning of subpart 2 of Part 4A to drive a transport service vehicle or to be a driving instructor or testing officer, as the case may be; and

(ii) the interests of public safety, or the need to ensure that the public is protected from serious or organised criminal activity, would

seem to require immediate suspension of the person as a transport service driver, driving instructor, or testing officer, as the case may be; or

(b) the person has been charged with any offence that is of such a nature that the interests of public safety, or the need to protect the public against serious or organised criminal activity, would require that a person convicted of committing such an offence not be a transport service driver, or driving instructor, or testing officer, as the case may be.

(3) In this section and sections 87E and 87F,—

driving instructor means a person who holds a driving instructor endorsement under Part 5 of the Land Transport (Driver Licensing) Rule 1999

testing officer means a person who holds a testing officer endorsement under Part 5 of the Land Transport (Driver Licensing) Rule 1999.

Compare: 1989 No 74 s 16(1)

Section 87D: inserted, on 1 October 2007, by section 45 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 87D(1): amended, on 10 May 2011, by section 51 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 87D(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 87D(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

87E Procedure for suspending persons under section 87D

(1) If the Agency suspends a person under section 87D, the notice must—

(a) inform the person of the grounds of the suspension; and

(b) advise the person that—

(i) the suspension has effect from the day on which the notice was received by the person, or any later date that is specified in the notice; and

(ii) the person may make submissions on the matter to the Agency and notify the person of the right of appeal under section 106.

(2) The Agency must, as soon as practicable, consider any submissions on the matter made by the person and notify the person of the result of the consideration.

Section 87E: substituted, on 10 May 2011, by section 52 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

87F Term of suspension

(1) A suspension under section 87D may take effect either immediately or from any date that the Agency may specify.

(2) The Agency may at any time withdraw a suspension imposed under section 87D.

(3) If any suspension has been imposed in respect of a person to whom section 87D(2)(b) applies, the suspension ceases immediately if—

(a) the charge is withdrawn in circumstances where it is not replaced with another charge based on the same circumstances; or

(b) the person is found not guilty of the offence charged.

Compare: 1989 No 74 s 16(1), (3), (4)

Section 87F: inserted, on 1 October 2007, by section 45 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 87F(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 87F(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Effect of disqualification or suspension of transport service driver and other persons

Heading: inserted, on 1 October 2007, by section 45 of the Land Transport Amendment Act 2005 (2005 No 77).

87G Effect of disqualification or suspension of transport service driver and other persons

(1) If the Agency disqualifies or suspends any person from driving a transport service vehicle or being a driving instructor or testing officer under either section 87A or section 87D, the Agency may, for the period of the disqualification or suspension,—

(a) revoke or suspend any driver licence held by the person, not being a licence of a class that relates principally to the use of private motor vehicles, and disqualify the person from holding or obtaining any such licence; and

(b) prohibit the person from driving any vehicle used in a transport service (other than a rental service vehicle) or a specified class of transport service, even though the person may obtain or continue to hold a driver licence of a class that, although it relates principally to the use of private motor vehicles, also entitles the person to drive a transport service vehicle; and

(c) prohibit the person from carrying out duties or activities as a driving instructor or testing officer.

(2) Nothing in this section or in any of sections 87A to 87F derogates from or affects any power of the Agency under this Act, the regulations, or the rules, to revoke, suspend, or otherwise deal with any driver licence.

Compare: 1989 No 74 s 17(1), (2)

Section 87G: inserted, on 1 October 2007, by section 45 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 87G(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 87G(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Demerit points system

88 Demerit points to be recorded by Agency

(1) If a person is convicted of an offence (other than an offence detected by approved vehicle surveillance equipment) concerning the driving of a motor vehicle, the Agency must record in respect of that person such number of points (**demerit points**) as may be prescribed for that offence.

(2) The Registrar of the court must send to the Agency particulars of convictions to which subsection (1) applies.

(3) If a person is convicted of 2 or more offences arising out of the same set of circumstances,—

(a) demerit points must be recorded in relation to 1 offence only; and

(b) if those offences do not carry the same number of points, points must be recorded for the offence or one of the offences that carries the greatest number of points.

(4) Demerit points recorded under subsection (1) have effect on and from the date of the commission of the offence for which the points are recorded.

(5) For the purposes of subsections (1) and (4), the provisions of subsection (6) apply to an infringement offence in respect of which—

(a) an infringement fee is paid to the enforcement authority, at the address for payment specified in the infringement notice, before a reminder notice is served or within 43 days after service of such a reminder notice; or

(b) the enforcement authority enters into an arrangement to pay under section 21(3A) of the Summary Proceedings Act 1957.

(6) The provisions referred to in subsection (5) are as follows:

(a) the date on which the infringement notice was issued is to be treated as the date on which the offence was committed; and

(b) a conviction for the offence is to be treated as having been entered against the offender on the date of the payment of the infringement fee or the date on which the arrangement to pay was entered into, as the case may be.

Compare: 1962 No 135 ss 42A(10), 44

Section 88 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 88(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 88(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 88(5): substituted, on 23 July 2011, by section 6 of the Land Transport Amendment Act 2011 (2011 No 31).

Section 88(6): added, on 23 July 2011, by section 6 of the Land Transport Amendment Act 2011 (2011 No 31).

Section 88(6)(b): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

89 Notice of demerit points

(1) If 50 or more demerit points have been recorded against a person, the Agency must, when reasonably practicable, send that person a notice in writing telling the person—

(a) the number of demerit points recorded against that person; and

(b) the consequences of further demerit points being recorded against that person.

(2) No suspension imposed under section 90 in respect of a person's driver licence, or disqualification imposed under that section in respect of a person, is invalid merely because—

(a) a notice under subsection (1) was not given to that person or was given to that person after the imposition of that suspension or disqualification; or

(b) a notice given under that subsection was not received by that person or was received by that person after the imposition of that suspension or disqualification.

(3) If a notice given under subsection (1) is sent by ordinary post addressed to the defendant at the defendant's last known place of residence or business or postal address, then, unless the contrary is shown, the notice is served when the notice would have been delivered in the ordinary course of post, and in proving service it is sufficient to prove that the notice was properly addressed and posted.

Compare: 1962 No 135 s 47

Section 89(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

90 Suspension of licence or disqualification from driving under demerit points system

(1) If, in any 2-year period, a person has accumulated a total of 100 or more demerit points, the Agency must give notice in writing advising the person that—

(a) the person has accumulated 100 or more demerit points; and

(b) the penalty specified in subsection (3) or (5) has been imposed and takes effect immediately.

(1A) An enforcement officer may also give a notice described in subsection (1) in the circumstances described in that subsection (whether or not the person has received a notice from the Agency).

(2) The notice given under subsection (1) or (1A) may be served, including at the roadside, by—

(a) the Agency; or

(b) a person approved for the purpose by the Agency; or

(c) an enforcement officer.

(3) If the person holds a current driver licence, the effect of a notice given under subsection (1) or (1A) is that the licence—

(a) is suspended for a period of 3 months; and

(b) remains of no effect when the period of suspension ends until the person applies to the Agency to have the licence reinstated and the Agency reinstates the licence.

(4) A person whose driver licence has been suspended under subsection (3) may not hold or obtain a driver licence while the suspension is in force.

(5) If the person does not hold a current driver licence, the person is disqualified from holding or obtaining a driver licence for a period of 3 months.

(6) A suspension or disqualification under this section begins on the date specified in the notice, which may not be earlier than the date on which the notice is served on the person.

Section 90: substituted, on 10 May 2011, by section 53(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 90(1A): inserted, on 11 August 2017, by section 91(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 90(2): amended, on 11 August 2017, by section 91(2)(a) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 90(2): amended, on 11 August 2017, by section 91(2)(b) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 90(3): amended, on 11 August 2017, by section 91(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 90(3)(a): amended, on 11 August 2017, by section 91(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 90(5): amended, on 11 August 2017, by section 91(4) of the Land Transport Amendment Act 2017 (2017 No 34).

91 Cancellation and reinstatement of demerit points

(1) When 2 years have elapsed since the commission of an offence in respect of which demerit points were recorded, the entry of the points made in respect of that offence ceases to have effect in relation to the person who committed that

offence; but if demerit points were recorded in respect of 2 or more offences committed by that person, the entry ceases to have effect when 2 years have elapsed since the commission of the most recent of those offences.

(2) If a suspension under section 90 is imposed in respect of a person's driver licence or a disqualification is imposed under that section in respect of a person, the Agency must cancel all demerit points for the time being recorded in respect of that person.

(3) The Agency must cancel all demerit points for the time being recorded against a person if a court disqualifies the person from holding or obtaining a driver licence for a period of 6 months or more.

(4) If a person's suspension or disqualification is removed on appeal, the Agency must reinstate the demerit points cancelled under this section.

Compare: 1962 No 135 s 46

Section 91(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 91(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 91(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Driver licence stop orders

Heading: inserted, on 1 November 2013, by section 7 of the Land Transport Amendment Act 2011 (2011 No 31).

91A Interpretation

In this section and in sections 91C to 91H, unless the context otherwise requires,—

defendant means the person who is required to pay a traffic fine, and includes a young person within the meaning of the Oranga Tamariki Act 1989

resolved, in relation to a defendant's obligation to pay a traffic fine, has the same meaning as in section 79 of the Summary Proceedings Act 1957

served personally, in relation to a warning notice or a driver licence stop order, means served in the way described in section 91B(1)(a)

traffic fine—

(a) means any amount of money that a person is for the time being obliged to pay under a sentence imposed or an order made, or deemed to be made, by a court in respect of a traffic offence, whether the amount payable under that sentence or order is described as a fine or as costs, levies, expenses, fees, reparation, or otherwise; and

(b) includes an offender levy imposed under section 105B of the Sentencing Act 2002 for a traffic offence and any prescribed costs, expenses, or fees payable in respect of the enforcement of any amount of money described in paragraph (a); but

(c) does not include any amount of money adjudged or ordered to be paid in a civil proceeding

traffic offence means—

(a) any offence against this Act, the Transport Act 1962, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Road User Charges Act 1977, the Road User Charges Act 2012, or the Land Transport Management Act 2003, or against any regulation, rule, or bylaw made under any of those Acts:

(b) any offence against any regulation, rule, or bylaw made under any other Act if the offence relates to the use of motor vehicles or parking places or transport stations

warning notice means a notice served under section 91D.

Section 91A: inserted, on 1 November 2013, by section 7 of the Land Transport Amendment Act 2011 (2011 No 31).

Section 91A **defendant**: amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 91A **traffic offence** paragraph (a): amended, on 26 March 2015, by section 6 of the Land Transport Amendment Act 2015 (2015 No 17).

91B Ways in which warning notice or driver licence stop order or details of related fines must be served

(1) A warning notice or a driver licence stop order, or notice of details of the fines to which that order relates, must be served on a defendant in 1 of the following ways:

(a) by an employee or agent of the Ministry of Justice or an enforcement officer delivering it to the defendant personally or bringing it to the defendant's notice if the defendant refuses to accept it:

(b) by an employee or agent of the Ministry of Justice or an enforcement officer leaving it for the defendant, at his or her place of residence, with another person who appears to be of or over the age of 14 years:

(c) by an employee or agent of the Ministry of Justice or an enforcement officer leaving it for the defendant, at the defendant's place of business or place of work, with another person:

(d) by the chief executive of the Ministry of Justice sending it to the defendant by prepaid post addressed to the defendant at the defendant's last known place of residence or business or place of work:

(e) if the defendant has a known electronic address, by the chief executive of the Ministry of Justice sending it to the defendant at that address in electronic form.

(2) An endorsement on a copy of a warning notice or a driver licence stop order, or notice of details of the fines to which that order relates, or, where applicable, on a printout that records an electronic document, stating the fact, mode, date

and time of service and purporting to be signed by an employee or agent of the Ministry of Justice or by an enforcement officer is, in the absence of evidence to the contrary, sufficient proof of service of the notice or order.

(3) If a warning notice or driver licence stop order, or notice of details of the fines to which that order relates, is served in the way described in subsection (1)(d), then, unless the contrary is shown, the notice or order is served when it would have been delivered in the ordinary course of post, and in proving service it is sufficient to prove that the letter concerned was properly addressed and posted.

(4) If a warning notice or driver licence stop order, or notice of details of the fines to which that order relates, is served in electronic form under subsection (1)(e), then, unless the contrary is shown,—

(a) the notice or order, or notice of details, is served at the time the electronic communication containing the notice or order, or notice of details, first enters an information system outside the control of its originator; and

(b) in proving service, it is sufficient to prove that the electronic communication was properly addressed and sent.

(5) In this section, **information system** means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications.

Section 91B: inserted, on 1 November 2013, by section 7 of the Land Transport Amendment Act 2011 (2011 No 31).

Section 91B heading: amended, on 14 November 2018, by section 149(1) of the Courts Matters Act 2018 (2018 No 50).

Section 91B(1): amended, on 14 November 2018, by section 149(2) of the Courts Matters Act 2018 (2018 No 50).

Section 91B(2): amended, on 14 November 2018, by section 149(3) of the Courts Matters Act 2018 (2018 No 50).

Section 91B(3): amended, on 14 November 2018, by section 149(4) of the Courts Matters Act 2018 (2018 No 50).

Section 91B(4): inserted, on 14 November 2018, by section 149(5) of the Courts Matters Act 2018 (2018 No 50).

Section 91B(5): inserted, on 14 November 2018, by section 149(5) of the Courts Matters Act 2018 (2018 No 50).

91C Liability to driver licence stop order

A defendant who is obliged to pay a traffic fine is liable to the imposition of a driver licence stop order if—

(a) the defendant has breached the provisions of an enactment or the terms of a sentence, an order, or a direction by failing to pay the traffic fine within the time provided or fixed by the enactment, sentence, order, or direction; and

(b) the defendant's obligation to pay the fine is neither discharged, by payment in full or remission in full, nor resolved.

Section 91C: inserted, on 1 November 2013, by section 7 of the Land Transport Amendment Act 2011 (2011 No 31).

91D Warning notice to be served on defendant

(1) If a defendant is liable to the imposition of a driver licence stop order, the chief executive of the Ministry of Justice must arrange for a warning notice to be served on the defendant.

(2) The notice must—

(a) explain why the defendant is liable to the imposition of a driver licence stop order and provide details of the unpaid traffic fine to which the liability relates; and

(b) if the defendant's liability is related to the cancellation or revocation of a payment arrangement, deduction notice, or an attachment order, give the reason for the cancellation or revocation; and

(c) state that a driver licence stop order will not be imposed if, before the close of the 14th day after service of the notice, the unpaid traffic fine is paid in full, or remitted in full, or the defendant's obligation to pay the fine is resolved.

(3) No driver licence stop order imposed on a person is invalid merely because a notice under subsection (1) was not received by that person or was received by that person after the driver licence stop order was imposed on the person.

Section 91D: inserted, on 1 November 2013, by section 7 of the Land Transport Amendment Act 2011 (2011 No 31).

91E Imposition of driver licence stop order

(1) If, following the expiry of the period of 14 days after service of the notice sent to a defendant under section 91D, the defendant continues to be liable to a driver licence stop order because of the traffic fine described in that notice, the chief executive of the Ministry of Justice may impose a driver licence stop order on the defendant and issue it for service.

(2) The chief executive of the Ministry of Justice may, on 1 or more occasions, reissue a driver licence stop order that has previously been issued or reissued for service but that is not yet in effect.

(2A) An enforcement officer may also impose an order and issue it for service in the circumstances described in subsection (1) (whether or not the person has received the order from the chief executive of the Ministry of Justice).

(3) An order imposed under subsection (1) or (2A) must be in a form approved by the chief executive of the Ministry of Justice and must state—

(a) the name of the defendant; and

(b) that the notice of details of the traffic fine in respect of which the order is imposed and the amount owing on that fine will be served on the defendant either at the same time as the order is served or as soon as practicable after the order is served; and

(c) that the order will stay in effect until the defendant's obligation to pay the traffic fine is discharged by payment in full or remission in full, or until it is resolved; and

(d) that, immediately after the order takes effect, any driver licence held by the defendant, including any limited licence issued under section 105, is suspended until the driver licence stop order is cancelled in accordance with section 91G or terminated in accordance with section 91H; and

(e) that if the order is served personally by an employee or agent of the Ministry of Justice or by an enforcement officer (including at the roadside), the defendant must surrender any driver licence held by the defendant to that employee, agent, or enforcement officer; and

(f) that if the order is served, but is not served personally, the defendant must post or deliver any driver licence held by the defendant to an employee or agent of the Ministry of Justice at an office of that Ministry or at the District Court; and

(g) if the defendant does not hold a current driver licence when the order takes effect, that—

(i) the defendant is disqualified from holding or obtaining a driver licence (including any limited licence) until the driver licence stop order is cancelled in accordance with section 91G or terminated in accordance with section 91H; and

(ii) if the defendant is authorised to obtain a limited licence, the limited licence may not be issued by the Agency until the driver licence stop order is so cancelled or terminated.

(4) When the order is issued for service, the defendant becomes liable to pay a single fee for the order, and that single fee—

(a) is deemed to be imposed when the order is first issued, regardless of the number of times that the same order may subsequently be reissued; and

(b) is not affected by the number of fines in respect of which the order is issued, so that if, for example, the order is issued for 2 fines, the fee is 1 fee and not 2 fees; and

(c) is, for enforcement purposes, deemed to be a fine.

(5) The amount of the fee deemed to be imposed by subsection (4) is the same as that prescribed by regulations, made under the Summary Proceedings Act 1957, in respect of enforcement action taken under that Act to enforce a fine.

Section 91E: inserted, on 1 November 2013, by section 7 of the Land Transport Amendment Act 2011 (2011 No 31).

Section 91E(2A): inserted, on 14 November 2018, by section 150(1) of the Courts Matters Act 2018 (2018 No 50).

Section 91E(3): amended, on 14 November 2018, by section 150(2) of the Courts Matters Act 2018 (2018 No 50).

Section 91E(3)(b): replaced, on 14 November 2018, by section 150(3) of the Courts Matters Act 2018 (2018 No 50).

Section 91E(3)(e): replaced, on 14 November 2018, by section 150(4) of the Courts Matters Act 2018 (2018 No 50).

Section 91E(3)(f): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

91F Effect of driver licence stop order

(1) A driver licence stop order that is imposed on a defendant takes effect—

(a) if the order is served personally on the defendant, immediately after the order is so served:

(b) if the order is served, but is not served personally, on the defendant and the defendant posts or delivers the driver licence to an employee or agent of the Ministry of Justice, immediately after that employee or agent receives the defendant's driver licence.

(2) A driver licence stop order that is in effect continues in effect until it is cancelled under section 91G or terminated under section 91H.

(3) Throughout the time that a driver licence stop order is in effect,—

(a) any driver licence held by the defendant on whom the order is imposed, including any limited licence held under section 105, is suspended; and

(b) if the defendant on whom the order is imposed does not hold a current driver licence when the order takes effect, the defendant is disqualified from holding or obtaining a driver licence, including any limited licence under section 105; and

(c) if the defendant's driver licence is suspended under paragraph (a), the defendant may not hold or obtain another driver licence, including any limited licence under section 105.

(4) The chief executive of the Ministry of Justice must notify the Agency and may notify the Commissioner of the driver licence stop order and of the date and time when it took effect.

Section 91F: inserted, on 1 November 2013, by section 7 of the Land Transport Amendment Act 2011 (2011 No 31).

91G Cancellation of driver licence stop order

(1) The chief executive of the Ministry of Justice may, if there is good reason for doing so, cancel a driver licence stop order.

(2) Without limiting the generality of subsection (1), a good reason exists, for the purposes of that subsection, if the driver licence stop order—

(a) was imposed or served in error; or

(b) is inconsistent with a judicial determination.

(3) The chief executive of the Ministry of Justice must give notice of the cancellation to the person on whom the order was imposed and to the Agency.

(4) The cancellation takes effect when it is shown on the national register maintained under section 199.

(5) When the Agency receives notice of the cancellation, the Agency must, if the defendant's driver licence was surrendered and forwarded to the Agency and the defendant is otherwise eligible to hold a current driver licence, replace the photographic driver licence and send it by ordinary post to the defendant's address recorded on the national register maintained under section 199.

(6) The chief executive of the Ministry of Justice must pay the Agency the prescribed fee for replacing the photographic driver licence in accordance with subsection (5).

Section 91G: inserted, on 1 November 2013, by section 7 of the Land Transport Amendment Act 2011 (2011 No 31).

91H Termination of driver licence stop order if traffic fine paid or resolved

(1) The chief executive of the Ministry of Justice must terminate a driver licence stop order if the defendant's obligation to pay the traffic fine is discharged by payment in full or remission in full or if the defendant's obligation is resolved.

(2) The chief executive of the Ministry of Justice must give notice of the termination to the defendant and to the Agency.

(3) The termination takes effect when it is shown on the national register maintained under section 199.

(4) When the Agency receives notice of the termination, the Agency must, if the defendant's driver licence was surrendered and forwarded to the Agency and the defendant is otherwise eligible to hold a current driver licence, replace the photographic driver licence and send it by ordinary post to the defendant's address recorded on the national register maintained under section 199.

(5) The chief executive of the Ministry of Justice must pay the Agency the prescribed fee for replacing the photographic driver licence in accordance with subsection (4).

Section 91H: inserted, on 1 November 2013, by section 7 of the Land Transport Amendment Act 2011 (2011 No 31).

Other penalties

92 Compulsory attendance at driving improvement course or dangerous goods course

(1) If a person is convicted of an offence concerning the driving of a motor vehicle, the court may, whether or not it imposes any other penalty for the offence, order that person to attend an appropriate driving improvement course approved by the Agency.

(2) If a person is convicted of an offence against this Act involving dangerous goods, the court may, whether or not it imposes any other penalty for the offence, order the person to attend an appropriate dangerous goods course approved by the Agency.

(3) On the making of an order under subsection (1) or subsection (2), the Registrar of the court must notify the Agency of the particulars of the order and the conviction for which it is made.

(4) A person who has been ordered under subsection (1) or (2) to attend a course must,—

(a) within 21 days after being required to do so, pay to the person in charge of the course the fee usually charged for that course; and

(b) within 90 days after being required to do so, complete the course; and

(c) if the person has successfully completed the course, provide the court with evidence that verifies that the person has successfully completed the course.

(5) Despite subsection (4)(b), if a person is unable to complete an appropriate driving improvement course approved by the Agency owing to factors beyond the person's control, the court may—

(a) grant an extension as the court considers appropriate in the circumstances; or

(b) suspend or cancel the order requiring the person to complete the course.

Compare: 1962 No 135 s 68

Section 92(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 92(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 92(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 92(4): replaced, on 10 September 2012, by section 55 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 92(5): inserted, on 10 September 2012, by section 55 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

93 Court may order compulsory driving test

(1) If the holder of a driver licence is convicted of an offence concerning the driving of a motor vehicle, the court may, whether or not it imposes any other penalty or makes any other order concerning the offence, order that person to undergo any tests and examinations approved by the Agency authorising the person to drive a motor vehicle of the class he or she was driving at the time of the offence.

(2) On the making of an order under subsection (1), the Registrar of the court must notify the Agency of the particulars of the order and the conviction for which it is made.

(3) The following provisions apply to the tests and examinations:

(a) the Agency must give the person who is to be tested or examined not less than 14 clear days' notice of the date, time, and place of each test and examination:

(b) the tests and examinations must be carried out under the supervision of the Agency.

(4) The driver licence of a person who fails to pass the approved tests and examinations is suspended until the person passes the tests and examinations, and, if a person fails without reasonable excuse to attend on the date and at the time and place specified in a notice given under subsection (3)(a), the person's licence is to be treated as having been suspended until the person presents himself or herself for the purpose of undergoing the approved tests and examinations.

(5) A person whose driver licence has been suspended under this section is disqualified from holding or obtaining a driver licence until such time as he or she passes the approved tests and examinations.

(6) If a person passes the approved tests and examinations, the Agency may issue a new licence to have effect in place of the suspended licence or endorse the suspended licence.

(7) If a person undergoes any tests and examinations under an order made under this section, that person is liable to pay the same fees as the person would be liable to pay if the person were an applicant for a licence.

Compare: 1962 No 135 s 68A

Section 93(1): amended, on 10 May 2011, by section 56(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 93(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 93(3)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 93(3)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 93(4): amended, on 10 May 2011, by section 56(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 93(5): amended, on 10 May 2011, by section 56(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 93(6): amended, on 10 May 2011, by section 56(4) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 93(6): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

94 Substitution of community-based sentences

(1) This section applies if—

(a) the offender has previously been ordered on conviction for an offence to be disqualified from holding or obtaining a driver licence; and

(b) the court, having regard to—

(i) the circumstances of the case and of the offender; and

(ii) the effectiveness or otherwise of a previous order of disqualification made in respect of the offender; and

(iii) the likely effect on the offender of a further order of disqualification; and

(iv) the interests of the public,—

considers that it would be inappropriate to order that the offender be disqualified from holding or obtaining a driver licence; and

(c) the court considers that it would be appropriate to sentence the offender to a community-based sentence in accordance with Part 2 of the Sentencing Act 2002.

(2) Despite any provision of this Act that requires a court (in the absence of special reasons relating to the offence) to order a person convicted of an offence to be disqualified from holding or obtaining a driver licence, the court may instead make an order referred to in subsection (3) if this section applies.

(3) If the court sentencing an offender determines under this section not to make an order of disqualification,—

(a) the court must impose a community-based sentence on the offender; and

(b) the imposition of such a sentence does not limit or affect the power of the court to impose any other sentence for the offence that, in accordance with the provisions of the Sentencing Act 2002, it may impose in addition to the community-based sentence; and

(c) in determining the appropriate sentence to be imposed on the offender in respect of the offence, the court must take into account the gravity of the offence and the fact that the offender would otherwise have been liable to disqualification from holding or obtaining a driver licence.

(3A) For the purposes of subsection (3)(a), the court may impose a sentence of supervision or intensive supervision as a community-based sentence if—

(a) that sentence is appropriate; and

(b) a suitable programme is available; and

(c) the offender attends a suitable programme.

(4) This section does not apply if—

(a) section 63 or section 65 applies; or

(aa) an alcohol interlock sentence has been ordered under section 65AC(1); or

(b) the offender is prohibited from applying for a limited licence under section 103(2)(a), (b), or (d).

Compare: 1962 No 135 s 30AC

Section 94(1)(c): amended, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Section 94(3)(b): amended, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Section 94(3A): inserted, on 16 January 2006, by section 48(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 94(3A): amended, on 1 October 2007, by section 58 of the Sentencing Amendment Act 2007 (2007 No 27).

Section 94(4): substituted, on 16 January 2006, by section 48(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 94(4)(aa): inserted, on 1 July 2018, by section 31 of the Land Transport Amendment Act 2017 (2017 No 34).

Mandatory suspension of driver licence

95 Mandatory 28-day suspension of driver licence in certain circumstances

(1) An enforcement officer must give a person a notice under this section if the enforcement officer believes on reasonable grounds that the person has—

(a) undergone an evidential breath test or blood test under this Act and been found,—

(i) for an offence, where the person has previously been convicted of an offence against any of sections 56(1) or (2), 57A, 58(1), 60(1), or 61(1) or (2) within the last 4 years,—

(A) to have a breath alcohol concentration exceeding 400 micrograms of alcohol per litre of breath; or

(B) to have a blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood:

(ii) in any other case,—

(A) to have a breath alcohol concentration exceeding 650 micrograms of alcohol per litre of breath; or

(B) to have a blood alcohol concentration exceeding 130 milligrams of alcohol per 100 millilitres of blood; or

(b) failed or refused to undergo a blood test, after having been required or requested to do so under section 72 or section 73; or

(c) driven a motor vehicle on a road at a speed exceeding—

(i) the applicable permanent posted speed limit by more than 40 km an hour (which speed was detected by a means other than approved vehicle surveillance equipment); or

(ii) any other speed limit by more than 50 km an hour (which speed was detected by a means other than approved vehicle surveillance equipment).

(1A) If an enforcement officer believes on reasonable grounds that a person has undergone an evidential breath test and has been found to have a breath alcohol concentration exceeding 650 micrograms of alcohol per litre of breath,—

(a) the enforcement officer must give the person a notice under subsection (1)(a) even though the person has the right under section 70A to elect to have a blood test; and

(b) a further notice is not required and must not be given under subsection (1)(a) if the person undergoes a blood test and is found to have a blood alcohol concentration exceeding 130 milligrams of alcohol per 100 millilitres of blood.

(2) A notice under this section must—

(a) be in a form prescribed by regulations made under this Act or in a form to the same effect; and

(b) tell the person to whom it is given that the person is suspended from holding or obtaining a driver licence for 28 days; and

(c) require the person to immediately surrender any driver licence that the person has to the enforcement officer; and

(d) outline the person's rights of appeal under sections 101 and 109.

(3) A suspension under this section starts immediately after the notice is given to the person to whom it applies.

(4) A person whose driver licence is suspended under this section has the rights of appeal conferred by sections 101 and 109.

(5) Nothing in this section affects or limits any power of a court to impose a penalty.

(6) Subsection (1)(c) does not apply if the vehicle—

(a) was an ambulance fitted with a siren or bell, and at the time was being used on urgent ambulance service; or

(b) was conveying a constable in the execution of urgent duty, if compliance with the speed limit would be likely to prevent or hinder the execution of that duty; or

(c) was being used by a fire brigade for attendance at fires or other emergencies, and at the time was being used on urgent fire brigade service.

(7) The suspension of a driver licence under subsection (1) ceases to have effect if—

(a) the Police decide finally that proceedings will not be taken against the person for an offence arising out of circumstances referred to in subsection (1) or if such proceedings have been taken and the person is acquitted; and

(b) the suspension has not already been removed.

(8) The suspension of a person's driver licence in the circumstances referred to in subsection (1A) ceases to have effect when the result of the blood test (if any) is notified to the person if—

(a) the blood test shows that he or she had a blood alcohol concentration of, or less than, 130 milligrams of alcohol per 100 millilitres of blood; and

(b) the result of the blood test is notified to the person before the close of the 28-day suspension period.

(9) For the purposes of this section, **driver licence** includes a foreign driver licence.

Section 95(1)(a): substituted, on 16 January 2006, by section 49(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 95(1)(a)(i): amended, on 10 May 2011, by section 57(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 95(1)(a)(ii)(B): amended, on 10 May 2011, by section 57(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 95(1)(c): substituted, on 16 January 2006, by section 49(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 95(1A): inserted, on 29 December 2001, by section 10(1) of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Section 95(1A): amended, on 16 January 2006, by section 49(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 95(1A)(b): amended, on 16 January 2006, by section 49(4) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 95(2)(b): amended, on 11 August 2017, by section 92(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 95(2)(c): amended, on 11 August 2017, by section 92(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 95(6)(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 95(8): added, on 29 December 2001, by section 10(2) of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Section 95(8)(a): amended, on 16 January 2006, by section 49(5) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 95(9): added, on 10 May 2011, by section 57(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

95A Extension of 28-day suspension period of driver licence under section 95

(1) A Police employee holding the office of constable and who is of or above the position of inspector may, after giving notice in writing to the person whose driver licence has been suspended, apply to a District Court Judge for an order extending the 28-day suspension period referred to in section 95(2)(b).

(2) An application must specify the circumstances that make it necessary to extend the 28-day suspension period.

(3) The maximum number of applications that may be made under this section in respect of a suspended driver licence is 3.

(4) The District Court may order that the driver licence be suspended for a further period not exceeding 28 days.

(5) A person whose driver licence has been suspended for a further period not exceeding 28 days by an order made under subsection (4) may appeal to the High Court against that order.

(6) The High Court may confirm, reverse, or modify the order appealed against.

(7) Every order appealed against under this section continues in force pending the determination of the appeal, and no person is excused from complying with any of the provisions of this Act on the ground that any appeal is pending.

Section 95A: inserted, on 10 May 2011, by section 58 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 95A(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Impoundment of vehicles

96 Vehicle seized and impounded for 28 days in certain circumstances

(1) An enforcement officer must seize and impound, or seize and authorise the impoundment of, a motor vehicle for 28 days if the officer believes on reasonable grounds that a person drove the vehicle on a road while—

(a) the person was disqualified from holding or obtaining a driver licence authorising the person to drive that vehicle; or

(b) the person's driver licence is for the time being suspended or was revoked; or

(ba) in the case of a person who is the holder of an alcohol interlock licence, the person operated that vehicle contrary to the conditions of that licence; or

(c) in the case of a person who was previously forbidden to drive because the person was an unlicensed driver or his or her driver licence had expired, the person did not hold a driver licence; or

(d) the person—

(i) had a—

(A) breath alcohol concentration exceeding 400 micrograms of alcohol per litre of breath; or

(B) blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood; or

(C) failed or refused to undergo a blood test, after having been required or requested to do so under section 72 or section 73; and

(ii) had received convictions for 2 or more previous offences against any of sections 56(1) or (2), 57, 57AA, 57A, 58(1), 60(1), or 61(1) or (2) within the last 4 years.

(1AA) An enforcement officer must, if practicable, seize and impound, or seize and authorise the impoundment of, a motor vehicle for 28 days if the officer believes on reasonable grounds that—

(a) the driver operated the vehicle in a manner that breached a qualifying bylaw; and

(b) the vehicle is subject to a warning notice attached under section 22AF.

(1A) An enforcement officer must, if practicable, seize and impound, or seize and authorise the impoundment of, a motor vehicle for 28 days if the officer believes on reasonable grounds that a person—

(a) operated the vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road in contravention of section 22A(1); or

(b) without reasonable excuse, operated the vehicle on a road in a manner that caused the vehicle to undergo sustained loss of traction in contravention of section 22A(3).

(1AB) An enforcement officer may seize and impound, or seize and authorise the impoundment of, a motor vehicle for 28 days if the officer believes on reasonable grounds that a person driving the vehicle has failed to stop (or remain stopped) as signalled, requested, or required under section 114.

(1B) An enforcement officer who seizes and impounds (or authorises the impoundment of) a motor vehicle under subsection (1A) must, by means of a notice in the form approved for the purposes of section 115(1), direct that the vehicle is not to be driven on a road.

(1C) For the purposes of this Act and any other enactment, a notice given under subsection (1B) has effect as a notice given under section 115(1).

(1D) A notice under subsection (1B) may include a condition to the effect that the vehicle may continue to be driven to reach a specified place for repair or may continue to be driven for a given time or under limitations as to speed or route or otherwise, unless the direction referred to in that subsection has been cancelled.

(1E) An enforcement officer who seizes and impounds (or authorises the impoundment of) a motor vehicle because he or she believes on reasonable grounds that a person has undergone an evidential breath test and has been found to have a breath alcohol concentration exceeding 400 micrograms of alcohol per litre of breath,—

(a) must give the person a notice under subsection (2) even though the person has the right under section 70A to elect to have a blood test; and

(b) a further notice is not required and must not be given under subsection (2) if the person undergoes a blood test and is found to have a blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood.

(2) An enforcement officer who seizes and impounds (or authorises the impoundment of) a motor vehicle under this section must—

(a) complete a notice in the prescribed form, or in a form to the same effect, acknowledging the seizure and impoundment, and setting out (if the particulars are reasonably ascertainable)—

(i) the full name and full address of the driver; and

(ii) the year and make of the vehicle, and its registration plate details or vehicle identification number; and

(iia) if subsection (1A) applies, the date and time of the alleged offence; and

(iii) the date and time of the seizure; and

(iv) the place where the vehicle is to be impounded; and

(v) an outline of the person's rights of appeal under sections 102 and 110; and

(b) give the driver a copy of the notice, unless the driver has left the scene; and

(c) give the person registered under Part 17 in respect of the vehicle a copy of the notice, if that person is present at the time of the seizure, or as soon as practicable send a copy to that person by ordinary post to that person's last known place of residence or business or postal address, or address as recorded on the register of motor vehicles; and

(d) cause a copy of the notice to be given to the storage provider who stores the motor vehicle; and

(e) retain a copy of the notice for 12 months.

(2A) The driver of a motor vehicle seized or impounded under this section must, if requested to do so by an enforcement officer,—

(a) provide the driver's—

(i) full name; and

(ii) full address; and

(iii) date of birth; and

(iv) occupation; and

(v) telephone number; and

(vi) driver licence number:

(b) provide, if known to the driver and the driver is not the registered person, the registered person's—

(i) full name; and

(ii) full address; and

(iii) date of birth; and

(iv) occupation; and

(v) telephone number.

(3) The owner of an impounded vehicle has the rights of appeal provided in sections 102 and 110.

(4) Personal property (other than property attached to or used in connection with the operation of the vehicle) present in a motor vehicle at the time of the seizure and impoundment must be released on request to a person who produces satisfactory evidence to the effect that he or she was lawfully entitled to possession of the vehicle or personal property immediately before the vehicle was moved.

(4A) Personal property present in a motor vehicle at the time of the seizure and impoundment must be released subsequently to—

(a) a bailiff or constable who is executing a warrant to seize property:

(b) a person acting on behalf of the owner of the goods if the person produces satisfactory evidence of the owner's consent to such release.

(5) An enforcement officer does not have to seize or impound a motor vehicle if the officer has good cause to suspect that the vehicle is a stolen vehicle or had been converted, is a write-off, or has suffered severe damage.

(6) A vehicle to which a notice under this section relates must be released to the owner if—

(a) the Police have decided not to take any of the following proceedings (or if proceedings have been taken and the person is acquitted):

(i) proceedings against a person who drove the vehicle in circumstances referred to in subsection (1):

(ii) proceedings against a person who operated the vehicle in circumstances referred to in subsection (1AA) or (1A):

(iii) in relation to a vehicle driven by a person who failed to stop (or remain stopped) in the circumstances referred to in subsection (1AB), proceedings against that person:

(iv) in relation to a vehicle driven by a person who failed to stop (or remain stopped) in the circumstances referred to in subsection (1AB), proceedings against a person (if any) who has not provided the information requested under section 118(4); and

(b) the vehicle has not been—

(i) released; or

(ii) seized under the Summary Proceedings Act 1957; or

(iii) confiscated under the Sentencing Act 2002.

(6A) A vehicle to which a notice under this section relates must be released to the owner when the result of the blood test (if any) is notified to the person who drove the vehicle in circumstances referred to in subsection (1)(d) if—

(a) the blood test shows that he or she had a blood alcohol concentration of, or less than, 80 milligrams of alcohol per 100 millilitres of blood; and

(b) the vehicle has not already been released.

(6B) A vehicle to which subsection (1AB) applies may be released to the owner if the owner—

(a) was not the person driving the vehicle when the vehicle failed to stop (or remain stopped); and

(b) has provided the information requested under section 118(4).

(7) Nothing in this section authorises the seizure or impoundment of a trailer or any other vehicle without motive power that is being towed by or is attached to a motor vehicle.

(8) Nothing in subsection (1) applies to a person driving a vehicle if—

(a) he or she has been ordered by a court to attend an approved course or programme; and

(b) the driving occurs in the course of his or her attendance at that course or programme, either,—

(i) in the case of a motorcyclist, under the supervision of a person who holds a current certificate of approval as a driving instructor issued by the Agency under the regulations or the rules:

(ii) in any other case, while accompanied by a person who holds a certificate referred to in subparagraph (i).

(9) Nothing in subsection (1A) applies to a person operating a motor vehicle in a manner that is authorised by law within the meaning of section 22A(4).

Section 96 heading: amended, on 2 May 2003, by section 8(1) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 96(1)(ba): inserted, on 10 September 2012, by section 59(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 96(1)(c): amended, on 16 January 2006, by section 50(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 96(1)(d): added, on 16 January 2006, by section 50(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 96(1)(d)(ii): substituted, on 10 May 2011, by section 59(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 96(1AA): inserted, on 1 December 2009, by section 22(1) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 96(1A): inserted, on 2 May 2003, by section 8(2) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 96(1A): amended, on 1 December 2009, by section 22(2) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 96(1AB): inserted, on 1 December 2009, by section 22(3) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 96(1AB): amended, on 11 August 2017, by section 42(1)(a) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 96(1AB): amended, on 11 August 2017, by section 42(1)(b) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 96(1B): inserted, on 2 May 2003, by section 8(2) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 96(1C): inserted, on 2 May 2003, by section 8(2) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 96(1D): inserted, on 2 May 2003, by section 8(2) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 96(1E): inserted, on 16 January 2006, by section 50(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 96(2)(a)(i): amended, on 1 December 2009, by section 22(4) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 96(2)(a)(iia): inserted, on 2 May 2003 by section 8(3) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 96(2)(c): substituted, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 96(2A): inserted, on 1 December 2009, by section 22(5) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 96(4): substituted, on 1 December 2009, by section 22(6) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 96(4A): inserted, on 1 December 2009, by section 22(6) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 96(6)(a): replaced, on 11 August 2017, by section 42(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 96(6)(b): substituted, on 23 July 2011, by section 8 of the Land Transport Amendment Act 2011 (2011 No 31).

Section 96(6A): inserted, on 16 January 2006, by section 50(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 96(6B): inserted, on 11 August 2017, by section 42(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 96(8)(a): amended, on 16 January 2006, by section 50(4) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 96(8)(b): amended, on 16 January 2006, by section 50(5) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 96(8)(b)(i): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 96(9): added, on 2 May 2003, by section 8(5) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

96A Impoundment of vehicle used in transport service

(1) An enforcement officer must seize and impound, or seize and authorise the impoundment of, a motor vehicle that is being used in a transport service for 28 days if the officer believes on reasonable grounds that a person drove the vehicle on a road while—

(a) the transport service operator was disqualified from holding or obtaining a transport service licence; or

(b) the transport service operator's transport service licence was suspended or revoked; or

(c) the transport service operator—

(i) does not hold a transport service licence; and

(ii) has previously been forbidden to operate a transport service.

(2) An enforcement officer who seizes and impounds (or authorises the impoundment of) a vehicle under this section must—

(a) complete a notice in the prescribed form, or in a form to the same effect, acknowledging the seizure and impoundment, and setting out (if the particulars are reasonably ascertainable)—

(i) the full name and full address of the driver; and

(ii) the full name and full address of the transport service operator, if different from the driver; and

(iii) the year of manufacture and make of the vehicle, and its registration plate details or vehicle identification number; and

(iv) the date and time of the seizure; and

(v) the place where the vehicle is to be impounded; and

(vi) an outline of the person's rights of appeal under sections 102 and 110; and

(b) give the driver a copy of the notice, unless the driver has left the scene; and

(c) give the person registered under Part 17 in respect of the vehicle a copy of the notice, if that person is present at the time of the seizure, or as

soon as practicable send a copy to that person by ordinary post to that person's last known place of residence or business or postal address, or address as recorded on the register of motor vehicles; and

(d) cause a copy of the notice to be given to the storage provider who stores the motor vehicle; and

(e) retain a copy of the notice for 12 months.

(2A) The driver of a motor vehicle seized or impounded under this section must, if requested to do so by an enforcement officer,—

(a) provide the driver's—

(i) full name; and

(ii) full address; and

(iii) date of birth; and

(iv) occupation; and

(v) telephone number; and

(vi) driver licence number:

(b) provide, if known to the driver and different from the driver, the transport service operator's—

(i) full name; and

(ii) full address; and

(iii) date of birth (if an individual); and

(iv) telephone number.

(3) The owner of an impounded vehicle has the rights of appeal provided in sections 102 and 110.

(4) Personal property (other than property attached to or used in connection with the operation of the vehicle) present in a motor vehicle at the time of the seizure and impoundment must be released on request to a person who produces satisfactory evidence to the effect that he or she was lawfully entitled to possession of the vehicle or personal property immediately before the vehicle was moved.

(4A) Personal property present in a motor vehicle at the time of the seizure and impoundment must be released subsequently to—

(a) a bailiff or constable who is executing a warrant to seize property:

(b) a person acting on behalf of the owner of the goods if the person produces satisfactory evidence of the owner's consent to such release.

(5) An enforcement officer does not have to seize or impound a motor vehicle if the officer has good cause to suspect that the vehicle is a stolen vehicle or had been converted, is a write-off, or has suffered severe damage.

(6) A vehicle to which a notice under this section relates must be released to the owner if—

(a) the Agency or the Police have decided finally that proceedings will not be taken against the transport service operator or the person who drove the vehicle in circumstances referred to in subsection (1) or such proceedings have been taken and the person is acquitted; and

(b) the vehicle has not been—

(i) released; or

(ii) seized under the Summary Proceedings Act 1957; or

(iii) confiscated under the Sentencing Act 2002.

(7) Nothing in subsection (1) authorises the seizure or impoundment of a trailer or any other vehicle without motive power that is being towed by or is attached to a motor vehicle.

(8) Sections 97 and 98 apply, with any necessary modifications, to a motor vehicle used in a transport service that is impounded under this section.

Section 96A: inserted, on 1 October 2007, by section 51 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 96A(2)(a)(i): amended, on 1 December 2009, by section 23(1) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 96A(2)(a)(ii): amended, on 1 December 2009, by section 23(2) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 96A(2)(c): substituted, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 96A(2A): inserted, on 1 December 2009, by section 23(3) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 96A(4): substituted, on 1 December 2009, by section 23(4) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 96A(4A): inserted, as section 96A(5), on 1 December 2009, by section 23(4) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 96A(4A) subsection number: substituted, on 10 May 2011, by section 60 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 96A(6)(a): amended, on 1 August 2008, pursuant to clause 40(2) of Schedule 2 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 96A(6)(b): substituted, on 23 July 2011, by section 9 of the Land Transport Amendment Act 2011 (2011 No 31).

97 Storage of impounded vehicles

(1) A motor vehicle seized and impounded under section 96 must be stored where the enforcement officer directs.

(2) The owner of the impounded vehicle is liable to pay the fees and charges for towage and storage that are prescribed or assessed in the manner specified by regulations made under section 167.

(2A) For the purposes of subsection (2), **owner**, in relation to an impounded vehicle, means the person who is the registered person in respect of the vehicle at the time that the vehicle is impounded.

(3) The fees and charges referred to in subsection (2) are recoverable from the owner of the impounded vehicle by the vehicle recovery service operator or storage provider.

(3A) The fees and charges referred to in subsection (2) are recoverable from the chief executive of the Ministry of Justice by the vehicle recovery service operator or storage provider if an impounded vehicle is seized or confiscated from impoundment under the Summary Proceedings Act 1957 or the Sentencing Act 2002.

(4) Nothing in subsection (3) limits or affects any rights against the owner of the vehicle, or in respect of the vehicle, that may be exercised by the vehicle recovery service operator or storage provider.

(5) A person may not remove or release from storage an impounded motor vehicle, unless allowed to do so under this Act.

(6) The storage provider must immediately comply with—

(a) a direction given under this Act to release the vehicle to the owner or a person authorised for the purpose by the owner; or

(b) a warrant to seize property executed by a bailiff or constable under section 94 of the Summary Proceedings Act 1957; or

(c) a warrant of confiscation under section 132 of the Sentencing Act 2002 executed by a Registrar, bailiff, or constable.

(7) The Commissioner, the chief executive of the Ministry of Justice, or a Registrar, or an enforcement officer authorised for the purpose by the Commissioner, may enter into such arrangements with vehicle recovery service operators and storage providers as he or she thinks necessary for the purposes of this section.

(8) For the purposes of subsection (7), **Registrar** means any Registrar of the High Court or of the District Court, as the case may require, and includes a Deputy Registrar.

Section 97(2A): inserted, on 10 May 2011, by section 61 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 97(3): amended, on 1 December 2009, by section 24(1) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 97(3A): inserted, on 1 December 2009, by section 24(2) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 97(6): substituted, on 1 December 2009, by section 24(3) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 97(7): amended, on 1 December 2009, by section 24(4) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 97(8): added, on 1 December 2009, by section 24(5) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 97(8): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

98 Release of vehicle after 28 days

(1) On or after the close of the 28-day impoundment period, the owner of the vehicle, or a person authorised for the purpose by the owner, or a bailiff or a constable executing a warrant to seize property under section 94 of the Summary Proceedings Act 1957, or a Registrar, bailiff, or constable executing a warrant of confiscation under section 132 of the Sentencing Act 2002, is entitled to remove the vehicle from storage by—

(a) showing the storage provider proof of identity and either,—

(i) in the case of the owner of the vehicle, or a person authorised for the purpose by him or her, proof of ownership of the vehicle or the owner's copy of the notice of acknowledgement of seizure and impoundment; or

(ii) in the case of a Registrar, bailiff, or constable, the warrant; and

(b) paying the fees and charges for towage and storage of the vehicle, or entering into an arrangement to pay those fees and charges.

(2) The storage provider is directed to release the vehicle as soon as practicable after subsections (1), (6), and (7) are satisfied.

(3) An enforcement officer authorised for the purpose by the Commissioner may order the release of an impounded vehicle at any time before the close of the 28-day impoundment period if—

(a) the vehicle was impounded from an unlicensed driver; and

(b) that person has paid the fees and charges due for towage and storage of the vehicle as at the time of payment and produces to the officer his or her current driver licence.

(4) If—

(a) a further 10 days has elapsed since the close of the 28-day impoundment period; and

(b) the owner, or a person authorised for the purpose by the owner, has not claimed the vehicle and has not paid the fees and charges for towage and storage of the vehicle or entered into an arrangement to pay those fees and charges; and

(c) no other person has, within that period, established to the satisfaction of the authorised officer that the person is entitled to possession of the vehicle,—

the storage provider may apply to an enforcement officer authorised for the purpose by the Commissioner for approval to dispose of the vehicle, and any

personal property found in the vehicle, and may, with the officer's approval, dispose of the vehicle, and any personal property found in the vehicle, on the terms and conditions that the officer thinks fit.

(5) On obtaining approval under subsection (4), the storage provider becomes the owner of the vehicle, and any personal property found in the vehicle, for all purposes.

(6) However, before disposing of a motor vehicle under subsection (4), a storage provider must—

(a) search the personal property securities register to identify every person with a security interest in the motor vehicle; and

(b) notify in writing every person with a security interest in the motor vehicle.

(7) Before removing a vehicle under subsection (1), a bailiff or constable executing a warrant to seize property under section 94 of the Summary Proceedings Act 1957, or a Registrar, bailiff, or constable executing a warrant of confiscation under section 132 of the Sentencing Act 2002, must—

(a) pay any unpaid fees and charges referred to in section 97(2) related to the vehicle to be removed; or

(b) enter into an arrangement with the storage provider for the payment of any unpaid fees and charges that the owner of the impounded vehicle is liable to pay under section 97(2) in relation to the vehicle to be removed.

(8) For the purposes of subsection (6), **security interest** has the same meaning as in section 17 of the Personal Property Securities Act 1999.

(9) Despite anything in subsections (1) to (8),—

(a) in the case of a bailiff or constable executing a warrant to seize property under section 94 of the Summary Proceedings Act 1957, the period during which an impounded vehicle may be seized—

(i) begins immediately on the expiry of the applicable 14-day appeal period specified in section 102; and

(ii) ends when—

(A) the vehicle is released under subsection (1); or

(B) the storage provider becomes the owner of the vehicle under subsection (5):

(b) in the case of a Registrar, bailiff, or constable executing a warrant of confiscation under section 132 of the Sentencing Act 2002, the period during which an impounded vehicle may be seized—

(i) begins immediately on the impoundment of the vehicle; and

(ii) ends when—

(A) the vehicle is released under subsection (1); or

(B) the storage provider becomes the owner of the vehicle under subsection (5).

Section 98(1): substituted, on 1 December 2009, by section 25(1) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 98(1): amended, on 17 December 2016, by section 60(1) of the Statutes Amendment Act 2016 (2016 No 104).

Section 98(1)(a)(i): amended, on 17 December 2016, by section 60(2) of the Statutes Amendment Act 2016 (2016 No 104).

Section 98(2): amended, on 1 December 2009, by section 25(2) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 98(4): amended, on 1 December 2009, by section 25(3) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 98(4)(a): amended, on 16 January 2006, by section 52 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 98(5): amended, on 1 December 2009, by section 25(4) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 98(6): added, on 1 November 2009, by section 21 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 98(7): added, as section 98(6), on 1 December 2009, by section 25(5) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 98(7) subsection number: substituted, on 10 May 2011, by section 62(2)(a) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 98(8): added, as section 98(7), on 1 November 2009, by section 21 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 98(8) subsection number: substituted, on 10 May 2011, by section 62(2)(b) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 98(9): added, as section 98(7), on 1 December 2009, by section 25(5) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 98(9) subsection number: substituted, on 10 May 2011, by section 62(2)(c) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 98(9): amended, on 10 May 2011, by section 62(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Prohibiting sale or disposal of motor vehicles

Heading: inserted, on 1 December 2009, by section 26 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

98A Commissioner may prohibit sale or disposal of certain motor vehicles

(1) This section applies if—

(a) a person is charged with an offence under this Act or any other enactment that would, if the person is convicted of the offence, permit or require a court to order the confiscation of the person's motor vehicle under the Sentencing Act 2002; and

(b) the Commissioner believes, on reasonable grounds in the circumstances, that the court would, if the person is convicted of the offence, order the

confiscation of the person's motor vehicle under the Sentencing Act 2002.

(2) If this section applies, the Commissioner may prohibit the sale or disposal of the motor vehicle by giving notice in the prescribed form to—

(a) the person who is charged; and

(b) the registered person of the motor vehicle (if a person other than the person who is charged).

(3) A person notified under subsection (2) may not sell, or dispose of,—

(a) the motor vehicle specified in the notice:

(b) any parts of the motor vehicle specified in the notice.

(4) The Commissioner—

(a) must cancel the notice given under subsection (2) if the person charged—

(i) does not own, or does not have a legal or equitable interest in, the motor vehicle specified in the notice; or

(ii) is not convicted of an offence that would permit or require a court to order the confiscation of the person's motor vehicle under the Sentencing Act 2002; or

(iii) is convicted of such an offence but a court does not order the confiscation of the person's motor vehicle under the Sentencing Act 2002; or

(b) may cancel the notice given under subsection (2) if—

(i) the motor vehicle specified in the notice was stolen or converted at the time the person charged used it in a way that gave rise to the charge; or

(ii) the owner of the vehicle specified in the notice took all reasonable steps to prevent the person charged from using the vehicle in a way that gave rise to the charge; or

(iii) the Commissioner is satisfied that prohibiting the sale of the motor vehicle specified in the notice would entail undue hardship to the person charged, the owner of the motor vehicle, or any other person.

Section 98A: inserted, on 1 December 2009, by section 26 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

98B Appeal of notice to District Court

(1) Any person who is given notice under section 98A may appeal to the District Court against the Commissioner's decision to give the notice.

(2) The court must determine the appeal on 1 or more of the grounds specified in section 98A(4).

(3) The court may confirm or cancel the notice.

(4) Every notice appealed against under this section continues in force pending the determination of the appeal, and no person is excused from complying with the notice on the ground that an appeal is pending.

Section 98B: inserted, on 1 December 2009, by section 26 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Part 7A
Immobilising devices applied to parked motor vehicles

Part 7A: inserted, on 2 January 2020, by section 4 of the Land Transport (Wheel Clamping) Amendment Act 2019 (2019 No 70).

98C Interpretation

In this Part,—

immobilising device means a wheel clamp or other device that is intended to immobilise a motor vehicle or restrict or impede its movement

operator means a person who has control over an immobilising device

parking place means a place on a road on which a person is able to park their motor vehicle

prescribed amount means the amount prescribed in regulations made under section 167(1)(md), but if no regulations are made, the prescribed amount is $100 (inclusive of GST).

Section 98C: inserted, on 2 January 2020, by section 4 of the Land Transport (Wheel Clamping) Amendment Act 2019 (2019 No 70).

98D Immobilising devices applied to parked motor vehicles

(1) This section applies if an operator applies an immobilising device to a motor vehicle parked in a parking place, unless—

(a) the parking place is on a road under the control of an enforcement authority who may issue infringement notices for parking offences under this Act; or

(b) the operator's actions are authorised by or under an enactment.

(2) The operator—

(a) must not require the person in charge of the motor vehicle to pay a fee (relating to the removal of the immobilising device or any other matter) that exceeds the prescribed amount; and

(b) may require the fee to be paid before the immobilising device is removed; and

(c) must, when requested by the person in charge of the motor vehicle, remove, or arrange for the removal of, the immobilising device—

(i) as soon as is reasonably practicable after the fee is paid; or

(ii) if there is no fee, at the direction of the person in charge of the motor vehicle.

(3) The operator must be reasonably available to respond to a request by the person in charge of the motor vehicle relating to the removal of the immobilising device.

(4) A person who contravenes subsection (2)(a) or (c) commits an offence and is liable on conviction to a fine not exceeding $3,000, in the case of an individual, or $15,000, in the case of a body corporate.

(5) If the operator fails to comply with subsection (2)(c) or fails to comply with subsection (3) after the person in charge of the motor vehicle has made reasonable efforts to contact the operator, the person in charge of the motor vehicle—

(a) may remove or arrange for the removal of the immobilising device from the motor vehicle; and

(b) is not under any civil or criminal liability for the removal if it causes as little damage to the immobilising device as is reasonably possible.

(6) This section does not of itself authorise an operator to apply an immobilising device to a motor vehicle parked in a parking place.

Section 98D: inserted, on 2 January 2020, by section 4 of the Land Transport (Wheel Clamping) Amendment Act 2019 (2019 No 70).

98E Enforcement of section 98D and related matters

(1) For the purpose of enforcing section 98D, and without limiting section 113, an enforcement officer may remain in a parking place to—

(a) direct an operator to remove an immobilising device from a motor vehicle within a specified time; and

(b) remove an immobilising device from a motor vehicle or arrange for its removal.

(2) A person may enter and remain in a parking place for the purpose of removing an immobilising device from a motor vehicle if an enforcement officer or the person in charge of the motor vehicle has arranged in accordance with this section or section 98D for the person to remove the device.

(3) In considering whether an operator has complied with section 98D(3) and without limiting the generality of that section, regard must be had to any criteria prescribed in regulations.

(4) To avoid doubt, section 98D(4) does not prevent a matter from being brought before the Disputes Tribunal established under section 4 of the Disputes Tribunal Act 1988 for the exercise of that tribunal's jurisdiction under that Act.

(5) In any proceedings before a Disputes Tribunal where an operator claims an amount in respect of a dispute to which section 98D applies, no more than the prescribed amount may be claimed.

(6) Nothing in subsection (5) affects proceedings before a Disputes Tribunal relating to any damage caused to an immobilising device as a result of its removal from a motor vehicle.

Section 98E: inserted, on 2 January 2020, by section 4 of the Land Transport (Wheel Clamping) Amendment Act 2019 (2019 No 70).

Part 8
Mitigation of penalties and rights of appeal

Removal of disqualifications

99 Court may reduce disqualification

(1) A person (the **applicant**) who by order of a court is disqualified from holding or obtaining a driver licence may from time to time apply to a court to reduce the disqualification or disqualifications if the person, on the date that the application is made,—

(a) has more than 1 year of an existing disqualification or disqualifications left to serve; and

(b) has not been convicted in the previous 2 years of offences against any of the following sections of this Act:

(i) section 35(1)(a) or (b):

(ii) section 36(1):

(iii) section 36A(1)(a) or (c):

(iv) section 36A(2) or (3):

(v) section 39(1):

(vi) section 56(1) or (2):

(via) section 57A(1):

(vii) section 58(1):

(viii) section 60(1):

(ix) section 61(1) or (2):

(x) section 62(1) or (1B); and

(c) has not been convicted in the previous 2 years or concurrently of an offence against section 171 of the Crimes Act 1961 (manslaughter) in which the manslaughter was the result of driving a motor vehicle; and

(d) has not been convicted of offences against section 32(1)(a) or (b) or (c) in the last 6 months.

(1A) For the purposes of subsection (1)(b), (c), and (d), the date on which a person has been convicted is the date on which a conviction has been entered against that person.

(2) On an application under subsection (1), the court may, having regard to the character of the applicant and the applicant's conduct since the order was made, the nature of the offence, and any other circumstances of the case, either—

(a) reduce the disqualification as from such date as may be specified in the order or refuse the application; or

(b) treat the application as an application for an order under section 105 (for the grant of a limited licence) and make an order accordingly under that section.

(3) In having regard under subsection (2) to the conduct of the applicant subsequent to an order disqualifying the applicant from holding or obtaining a driver licence, the court must have regard to—

(a) whether or not the opportunity to attend a programme approved under section 99A was reasonably available to the applicant; and

(b) whether or not the applicant attended that approved programme; and

(c) any report of a person conducting such an approved programme on the conduct of the applicant, and on the applicant's awareness of the responsibilities of drivers and suitability to hold or obtain a driver licence; and

(d) any report which relates to the medical condition of the applicant and which is from a health practitioner attached to an assessment centre attended by the person other than under an order made under section 65.

(4) If an application under this section is refused,—

(a) the court may accept a further application in respect of the same order if satisfied that the application is supported by relevant evidence that was not available when the previous application was heard; but

(b) otherwise, a further application in respect of the same order may not be considered until at least 3 months after the date of that refusal.

(5) If the disqualification was ordered by the District Court, every application under this section concerning that disqualification must be made to a District Court Judge.

(6) If a court makes an order under this section and the person to whom it applies is, before the end of the period for which the original order of disqualification was made, convicted of an offence for which the applicant is liable for disqualification, the court must, whether or not it imposes a penalty for that offence, order that the applicant be disqualified from holding or obtaining a driver licence for the balance of the disqualification period specified in the original order.

(7) No application or order under this section may be made by or apply to a person who is subject to an alcohol interlock sentence or to an order made under section 65 disqualifying the person from holding or obtaining a driver licence.

Compare: 1962 No 135 s 39

Section 99 heading: amended, on 16 January 2006, by section 53(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 99(1): substituted, on 16 January 2006, by section 53(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 99(1)(b)(iv): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 99(1)(b)(via): inserted, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 99(1)(b)(x): amended, on 1 November 2009, by section 39(2) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 99(1A): inserted, on 16 January 2006, by section 53(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 99(2)(a): amended, on 16 January 2006, by section 53(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 99(3)(a): substituted, on 16 January 2006, by section 53(4) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 99(3)(b): amended, on 16 January 2006, by section 53(5) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 99(3)(c): amended, on 16 January 2006, by section 53(6) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 99(3)(d): amended, on 7 November 2018, by section 17 of the Land Transport Amendment Act 2016 (2016 No 77).

Section 99(3)(d): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 99(5): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 99(5): amended, on 16 January 2006, by section 53(7) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 99(7): amended, on 1 July 2018, by section 32 of the Land Transport Amendment Act 2017 (2017 No 34).

99A Agency may approve programmes

(1) The Agency may approve any programme for the purposes of sections 32 and 99.

(2) When approving a programme, the Agency may consult with any persons that the Agency considers appropriate having regard to the nature of the programme and the persons to whom it is targeted.

Section 99A: inserted, on 16 January 2006, by section 54 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 99A heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 99A(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 99A(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

100 Agency to remove certain disqualifications

(1) If an order has been made under section 65 in respect of a person (**the applicant**), the Agency must make an order removing the disqualification of the applicant from holding or obtaining a driver licence, if satisfied that—

(a) the applicant is a fit person to hold a driver licence, having regard to—

(i) a report which is from a health practitioner attached to an assessment centre and which is made available to the Agency by the applicant or the assessment centre; and

(ii) any other evidence submitted by the applicant or otherwise available to the Agency relating to the medical condition of the applicant.

(b) *[Repealed]*

(2) If the Agency makes an order under subsection (1), every order made under section 65 that applies to the applicant concerned must be treated as having expired.

(3) No order may be made under subsection (1) if the applicant concerned is subject to an order made under section 65 that has been in force less than 1 year and 1 day.

(4) If the Agency decides not to remove the disqualification under subsection (1), the Agency must refer the applicant to the right of appeal under section 108.

Compare: 1962 No 135 s 30C

Section 100 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 100(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 100(1)(a)(i): amended, on 7 November 2018, by section 18 of the Land Transport Amendment Act 2016 (2016 No 77).

Section 100(1)(a)(i): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 100(1)(a)(i): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48)

Section 100(1)(a)(ii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 100(1)(b): repealed, on 16 January 2006, by section 55(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 100(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 100(3): amended, on 16 January 2006, by section 55(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 100(4): inserted, on 1 July 2018, by section 33 of the Land Transport Amendment Act 2017 (2017 No 34).

100A Agency may authorise removal of alcohol interlock device and certify that requirements of alcohol interlock sentence have been fulfilled

(1) If satisfied that the holder of an alcohol interlock licence (the **applicant**) is a fit person to hold a driver licence and has complied with section 65AG, the Agency must—

(a) authorise the removal of the alcohol interlock device from every motor vehicle or vehicle the person drives; and

(b) certify that the requirements of the alcohol interlock sentence have been fulfilled.

(2) If the Agency acts under subsection (1), every order made under section 65AC(1) that applies to the applicant must be treated as having expired.

(3) If the Agency does not act under subsection (1), the Agency must refer the applicant to the right of appeal under section 108(1).

Section 100A: replaced, on 1 July 2018, by section 34 of the Land Transport Amendment Act 2017 (2017 No 34).

100B Court may cancel alcohol interlock sentence and disqualify driver instead

(1) A person may apply to a court seeking the cancellation of an alcohol interlock sentence if the person's personal circumstances have changed significantly.

(2) The court may cancel an alcohol interlock sentence, and if it does so, the court must—

(a) disqualify the person from holding or obtaining a driver licence for the period that is appropriate under the provision relating to the qualifying offence that would have applied under section 65AI if an exception described in section 65AB(2) had applied to the person; and

(b) authorise the person to apply for a zero alcohol licence at the end of the period of disqualification.

(3) The court may set the length of the disqualification imposed under subsection (2)(a) after having regard to—

(a) the length of time that has elapsed since the alcohol interlock sentence was imposed; and

(b) the person's compliance with section 65AG.

Section 100B: inserted, on 1 July 2018, by section 34 of the Land Transport Amendment Act 2017 (2017 No 34).

100C Court may impose alcohol interlock sentence if exception no longer applies

(1) A person may apply to a court seeking an alcohol interlock sentence if—

(a) an exception described in section 65AB(2) applied to the person and therefore the person was disqualified from holding or obtaining a driver licence in accordance with section 65AI; but

(b) the exception no longer applies.

(2) The court may cancel the person's disqualification, and if it does so, the court must impose an alcohol interlock sentence.

Section 100C: inserted, on 1 July 2018, by section 34 of the Land Transport Amendment Act 2017 (2017 No 34).

Removal of licence suspension and return of impounded vehicles

101 Appeal to Agency against mandatory suspension of driver licence

(1) A person whose driver licence has been suspended under section 95 may appeal to the Agency against the suspension on the grounds that—

(a) the person was not the driver of the vehicle at the time of the act or omission to which that section applies; or

(b) the enforcement officer did not have reasonable grounds of belief as required by section 95 or did not give a notice that complied with subsection (2) of that section.

(2) An appeal under this section must be set out in a statutory declaration.

(3) The Agency must, within 5 working days after an appeal under this section is lodged, either—

(a) remove the suspension immediately, if satisfied that a ground referred to in subsection (1) has been established; or

(b) dismiss the appeal.

(4) If a suspension is removed under subsection (3)(a), the suspension ceases to have effect when that decision is made and the Agency must return the licence to the holder's last known place of residence or business or postal address, or to the holder at an office of the Agency.

(5) The Agency may refuse to consider an appeal under this section if satisfied that the appeal is frivolous or vexatious, or that the appellant has provided insufficient information.

Section 101 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 101(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 101(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 101(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 101(5): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

102 Appeal to Police against impoundment of vehicle

(1) An owner whose motor vehicle has been seized and impounded under section 96 or section 96A may appeal to the Police against the seizure and impoundment on the grounds that—

(a) the impounded vehicle was a stolen or converted vehicle at the time of the seizure and impoundment; or

(b) the enforcement officer who seized the vehicle did not have reasonable grounds of belief as required by section 96 or section 96A or did not comply with the notice requirements in subsection (2) of those sections; or

(c) the owner did not know and could not reasonably have been expected to know that the driver was not permitted to drive; or

(d) the owner took all reasonable steps to prevent the driver from driving the vehicle; or

(e) the driver drove the vehicle in a serious medical emergency (which for the purpose of this paragraph includes carrying a person who is about to give birth); or

(f) if section 96(1A), (1AA), or (1AB) applies, the owner did not know and could not reasonably be expected to know that the operator of the vehicle would contravene section 22A(1) or (3), 22AF, or 114 (whichever applies); or

(g) if section 96(1A), (1AA), or (1AB) applies, the owner took all reasonable steps to prevent the operator of the vehicle from contravening section 22A(1) or (3), 22AF, or 114 (whichever applies); or

(ga) if section 96(1AB) applies, the owner—

(i) was not the person driving the vehicle when the vehicle failed to stop (or remain stopped); and

(ii) either—

(A) did not know, and could not reasonably have been expected to know, the identity of the driver; or

(B) has otherwise provided the information requested under section 118(4); or

(h) if section 96A applies, the owner did not know, and could not reasonably have been expected to know, that the operator of the transport service in which the vehicle was being used—

(i) was disqualified from holding a transport service licence; or

(ii) had the relevant transport service licence suspended or revoked; or

(iii) did not hold a transport service licence and had previously been forbidden to operate a transport service.

(2) An appeal under this section must be set out in a statutory declaration and lodged no later than 14 days after the date on which the vehicle is seized and impounded.

(3) An enforcement officer authorised for the purpose by the Commissioner may hear and determine the appeal, and, if satisfied that a ground referred to in subsection (1) has been established,—

(a) the authorised officer must direct that the vehicle be released immediately to the owner or a person authorised by the owner; and

(b) if a direction in respect of the vehicle has been given under section 96(1B), the authorised officer must cancel the direction unless he or she believes on reasonable grounds that the vehicle does not comply with the provisions of the regulations or the rules.

(4) The authorised officer must consider and determine the appeal as soon as reasonably practicable, and,—

(a) in the case of an appeal lodged on the ground set out in subsection (1)(a), determine the appeal not later than 2 working days after the day of lodgement:

(b) in any other case, determine the appeal not later than 5 working days after the day of lodgement.

(5) The authorised officer may refuse to consider an appeal under this section if satisfied that the appeal is frivolous or vexatious, or that the appellant has provided insufficient information.

Section 102(1): amended, on 1 October 2007, by section 56(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 102(1)(b): amended, on 1 October 2007, by section 56(2)(a) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 102(1)(b): amended, on 1 October 2007, by section 56(2)(b) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 102(1)(e): amended, on 2 May 2003, by section 9(1) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 102(1)(f): substituted, on 1 December 2009, by section 27(1) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 102(1)(f): amended, on 11 August 2017, by section 43(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 102(1)(g): substituted, on 1 December 2009, by section 27(2) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 102(1)(g): amended, on 11 August 2017, by section 43(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 102(1)(ga): inserted, on 11 August 2017, by section 43(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 102(1)(h): added, on 1 October 2007, by section 56(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 102(2): amended, on 1 December 2009, by section 27(3) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 102(3): substituted, on 2 May 2003, by section 9(2) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Grant of limited licence

103 Persons who may apply to court for limited licence

(1) Unless prevented by subsection (2), the following persons may apply for an order under section 105 authorising the grant of a limited licence:

(a) persons who are disqualified by an order made under this Act from holding or obtaining a driver licence:

(b) persons who are subject to a licence suspension under section 90 (as a result of demerit points).

(2) The following persons may not apply under this section for an order under section 105 authorising the grant of a limited licence:

(a) a person who is disqualified from holding or obtaining a driver licence by an order made under section 65 (which relates to repeat offences involving alcohol or drugs):

(b) a person who is disqualified from driving a vehicle being used in a transport service (other than a rental service) by virtue of section 63, if the limited licence would authorise the person to drive a vehicle being used in a transport service (other than a rental service):

(c) a person who is disqualified from holding or obtaining a driver licence by an order made on his or her conviction for an offence against section 32(1) (which relates to driving while disqualified or contrary to a limited licence):

(d) a person who is disqualified by an order made on his or her conviction—

(i) for an offence against any of sections 35, 36, 38, and 39 (which relate to reckless or dangerous driving, careless or inconsiderate driving causing injury or death, and failing to stop after an accident); or

(ii) for an offence against any of sections 56, 57A, 58, 60, 61, and 62 (which relate to offences involving alcohol or drugs); or

(iii) for an offence against section 33(1) (which relates to applying for or obtaining a driver licence while disqualified from doing so); or

(iv) for an offence against a provision of the Transport Act 1962 that corresponds to an offence specified in any of subparagraphs (i) to (iii)—

committed within 5 years after the commission of any other offence specified in this paragraph and arising from a different incident (whether or not both offences are of the same kind, regardless of when convictions were entered for those offences):

(e) a person who—

(i) is subject to an alcohol interlock sentence under section 65AC; or

(ii) would have been subject to an alcohol interlock sentence but an exception described in section 65AB(2) applied:

(f) a person in respect of whom a driver licence stop order is in effect.

Compare: 1962 No 135 s 38(1)–(1B)

Section 103(2)(d)(ii): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 103(2)(d)(iii): amended, on 22 June 2005, by section 57 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 103(2)(d)(iv): added, on 22 June 2005, by section 57 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 103(2)(e): replaced, on 1 July 2018, by section 35 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 103(2)(f): inserted, on 1 November 2013, by section 10 of the Land Transport Amendment Act 2011 (2011 No 31).

104 Issue of limited licence to be delayed or prohibited in certain cases

(1) No order may be made under section 105 that authorises a person to obtain a limited licence before the expiration of 28 days from the date the order of disqualification takes effect if the person is disqualified on conviction—

(a) for an offence against this Act or the Transport Act 1962 involving driving hours or logbooks; or

(b) for an offence against any of sections 35, 36, 38, and 39 (which relate to reckless or dangerous driving, careless or inconsiderate driving causing injury or death, and failing to stop after an accident); or

(c) for an offence against any of sections 56, 57A, 58, 60, 61, and 62 (which relate to offences involving alcohol or drugs); or

(d) for an offence against section 33(1) (which relates to applying for or obtaining a driver licence while disqualified from doing so); or

(e) for an offence against section 42 (which relates to insecure loads on vehicles).

(2) An order may be made under section 105 authorising a person to drive a motor vehicle of a particular class only if the person held a driver licence or endorsement for that class immediately before he or she was disqualified.

(3) No order may be made under section 105 authorising a person to drive a motor vehicle—

(a) for the purposes of conducting driving tests or acting as a driving instructor; or

(b) in a passenger service, unless the accumulation of demerit points is the only reason for the suspension of that person's driver licence.

(4) Unless the parties agree in a particular case that compliance with this subsection is not required, no order may be made under section 105 until every person who has made an affidavit filed in support of the application for the order has appeared before the court for examination on the contents of his or her affidavit.

Compare: 1962 No 135 s 38(2)(a)–(c)

Section 104(1)(c): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 104(2): amended, on 10 May 2011, by section 65 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 104(3): substituted, on 22 June 2005, by section 58 of the Land Transport Amendment Act 2005 (2005 No 77).

105 Court may make order authorising grant of limited licence

(1) A court may at any time make an order under this section authorising the applicant to obtain, immediately or after the expiration of such period as the court may specify, a driver licence (**a limited licence**) authorising the applicant to drive to such extent (being the least extent that it is necessary to alleviate extreme or undue hardship) as the court specifies in the order.

(2) The court may make an order under this section if satisfied that—

(a) the disqualification or suspension has resulted or will result in—

(i) extreme hardship to the applicant (whether in relation to employment or otherwise); or

(ii) undue hardship to a person other than the applicant (whether in relation to employment or otherwise); and

(ab) the applicant meets the criteria specified in sections 103 and 104; and

(b) an order under this section is not contrary to the interests of public safety.

(3) In making an order under this section, the court—

(a) must specify—

(i) the purpose for which the limited licence is issued; and

(ii) the particular vehicle or the type of vehicle which may be driven; and

(iii) the days of the week and times at which that vehicle may be driven; and

(iv) such other matters as may be necessary to limit the order to alleviating the hardship which was alleged and proved; and

(b) may specify in the order such other matters as the court thinks fit.

(4) If the application relates to a disqualification order made by the District Court, the application must be made to a District Court Judge exercising jurisdiction in the court by which the order was made.

(5) If an application under this section is refused,—

(a) the court may accept a further application in respect of the same order if satisfied that the application is supported by relevant evidence that was not available when the previous application was heard; but

(b) otherwise, a further application in respect of the same order may not be considered until at least 3 months after the date of that refusal.

(6) Subject to subsection (6A) and section 30(5), if the court makes an order under this section, the Agency must, subject to the provisions of this Act, issue to the person entitled to it a limited licence in accordance with the order even though—

(a) the person's driver licence is suspended under section 90; or

(b) the person is disqualified from holding or obtaining a driver licence.

(6A) If, after the court makes an order under this section, the Agency becomes aware that the applicant is not entitled to apply for or be granted a limited licence in accordance with sections 103 and 104, the Agency may—

(a) decline to issue the limited licence; and

(b) refer the applicant to the right of appeal under section 106.

(7) If the holder of a limited licence, or a person who is authorised to obtain a limited licence but has not become the holder of such a licence, is convicted of an offence for which an order of disqualification is imposed,—

(a) the limited licence is revoked or may not be issued (as the case may be) and the original order of disqualification is revived and has effect for the balance of the term for which it was originally imposed; and

(b) unless the court orders otherwise, the period of disqualification under the revived order of disqualification runs concurrently with the order of disqualification in respect of the second offence.

(7A) If a driver licence stop order takes effect in respect of a person who holds a limited licence or is authorised to obtain a limited licence, then the limited licence—

(a) is revoked or may not be issued (as the case may be); and

(b) may, when a driver licence stop order is cancelled under section 91G or terminated under section 91H, be reissued or issued (as the case may be) unless the person is otherwise disqualified from holding a limited licence.

(8) The holder of a limited licence that is revoked under subsection (7) must immediately, and whether demand is made on the holder or not, surrender his or her photographic driver licence to the court by which he or she is convicted or to an enforcement officer or at an office of the Agency.

(8A) The holder of a limited licence that is revoked under subsection (7A) must immediately, and whether demand is made on the holder or not, surrender his

or her photographic driver licence to an employee or agent of the Ministry of Justice or at an office of that Ministry or at the court.

(9) Despite section 104(3)(b), the court may not make an order under this section unless the applicant satisfies the court that no more than 20 of the demerit points were accumulated while driving in a passenger service.

Compare: 1962 No 135 s 38(2)–(9)

Section 105(2)(ab): inserted, on 10 May 2011, by section 66(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 105(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 105(6): substituted, on 23 July 2011, by section 11(1) of the Land Transport Amendment Act 2011 (2011 No 31).

Section 105(6A): inserted, on 10 May 2011, by section 66(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 105(7)(a): amended, on 23 July 2011, by section 11(2) of the Land Transport Amendment Act 2011 (2011 No 31).

Section 105(7A): inserted, on 1 November 2013, by section 11(3) of the Land Transport Amendment Act 2011 (2011 No 31).

Section 105(8): amended, on 1 November 2013, by section 11(4) of the Land Transport Amendment Act 2011 (2011 No 31).

Section 105(8): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 105(8A): inserted, on 1 November 2013, by section 11(5) of the Land Transport Amendment Act 2011 (2011 No 31).

Section 105(9): added, on 22 June 2005, by section 59 of the Land Transport Amendment Act 2005 (2005 No 77).

Rights of appeal

106 General right of appeal to District Court

(1) Any person who is dissatisfied with any decision made under this Act by the Agency in respect of the grant, issue, revocation, or suspension of a land transport document sought or held by that person may appeal to the District Court against that decision.

(2) The court may confirm, reverse, or modify the decision appealed against.

(3) Every decision of the Agency appealed against under this section continues in force pending the determination of the appeal, and no person is excused from complying with any of the provisions of this Act on the ground that any appeal is pending.

(4) Even though an appeal under this section may have been determined in favour of the appellant, the Agency may, subject to the like right of appeal, refuse to deal with in accordance with the provisions of this Act the matter of the grant, issue, revocation, or suspension of the land transport document concerned on any sufficient grounds supported by facts or evidence discovered since the hearing of the appeal.

(5) Subsection (1) does not apply if a right of appeal to the District Court against the decision concerned is conferred by some other section of this Act.

Section 106(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 106(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 106(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 106(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 106(5): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

107 Appeals against court orders relating to disqualification or grant of limited licence, and deferral of disqualification

(1) A person who has been disqualified by order of the District Court from holding or obtaining a driver licence may appeal to the High Court against a decision of the District Court by—

(a) refusing to grant the person a limited licence; or

(b) refusing to reduce the person's disqualification.

(2) If it thinks fit, the District Court may, on an application by a person who has appealed to the High Court under subsection (1) or Part 6 of the Criminal Procedure Act 2011, defer the operation of the disqualification order pending the determination of the appeal.

(2A) If the District Court refuses to defer the operation of the disqualification order pending the appeal, the person who applied for the disqualification order to be deferred may appeal to the High Court against that decision of the District Court.

(2B) Subpart 2 of Part 6 of the Criminal Procedure Act 2011 applies, with the necessary modifications, to an appeal to the High Court under subsection (1) or subsection (2A).

(3) A person who is disqualified by an order of the High Court from holding or obtaining a driver licence may, with the leave of the Court of Appeal, appeal to that court against a decision of the High Court—

(a) refusing to grant the person a limited licence; or

(b) refusing to remove the person's disqualification;—

and the provisions of subpart 2 of Part 6 of the Criminal Procedure Act 2011 applies with the necessary modifications, as if it were an appeal under that section.

(4) If an application is made to the Court of Appeal for leave to appeal to that court against a sentence of the District Court or the High Court that is or includes an order of disqualification, the High Court may, if it thinks fit, defer the operation

of the order pending the application for leave to appeal and, if leave is granted, pending the determination of the appeal.

(5) If any such appeal to the High Court or Court of Appeal is allowed, whether in whole or in part, the Registrar of the High Court must notify the Agency of the result of the appeal.

(6) In determining the period for which a person is disqualified from holding or obtaining a licence, any time during which the operation of the disqualification order is deferred under this section must be disregarded.

Compare: 1962 No 135 s 41

Section 107(1): substituted, on 22 June 2005, by section 60 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 107(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 107(2): substituted, on 22 June 2005, by section 60 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 107(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 107(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 107(2A): inserted, on 22 June 2005, by section 60 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 107(2B): inserted, on 22 June 2005, by section 60 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 107(2B): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 107(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 107(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 107(5): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

108 Appeal against Agency's refusal to remove disqualification or replace alcohol interlock licence with zero alcohol licence

(1) A person may appeal to the District Court against the refusal of the Agency to—

(a) remove a disqualification under section 100; or

(b) replace an alcohol interlock licence with a zero alcohol licence under section 100A.

(2) In determining the appeal, the court may—

(a) direct the Agency to remove a disqualification or replace an alcohol interlock licence with a zero alcohol licence; or

(b) dismiss the appeal.

Section 108: replaced, on 1 July 2018, by section 36 of the Land Transport Amendment Act 2017 (2017 No 34).

109 Appeal against refusal of Agency to remove suspension of driver licence

(1) A person who unsuccessfully appeals to the Agency under section 101 may, on any grounds set out in subsection (1) of that section, appeal to the District Court against the decision under that section.

(2) The court must determine the appeal on 1 or more of the grounds set out in subsection (1) or subsection (5) of section 101 and may not consider any other grounds.

(3) The court may—

(a) direct that the suspension be removed, in which case that direction has effect as if it had been made under section 101 by the Agency; or

(b) dismiss the appeal.

Section 109 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 109(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 109(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 109(3)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

110 Appeal against refusal of Police to direct release of impounded vehicle

(1) A person who unsuccessfully appeals to an enforcement officer under section 102 may, on any grounds set out in subsection (1) of that section, appeal to the District Court against the decision under that section.

(1A) If a person fails to lodge an appeal under section 102 within the time specified, the person may, if an enforcement officer agrees, appeal to the District Court.

(1B) An enforcement officer may agree in writing to an appeal under subsection (1A) if the enforcement officer is satisfied that there are exceptional circumstances that prevented the filing of the appeal within the time specified under section 102(2).

(2) The court must determine the appeal on 1 or more of the applicable grounds set out in subsection (1) or subsection (5) of section 102 and may not consider any other grounds.

(3) The court may—

(a) make an order—

(i) directing that the vehicle be released immediately to the person, in which case that direction has effect as if it had been made under section 102 by the authorised enforcement officer; and

(ii) if an enforcement officer has given a direction in respect of the vehicle under section 96(1B), cancelling that direction unless the court is satisfied that the vehicle does not comply with the provisions of the regulations or the rules; or

(b) dismiss the appeal.

Section 110(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 110(1A): inserted, on 1 December 2009, by section 28 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 110(1A): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 110(1B): inserted, on 1 December 2009, by section 28 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 110(2): amended, on 2 May 2003, by section 10(1) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 110(3): substituted, on 2 May 2003, by section 10(2) of the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

111 Procedure

(1) Every appeal under this Act to the District Court must be brought, by way of originating application, not later than 28 days after the date on which the appellant was notified of the decision appealed against, or within such further period as the District Court may allow.

(2) In dealing with an appeal under this Act, the District Court may hear all evidence tendered and representations made by or on behalf of any party to the appeal that the court considers relevant to the appeal, whether or not that evidence would be otherwise admissible in that court.

(3) Every such appeal must be made and determined in accordance with the District Court Act 2016 and the rules of court made under that Act, but the application of that Act and those rules is subject to the other provisions of this section.

(4) Subject to sections 107, 111A, and 111B, the decision of the District Court on any appeal under this Act is final.

Section 111(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 111(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 111(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 111(4): amended, on 1 October 2007, by section 61(2) of the Land Transport Amendment Act 2005 (2005 No 77).

111A Appeal to High Court on question of law

(1) A party to an appeal under section 106 who is dissatisfied with the decision of the District Court on the grounds that it is erroneous in law may appeal to the High Court on that question of law.

(2) An appeal under this section must be heard and determined in accordance with the rules of the High Court.

Section 111A: inserted, on 1 October 2007, by section 61(1) of the Land Transport Amendment Act 2005 (2005 No 77).

111B Further appeal to Court of Appeal

(1) This section applies to appeals under this Act with respect to the offences specified in Part 6A.

(2) If this section applies, a party to an appeal who is dissatisfied with the decision of the High Court in respect of the appeal as being erroneous in law may, with the leave of the High Court or (if that leave is declined) with special leave of the Court of Appeal, appeal to the Court of Appeal on that question of law.

(3) The Court of Appeal may make any order or determination that it thinks fit in relation to the appeal.

(4) The decision of the Court of Appeal on an appeal or any application for leave to appeal is final.

(5) Except as provided in this section, the procedures in respect of an appeal under this section must be in accordance with the ordinary rules of court.

Compare: 1989 No 74 s 46

Section 111B: inserted, on 1 October 2007, by section 61(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Demerit points

112 Effect of appeal on demerit points

(1) If a person appeals against a conviction for an offence to which section 88 applies (which section relates to offences attracting demerit points),—

(a) no demerit points may be recorded in relation to the offence pending the determination of the appeal:

(b) a recording of demerit points made in relation to the offence before the filing of the notice of appeal and any disqualification imposed as a result is cancelled:

(c) if on the determination of the appeal the conviction is upheld, or if the appeal is abandoned or is dismissed for want of prosecution, demerit points must be recorded in relation to the offence.

(2) The Registrar of the court in which the appellant was convicted must notify the Agency of the filing of the notice of appeal and of the result of the determination of the appeal, or of the abandonment or dismissal of the appeal.

(3) If a conviction for an offence to which section 88 applies is quashed on an application for judicial review, demerit points may not be recorded for that offence or (if recorded) the Agency must cancel the demerit points recorded and any disqualification imposed for that offence.

Section 112(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 112(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Enforceable undertakings

Heading: inserted, on 1 September 2020, by section 102 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

112A Agency may accept enforceable undertakings

(1) The Agency may accept an enforceable undertaking given by a person in writing in connection with a matter relating to a contravention or an alleged contravention by the person under any land transport Act (**the contravention or alleged contravention**).

(2) However, the Agency may refuse to accept the undertaking if it does not provide for the reimbursement of any costs and expenses of the Agency incurred in relation to—

(a) the undertaking; and

(b) the contravention or alleged contravention.

(3) The Agency must not accept an undertaking if the Agency believes that the contravention or alleged contravention would amount to an offence against any of sections 36AA, 38, 39, 61, or 62 of this Act.

(4) The giving of an undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention or alleged contravention to which the undertaking relates.

(5) To avoid doubt, the costs and expenses of the Agency include any costs or expenses incurred in relation to an employee, agent, or contractor of the Agency.

Section 112A: inserted, on 1 September 2020, by section 102 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

112B Notice of decision and reasons for decision

(1) The Agency must give the person seeking to make an enforceable undertaking written notice of—

(a) the Agency's decision to accept or reject the undertaking; and

(b) the reasons for the decision.

(2) The Agency must publish, on the Agency's Internet site, notice of a decision to accept an enforceable undertaking and the reasons for that decision.

Section 112B: inserted, on 1 September 2020, by section 102 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

112C When enforceable undertaking is enforceable

An enforceable undertaking takes effect and becomes enforceable when the Agency's decision to accept the undertaking is given to the person who made the undertaking, or at any later date specified by the Agency.

Section 112C: inserted, on 1 September 2020, by section 102 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

112D Compliance with enforceable undertaking

(1) A person must not contravene an enforceable undertaking given by that person that is in force.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding $20,000:

(b) for a body corporate, to a fine not exceeding $100,000.

Section 112D: inserted, on 1 September 2020, by section 102 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

112E Contravention of enforceable undertaking

(1) The Agency may apply to the District Court for an order if a person contravenes an enforceable undertaking.

(2) If the court is satisfied that the person who made the enforceable undertaking has contravened the undertaking, the court may make either or both of the following orders:

(a) an order directing the person to comply with the undertaking:

(b) an order discharging the undertaking.

(3) In addition to the orders referred to in subsection (2), the court may make any other order that the court considers appropriate in the circumstances, including orders directing the person to pay to the Agency—

(a) the costs of the proceedings; and

(b) the reasonable costs of the Agency in monitoring compliance with the enforceable undertaking in the future.

(4) This section does not prevent proceedings being brought for the contravention or alleged contravention to which the enforceable undertaking relates.

Section 112E: inserted, on 1 September 2020, by section 102 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

112F Withdrawal or variation of enforceable undertaking

(1) A person who has given an enforceable undertaking may at any time, with the written agreement of the Agency,—

(a) withdraw the undertaking; or

(b) vary the undertaking.

(2) However, the provisions of the undertaking cannot be varied to provide for a different contravention or alleged contravention.

(3) The Agency must publish on the Agency's Internet site notice of the withdrawal or variation of an enforceable undertaking.

Section 112F: inserted, on 1 September 2020, by section 102 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

112G Proceedings for contravention or alleged contravention

(1) Subject to this section, no proceedings (whether civil or criminal) for a contravention or alleged contravention may be brought against a person if an enforceable undertaking is in effect in relation to that contravention or alleged contravention.

(2) No proceedings may be brought for a contravention or alleged contravention against a person who—

(a) has made an enforceable undertaking in relation to that contravention or alleged contravention; and

(b) has completely discharged the enforceable undertaking.

(3) The Agency may accept an enforceable undertaking in relation to a contravention or alleged contravention before proceedings in relation to that contravention or alleged contravention have been completed.

(4) If the Agency accepts an enforceable undertaking before the proceedings are completed, the Agency must take all reasonable steps to have the proceedings discontinued as soon as practicable.

Section 112G: inserted, on 1 September 2020, by section 102 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Part 9
Enforcement of responsibilities

General enforcement powers

113 Enforcement officers may enforce transport legislation

(1) An enforcement officer in uniform or in possession of a warrant or other evidence of his or her authority as an enforcement officer may enforce the provisions of—

(a) the Local Government Act 1974, the Local Government Act 2002, the Road User Charges Act 2012, the Government Roading Powers Act 1989, the Railways Act 2005, the Land Transport Management Act 2003, and this Act:

(b) regulations and rules and bylaws in force under any Acts mentioned in paragraph (a).

(2) Without limiting any other powers conferred on an enforcement officer, an enforcement officer, in enforcing any provisions referred to in subsection (1), may at any time—

(a) direct a person on a road (whether or not in charge of a vehicle) to give the person's full name, full address, date of birth, occupation, and telephone number, or such of those particulars as the enforcement officer may specify, and give any other particulars required as to the person's identity, and (unless the person is for the time being detained or under arrest under any enactment) give such information as is within the person's knowledge and as may lead to the identification of the driver or person in charge of a vehicle:

(b) inspect, test, and examine—

(i) the brakes or any other part of a vehicle on a road or any associated equipment; or

(ii) a land transport document, or a document resembling a land transport document, displayed or carried on the vehicle:

(c) if the enforcement officer believes on reasonable grounds that a vehicle on a road causes an obstruction in the road or to a vehicle entrance to any property or that the removal of the vehicle is desirable in the interests of road safety or for the convenience or in the interests of the public,—

(i) enter, or authorise another person to enter, the vehicle for the purpose of moving it or preparing it for movement; and

(ii) move, or authorise another person to move, the vehicle to a place where it does not constitute a traffic hazard:

(d) direct the driver or person in charge of a vehicle on a road to remove the vehicle from the road or a specified part of a road, if the officer believes on reasonable grounds that it causes an obstruction in the road or to a vehicle entrance to any property or its removal is desirable in the interests of road safety or for the convenience or in the interests of the public:

(e) forbid an unlicensed driver to drive a motor vehicle:

(f) forbid a person who is operating a transport service without a licence to operate that transport service.

(3) An enforcement officer in uniform or wearing a distinctive cap, hat, or helmet, with a badge of authority affixed to it, who is for the time being engaged in the regulation of traffic on a road, may—

(a) direct a person using a vehicle or riding or driving an animal on the road to stop the vehicle or animal, as the case may be, or to cause it to proceed in or keep to a particular line of traffic or direction:

(b) direct a pedestrian not to proceed across the road in contravention of a direction to stop given by the enforcement officer (whether given to pedestrians or to pedestrians and other traffic).

(4) In paragraphs (c) and (d) of subsection (2), **road** includes any land vested in or under the control of the Crown or any local authority.

Compare: 1962 No 135 s 68B

Section 113(1)(a): amended, on 13 June 2013, by section 72 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 113(1)(a): amended, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Section 113(1)(a): amended, on 10 May 2011, by section 67 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 113(1)(a): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 113(1)(a): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 113(1)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 113(1)(a): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 113(1)(a): amended, on 13 November 2003, by section 90 of the Land Transport Management Act 2003 (2003 No 118).

Section 113(1)(a): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 113(2)(a): amended, on 1 December 2009, by section 29 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 113(2)(f): added, on 1 October 2007, by section 62 of the Land Transport Amendment Act 2005 (2005 No 77).

113A Power to inspect records

(1) For the purpose of ascertaining whether this Act has been or is being complied with by any person to whom this Act applies, any enforcement officer in uniform or in possession of a warrant or other evidence of his or her authority as an enforcement officer may require that person to produce without delay for inspection all relevant books or records in that person's possession or over which that person has control, including (but not limited to) records kept under section 65 of the Road User Charges Act 2012, logbooks, records associated with logbooks, financial records relating to expenditure on fuel, invoices, vehicle maintenance records, depreciation records for vehicles, time and wage records, and waybills.

(2) The enforcement officer may take extracts from or make copies of any books or records so produced.

Compare: 1989 No 74 s 63A

Section 113A: inserted, on 1 October 2007, by section 63 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 113A(1): amended, on 11 August 2017, by section 52 of the Land Transport Amendment Act 2017 (2017 No 34).

114 Power to require driver to stop and give name and address, etc

(1) An enforcement officer who is in uniform, or wearing a distinctive cap, hat, or helmet, with a badge of authority affixed to it, may signal or request the driver of a vehicle to stop the vehicle as soon as is practicable.

(2) An enforcement officer in a vehicle following another vehicle may, by displaying flashing blue, or blue and red, lights or sounding a siren, require the driver of the other vehicle to stop.

(2A) Subject to subsections (4) and (5), the driver of a vehicle that is stopped by an enforcement officer under this Act must remain stopped for as long as is reasonably necessary for the enforcement officer to complete the exercise of any powers conferred, or duties imposed, on an enforcement officer by this Act.

(3) An enforcement officer may require the driver of a vehicle that is stopped under this Act to—

(a) remain stopped for as long as is reasonably necessary for an enforcement officer to obtain the particulars referred to in paragraph (b), or to complete the exercise of any other power conferred on an enforcement officer by this Act; and

(b) on demand by an enforcement officer,—

(i) give his or her full name, full address, date of birth, occupation, and telephone number, or such of those particulars as the enforcement officer may specify; and

(ii) state whether or not he or she is the owner of the vehicle; and

(iii) if the driver is not the owner of the vehicle, give the name and address of the owner or such particulars within the driver's knowledge as may lead to the identification of the owner.

(4) The driver of a vehicle that is stopped under subsection (2) is not obliged to remain stopped if the vehicle with flashing lights and siren does not itself stop in the near vicinity of the place where the driver has stopped.

(5) An enforcement officer may require a driver to remain stopped on a road for as long as is reasonably necessary to enable the officer to establish the identity of the driver, but not for longer than 15 minutes if the requirement to remain stopped is made under this subsection only.

(6) An enforcement officer may arrest a person without warrant if the officer has good cause to suspect the person of having—

(a) failed to comply with this section or a signal or request or requirement under this section; or

(b) given false or misleading information under this section.

Compare: 1962 No 135 s 66

Section 114(2A): inserted, on 22 June 2005, by section 64 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 114(3)(b)(i): amended, on 1 December 2009, by section 30 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

115 Enforcement officers may give directions prohibiting driving of vehicles

(1) An enforcement officer who believes on reasonable grounds that a vehicle does not comply with the regulations or the rules or a particular requirement of the regulations or the rules, may—

(a) affix or cause to be affixed to the vehicle a notice in the form approved by the Minister by notice in the *Gazette* directing that the vehicle must not be driven on a road; and

(b) give the driver or owner of the vehicle a notice in a form approved by the Minister by notice in the *Gazette* directing that the vehicle must not be driven on a road.

(2) A notice given under subsection (1) continues in force until the vehicle—

(a) has been inspected by a person authorised by the Agency; and

(b) the person is satisfied that the vehicle has been made to comply with the regulations and the rules or with the particular requirement of the regulations or the rules; and

(c) new evidence of vehicle inspection has been issued for the vehicle by a person authorised by the Agency and is displayed on that vehicle.

(2A) Despite subsection (2), the enforcement officer may specify that the notice in subsection (1) continues in force until—

(a) the vehicle has been made to comply with the regulations and the rules or with the particular requirement of the regulations or the rules; and

(b) the enforcement officer has been notified in writing that the vehicle complies with the regulations and the rules or with the particular requirement of the regulations or the rules.

(3) An enforcement officer who believes on reasonable grounds that a vehicle on a road is not in a safe condition to be driven on the road, may—

(a) affix or cause to be affixed to the vehicle a notice to that effect in a form approved by the Minister by notice in the *Gazette*; and

(b) give the driver or owner of the vehicle a notice in a form approved by the Agency by notice in the *Gazette* stating that the vehicle must be removed from the road and may not be driven on a road until—

(i) it has been inspected by a person authorised by the Agency; and

(ii) the person is satisfied that the vehicle is in a safe condition for driving on the road; and

(iii) new evidence of vehicle inspection has been issued for the vehicle by a person authorised by the Agency and is displayed on that vehicle.

(3A) When issuing a notice under subsection (3), an enforcement officer may direct the driver or owner of the vehicle to comply with any applicable requirements with respect to the noise emitted by the vehicle's exhaust system if the enforcement officer believes on reasonable grounds that the vehicle does not comply with those requirements.

(3B) If a vehicle is subject to a direction under subsection (1) or (3) on the grounds that the vehicle's exhaust system exceeds any prescribed noise or decibel limits, the vehicle's exhaust system must, before new evidence of vehicle inspection may be issued, be certified as complying with the relevant limits in accordance with any prescribed testing and certification procedure.

(4) A notice under subsection (1) may include a condition to the effect that the vehicle may continue to be driven to reach a specified place for repair or may continue to be driven for a given time or under limitations as to speed or route or otherwise.

(5) A notice under subsection (3) may include a condition to the effect that the vehicle may continue to be driven to reach a specified place for repair.

(6) A notice given by the Minister in the *Gazette* for any purpose specified in this section, and a corresponding notice given under any former enactment and continued in force by this Act, may be amended from time to time, or revoked, by the Minister in the same manner.

Compare: 1962 No 135 s 68B(2A)

Section 115(1): substituted, on 16 January 2006, by section 65 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 115(1)(a): amended, on 7 August 2011, by section 68(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 115(1)(b): amended, on 7 August 2011, by section 68(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 115(2): substituted, on 16 January 2006, by section 65 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 115(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 115(2)(c): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 115(2A): inserted, on 16 January 2006, by section 65 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 115(3)(a): amended, on 7 August 2011, by section 68(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 115(3)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 115(3)(b)(i): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 115(3)(b)(iii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 115(3A): inserted, on 1 December 2009, by section 31 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 115(3B): inserted, on 1 December 2009, by section 31 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 115(6): amended, on 7 August 2011, by section 68(4) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

116 Enforcement of directions

(1) An enforcement officer may arrest without warrant a person whom the officer has good cause to suspect has failed to comply with a direction given under section 98E, 113, or 115.

(2) A person charged with an offence of contravening a prohibition imposed under section 115(3) does not commit an offence unless the court is satisfied that the enforcement officer had reasonable grounds for believing that in all the circumstances the prohibition was necessary in the interests of the safety of the driver or person in charge of the vehicle or of any other person or of the public.

Compare: 1962 No 135 s 68B(1C)

Section 116(1): amended, on 2 January 2020, by section 5 of the Land Transport (Wheel Clamping) Amendment Act 2019 (2019 No 70).

117 Moved vehicle not to be damaged and to be returned to person entitled to possession

(1) A person who is authorised by an enforcement officer to—

(a) enter a vehicle for the purpose of moving it or preparing it for movement; or

(b) move a vehicle to a place where it does not constitute a traffic hazard; or

(c) impound a vehicle—

may do so, but must do everything reasonably necessary to ensure that the vehicle and personal property in or on the vehicle are not damaged.

(2) A person who—

(a) has possession of a vehicle as a result of its being moved under section 113(2)(c); and

(b) when requested at a reasonable time to do so by a person who produces satisfactory evidence to the effect that he or she was lawfully entitled to possession of the vehicle immediately before it was moved,—

must release the vehicle to that person immediately.

Compare: 1962 No 135 s 68B(5)

118 Requirement to give information as to identity of driver or passenger

(1) If an enforcement officer has reasonable cause to believe that the driver of a vehicle has committed an offence while in charge of the vehicle, the officer

may request the owner or hirer of the vehicle to give all information in his or her possession or obtainable by him or her which may lead to the identification and apprehension of the driver of the vehicle.

(2) If an enforcement officer has reasonable cause to believe that a passenger of a vehicle has committed an offence in or through the use of the vehicle where that use relates to the commission of the offence or the aiding of the commission of the offence or the assisting of that passenger to avoid arrest in connection with or conviction for that offence, the officer may request the owner or hirer of the vehicle to give all information which may lead to the identification and apprehension of the passenger.

(3) A request under subsection (1) or subsection (2) or subsection (6) may be made orally or in writing and the owner or hirer or licence holder (as the case may be) must comply with the request within 14 days.

(4) If a vehicle failed to stop or remain stopped in contravention of section 114, an enforcement officer may request the owner or hirer of the vehicle to give all information in his or her possession or obtainable by him or her which may lead to the identification and apprehension of the driver, and the owner or hirer must give the officer that information immediately.

(5) Subsection (4) does not apply if the owner or hirer has been arrested or detained in relation to the suspected offence.

(6) If the holder of a transport service licence employs any person to drive a vehicle under that licence, the licence holder, on being informed of any offence alleged to have been committed by that person or by a person driving a vehicle being used under the licence, and on being requested to do so by an enforcement officer, must supply in writing the full name and address of the driver.

Compare: 1962 No 135 s 67; 1989 No 74 s 32(1)

Section 118 heading: replaced, on 11 August 2017, by section 44(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 118(3): amended, on 1 October 2007, by section 66(2)(a) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 118(3): amended, on 1 October 2007, by section 66(2)(b) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 118(4): amended, on 11 August 2017, by section 44(2)(a) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 118(4): amended, on 11 August 2017, by section 44(2)(b) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 118(5): amended, on 11 August 2017, by section 44(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 118(6): added, on 1 October 2007, by section 66(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 118 compare note: substituted, on 1 October 2007, by section 66(4) of the Land Transport Amendment Act 2005 (2005 No 77).

Powers of entry, arrest, immobilisation, and impoundment

119 Powers of entry

(1) An enforcement officer may exercise the powers conferred by subsection (2) if the enforcement officer—

(a) has good cause to suspect that a person—

(i) has contravened a request or requirement or demand made under section 114 (other than subsection (1)); and

(ii) has also committed or is committing an offence against section 35(1)(a) or section 35(1)(b) (which relate to reckless or dangerous driving offences), or is, or has recently been, driving under the influence of drink or a drug, or both; and

(b) is freshly pursuing that person.

(2) The enforcement officer may, without warrant, in the course of the pursuit enter, by force if necessary, any premises which the person has entered, for either or both of the following purposes:

(a) determining whether or not a power conferred on an enforcement officer by section 68 or section 69 should be exercised in respect of that person:

(b) exercising or completing the exercise of any such power in respect of that person (as if the person were in a motor vehicle on a road).

(2A) The provisions of Part 4 of the Search and Surveillance Act 2012 (except subpart 3) apply in respect of the power in subsection (2).

(3) An enforcement officer may, without warrant, enter, by force if necessary, a building or place where a vehicle to which section 96, 96A, or 123 applies is being stored or kept, and seize and impound the vehicle,—

(a) if—

(i) an enforcement officer has been freshly pursuing the vehicle; or

(ii) it is likely that a person was about to remove, conceal, destroy, or dispose of the vehicle; or

(iii) an enforcement officer believes on reasonable grounds that the vehicle was about to be used in the commission of an imprisonable offence (within the meaning of section 5 of the Criminal Procedure Act 2011); and

(b) if, because of the time of the day or the locality, it was impracticable to obtain a warrant without creating an opportunity for the person to do anything referred to in paragraph (a)(ii) or (iii).

(4) For the purposes of seizing and impounding a vehicle under section 96 or section 96A or section 123 in any case where subsection (3) does not apply, an enforcement officer may enter a building or place where a vehicle to which that

section applies is being stored or kept only with the consent of the occupier or under a warrant issued under subsection (5).

(5) An enforcement officer may apply, in the manner provided for an application for a search warrant in subpart 3 of Part 4 of the Search and Surveillance Act 2012, to an issuing officer (within the meaning of section 3 of that Act), for a warrant to enter a place referred to in subsection (4) and, if satisfied that there is reasonable ground for believing that a vehicle to which section 96 or section 96A or section 123 applies is being stored or kept in the building or place, the issuing officer may issue a warrant authorising an enforcement officer to enter, by force if necessary, any part of the building or place, and seize and impound the vehicle.

(6) The provisions of Part 4 of the Search and Surveillance Act 2012 apply in respect of the powers in subsections (3) and (5) (except for subpart 3 of that Part in relation to subsection (3)).

(7) An enforcement officer who enters any premises under this section may not exercise on those premises any power of arrest conferred by this Act other than a power of arrest conferred by any of sections 68(3), 69(6), and 120.

Compare: 1962 No 135 s 66A

Section 119(2A): inserted, on 1 October 2012, by section 268(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 119(3): replaced, on 1 October 2012, by section 268(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 119(3)(a)(iii): amended, on 17 December 2016, by section 61(1) of the Statutes Amendment Act 2016 (2016 No 104).

Section 119(4): amended, on 1 October 2007, by section 67(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 119(5): amended, on 17 December 2016, by section 61(2) of the Statutes Amendment Act 2016 (2016 No 104).

Section 119(5): amended, on 1 October 2012, by section 268(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 119(5): amended, on 1 October 2007, by section 67(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 119(6): replaced, on 1 October 2012, by section 268(5) of the Search and Surveillance Act 2012 (2012 No 24).

120 Arrest of persons for alcohol or drug-related offences, or assault on enforcement officer

(1) An enforcement officer may arrest a person without warrant if the officer has good cause to suspect that the person—

(a) has committed an offence against any of sections 58 to 62; or

(b) has assaulted that or any other enforcement officer while the officer was acting in the course of the officer's official duties.

(1A) An enforcement officer may arrest a person without warrant if the person does not complete a compulsory impairment test in a manner satisfactory to an

enforcement officer, who is trained to give the test, when required to do so by an enforcement officer under section 71A.

(2) A person assisting an enforcement officer may arrest without warrant a person referred to in subsection (1)(b).

(3) A person other than a constable who exercises any power of arrest conferred by this section must, as soon as practicable, deliver the arrested person into the custody of a constable.

(4) The obligation in subsection (3) does not apply until the completion of the exercise of any powers that may be exercised under this Act in respect of the arrested person or any vehicle driven by that person.

(5) The powers conferred by this section are in addition to any other powers of arrest under this Act.

Compare: 1962 No 135 ss 62, 62A, 62B

Section 120(1A): inserted, on 1 November 2009, by section 22 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 120(3): amended, on 1 October 2008, pursuant to section 116(a)(vii) of the Policing Act 2008 (2008 No 72).

121 Enforcement officer may immobilise vehicle, etc, in specified circumstances

(1) An enforcement officer may exercise all or any of the powers conferred by subsection (2) if he or she believes on reasonable grounds that—

(a) either—

(i) a person who is for the time being in charge of a motor vehicle,—

(A) because of his or her physical or mental condition (however arising), is incapable of having proper control of the vehicle; or

(B) has not completed a compulsory impairment test in a manner satisfactory to an enforcement officer, who is trained to give the test, when required to do so by an enforcement officer under section 71A; or

(C) has failed or refused to undergo a compulsory impairment test when required to do so under section 71A; or

(ii) the requirements of any enactment concerning work time or rest time are not being complied with; and

(b) in all the circumstances, the direction or prohibition or action is necessary in the interests of that person or of any other person or of the public.

(2) The enforcement officer may—

(a) forbid that person to drive a motor vehicle for such period as the enforcement officer specifies:

(b) direct the person to drive the vehicle to a specified place where the driver may obtain rest, or where the load on the vehicle or other conditions make it appropriate that the driver should drive to that place:

(c) take possession of all ignition or other keys of the vehicle, and for that purpose require that person to deliver up immediately all such keys:

(d) take such steps as may be necessary to render the vehicle immobile or to remove it to a place where it does not constitute a traffic hazard.

(3) The period for which an enforcement officer forbids a person to drive under subsection (2)(a) must, where the person has undergone an evidential breath test and it appears to the enforcement officer that the test is positive, be a period of 12 hours, unless the enforcement officer is satisfied that there is good reason for imposing a shorter prohibition.

(4) An enforcement officer may arrest without warrant a person who fails to comply with a direction given under this section or does or attempts to do any act that is for the time being forbidden under this section.

Compare: 1962 No 135 s 63

Section 121 heading: amended, on 10 May 2011, by section 70 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 121(1)(a)(i): replaced, on 11 August 2017, by section 93 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 121(1)(a)(ii): amended, on 1 October 2007, by section 68 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 121(3): amended, on 1 December 2014, by section 14 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

121A Enforcement officer may give directions or immobilise vehicle if driver breaches certain licence conditions

(1) An enforcement officer may exercise all or any of the powers conferred by subsection (2) if the enforcement officer believes on reasonable grounds that a person who is for the time being in charge of a motor vehicle has, in relation to a prescribed class of motor vehicle, breached any condition of a class 1 or class 6 learner licence or a restricted licence held by that person.

(2) The enforcement officer may—

(a) forbid the person to drive a motor vehicle until that person is able to comply with the conditions of that person's learner licence or restricted licence:

(b) direct the person to drive to a specified place (for example, the person's home):

(c) take possession of all ignition or other keys of the vehicle, and for that purpose require the person to deliver up immediately all such keys:

(d) take any steps that may be necessary to make the motor vehicle immobile or to move the motor vehicle to a place where it does not constitute a traffic hazard.

(3) An enforcement officer may arrest without warrant a person who fails to comply with a power exercised under subsection (2).

(4) The power to take possession under subsection (2)(c) or to immobilise or move under subsection (2)(d) continues until—

(a) the driver is able to drive the vehicle without breaching the conditions of that driver's licence; or

(b) another person is able to drive the vehicle without breaching—

(i) that person's licence:

(ii) any enactment.

Section 121A: inserted, on 1 December 2009, by section 32 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

122 Enforcement officer may seize and impound vehicle for up to 12 hours in emergency

(1) If an enforcement officer believes on reasonable grounds that it is in the interests of public safety that a motor vehicle should be seized and impounded, and that it is unlikely that those interests could be secured by exercising powers conferred other than by this section, the officer may seize and impound, or authorise the impoundment of, the vehicle for such period (which may not exceed 12 hours) as is required to secure those interests.

(2) If an enforcement officer believes on reasonable grounds that it is in the interests of public safety for a vehicle to remain impounded under this section for a further period and that it is unlikely that those interests could be secured by exercising powers conferred other than by this section, the officer may extend by up to 12 hours the period for which the vehicle was impounded under subsection (1).

(3) Sections 96(4), 97, and 98 (which set out requirements and rights relating to the seizure and impoundment of vehicles) apply, with any necessary modifications, to the seizure and impoundment of a vehicle under this section as if the vehicle were being seized under section 96.

123 Enforcement officer may seize and impound vehicle for up to 7 days in relation to certain offences

(1) An enforcement officer may seize and impound a motor vehicle for such period (which may not exceed 7 days) as is necessary to preserve evidence (or to enable a scientific examination of evidence) or to establish the cause of a serious traffic accident, if the officer believes on reasonable grounds that—

(a) the vehicle has been involved in a serious traffic accident or a hit and run offence; or

(b) a driver has failed to stop (or remain stopped) as signalled, requested, or required under section 114.

(2) Section 96(4) and section 97 (other than subsections (2) to (4)) (which set out requirements and rights relating to the seizure and impoundment of vehicles) apply, with any necessary modifications, to the seizure and impoundment of a vehicle under this section as if the vehicle were being seized under section 96.

(3) A constable who is of or above the level of position of inspector may from time to time, after giving notice in writing to the person registered under Part 17 in respect of the vehicle, apply to a District Court Judge for an order extending the period for which a vehicle has been impounded under this section; and a District Court Judge may order that the vehicle be impounded for a further period not exceeding 7 days as the Judge thinks fit and may from time to time renew any extension ordered under this subsection.

(4) For the purposes of this section,—

hit and run offence means an offence against this Act or the Crimes Act 1961 involving an event in which a person is struck by a motor vehicle and injured or killed as a result, where the driver fails to comply with his or her duties under section 22

serious traffic accident means an accident involving a vehicle that results in an injury to or the death of a person.

Section 123 heading: amended, on 11 August 2017, by section 45(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 123(1)(b): replaced, on 11 August 2017, by section 45(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 123(3): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 123(3): amended, on 1 October 2008, pursuant to section 116(b) of the Policing Act 2008 (2008 No 72).

Enforcement powers for offences involving certain vehicles

124 Inspection of vehicles required to have evidence of vehicle inspection and certificate of loading

An enforcement officer may, at a reasonable time, exercise all or any of the following powers in respect of a vehicle that is required under this Act to have current evidence of vehicle inspection and a certificate of loading:

(a) require the owner or person for the time being in charge of the vehicle to produce current evidence of vehicle inspection and a current certificate of loading for that vehicle:

(b) stop, enter, and inspect any such vehicle while it is in use on a road:

(c) make a reasonable running test of the vehicle at the expense of the owner:

(d) require the owner or person for the time being in charge of the vehicle to provide reasonable assistance in the conduct of any such inspection or running test.

Compare: 1962 No 135 s 80

125 Stopping, inspection, and weighing of heavy vehicles and certain transport service vehicles

(1) An enforcement officer may at any time exercise all or any of the following powers in respect of a heavy motor vehicle or transport service vehicle (other than a light rental service vehicle) on a road:

(a) inspect the load on the vehicle:

(b) measure, or require to be measured, the weight of the vehicle or the weight on any of its axles:

(c) direct the driver or person in charge of the vehicle to drive the vehicle to a site and on to a weighing device specified by the enforcement officer for the purpose of enforcing the provisions of this Act or the Road User Charges Act 2012 or any other enactment, even though the driver may not otherwise be permitted to drive the vehicle to that site.

(2) The power conferred by subsection (1)(c) is also exercisable in respect of a vehicle an enforcement officer believes to be a heavy motor vehicle or transport service vehicle (other than a light rental service vehicle).

(3) Except where the driver has failed to stop when directed under subsection (4), nothing in subsection (1) authorises an enforcement officer to direct the driver or person in charge, in order to drive the vehicle to a site or weighing device, to travel a distance that would increase the total length of the journey by—

(a) more than 5 km; or

(b) more than 10 km, if the site where the vehicle has been brought to a stop is unsuitable for weighing the vehicle because—

(i) doing so may pose a safety risk to other road users or to the enforcement officer; or

(ii) the site is not level enough for accurate weighing.

(4) The driver of a heavy motor vehicle or goods service vehicle must, whenever directed by a sign specifying that that particular vehicle or vehicles of that vehicle's class must stop or by an enforcement officer, stop the vehicle and keep it stopped so that an enforcement officer may determine whether or not to take any action under subsection (1) or to complete the exercise of any other power conferred on an enforcement officer by this Act.

Section 125(1)(c): amended, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Section 125(3)(b): replaced, on 11 August 2017, by section 53(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 125(4): amended, on 11 August 2017, by section 53(2) of the Land Transport Amendment Act 2017 (2017 No 34).

126 Off-loading of overloaded vehicle

(1) An enforcement officer must direct the driver of a heavy motor vehicle or transport service vehicle on a road to keep the vehicle stopped or remove it to a place of safety approved by the officer and remain stopped there, if—

(a) the mass of a heavy motor vehicle or transport service vehicle on a road is measured by, or at the direction of, an enforcement officer; and

(b) the gross mass of the vehicle, or the mass on a wheel, axle, or group of axles of the motor vehicle, exceeds by at least 10% or by 2 000 kg (whichever is the lesser)—

(i) a prescribed mass restriction applicable to that motor vehicle; or

(ii) a mass or loading restriction specified in the vehicle's certificate of loading.

(2) The vehicle must remain at the place to which it is directed under subsection (1) until either—

(a) part of the load is removed or the load rearranged so as to reduce the gross mass and the mass on every wheel, every axle, and every group of axles of the motor vehicle to not more than—

(i) the maximum prescribed mass applicable to that motor vehicle; and

(ii) a mass or loading restriction specified in the vehicle's certificate of loading; or

(b) a permit in writing is issued under this Act to permit the motor vehicle to proceed along a road with its load.

(3) If a motor vehicle stopped under subsection (1) is a passenger service vehicle, and a suitable alternative vehicle is available within a reasonable time, the passengers must be transferred to that alternative vehicle; but, if a suitable alternative vehicle is not available within a reasonable time, the passenger service vehicle must be permitted to proceed at a low speed, under the escort of an enforcement officer, to a safe location that is suitable for handling the passengers and has adequate communications facilities.

(4) If—

(a) the mass of a heavy motor vehicle approaching a bridge for which a mass restriction has been prescribed is measured by or at the direction of an enforcement officer; and

(b) the gross mass of the motor vehicle, or the mass on any wheel, axle, or group of axles of the motor vehicle, exceeds by at least 10% or by 2 000 kg (whichever is the lesser) any mass restriction for that bridge,—

the enforcement officer must, by direction given to the driver or person in charge of the motor vehicle, direct that the motor vehicle may not be driven on to the bridge until the load or part of the load is removed so as to reduce the gross mass and the mass on every wheel, every axle, and every group of axles to not more than the maximum prescribed for that bridge, or until a permit in writing has been issued under this Act permitting that motor vehicle to proceed on to that bridge with its load.

(5) Subsection (4) overrides subsection (3).

Compare: 1962 No 135 s 69A(2), (2AA), (2A)

Section 126 heading: amended, on 11 August 2017, by section 54(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 126(1)(a): amended, on 11 August 2017, by section 54(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 126(1)(b): amended, on 11 August 2017, by section 54(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 126(1)(b): amended, on 11 August 2017, by section 54(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 126(1)(b)(i): amended, on 11 August 2017, by section 54(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 126(1)(b)(ii): amended, on 11 August 2017, by section 54(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 126(2)(a): amended, on 11 August 2017, by section 54(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 126(2)(a)(i): amended, on 11 August 2017, by section 54(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 126(2)(a)(ii): amended, on 11 August 2017, by section 54(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 126(4)(a): amended, on 11 August 2017, by section 54(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 126(4)(b): amended, on 11 August 2017, by section 54(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 126(4)(b): amended, on 11 August 2017, by section 54(4) of the Land Transport Amendment Act 2017 (2017 No 34).

127 Protection against claims resulting from action under section 125 or section 126

(1) None of the following, namely,—

(a) the Crown; or

(b) any enforcement officer; or

(c) any employer of an enforcement officer who is not a constable,—

is liable for any loss or damage to a vehicle or its load arising directly or indirectly from the stopping of the vehicle or the removal of any part of its load under a direction given under section 125 or section 126.

(2) This section does not apply if the enforcement officer concerned acted without good faith or if his or her omission or neglect is a major departure from the standard of care expected of a reasonable person in the circumstances.

Compare: 1962 No 135 s 69A(5)

Section 127(1)(c): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

128 Enforcement officer to order heavy vehicle to stop until load secured

(1) An enforcement officer who has good cause to suspect that the load or part of the load on a heavy motor vehicle, or on a vehicle being towed by a heavy motor vehicle, on a road is not secured and contained in such a manner that it cannot fall or escape from the vehicle must direct the driver or person in charge of the vehicle, if necessary, that the vehicle be stopped.

(2) The enforcement officer must also direct that—

(a) the vehicle be kept stopped; or

(b) the vehicle be moved to a place of safety approved by the officer and be kept stopped at that place—

until the load or part of the load is secured and contained in such a manner that it cannot fall or escape from the vehicle, or is removed from the vehicle.

Compare: 1962 No 135 s 70A

128A Enforcement officer's powers in respect of non-complying small passenger service vehicles

An enforcement officer who is in uniform or who produces evidence of identity as an enforcement officer may direct the driver of any small passenger service vehicle that is not in compliance with any rule or regulation to cease making the vehicle available for hire and to remove the vehicle from any designated stand until such time as the vehicle is in compliance with the regulations or the rules.

Compare: 1989 No 74 s 37(2)

Section 128A: inserted, on 1 October 2007, by section 69 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 128A: amended, on 1 October 2017, by section 86 of the Land Transport Amendment Act 2017 (2017 No 34).

128B Enforcement officer's powers in respect of non-complying vehicle recovery service vehicles

Any enforcement officer who is in uniform or who produces evidence of identity as an enforcement officer may direct the driver of any vehicle recovery service vehicle that is not in compliance with any rule or regulation to cease making the vehicle available for towing or carrying until such time as the vehicle is in compliance with the rules or regulations.

Compare: 1989 No 74 s 38(2)

Section 128B: inserted, on 1 October 2007, by section 69 of the Land Transport Amendment Act 2005 (2005 No 77).

128C Enforcement officer's powers in respect of certain motor vehicles subject to service inspection and certification requirements

(1) This section applies if an enforcement officer has reasonable cause to suspect that a motor vehicle (other than a heavy motor vehicle) that is subject to a rule or regulation regarding in-service inspection and certification does not comply with that rule or regulation.

(2) If this section applies, an enforcement officer may direct the driver of that vehicle to—

(a) drive the vehicle to a specified place for vehicle inspection; and

(b) subject the vehicle to a vehicle inspection to determine whether it complies with any relevant enactment.

(3) Except where the driver has failed to stop when directed under subsection (4) or section 114, nothing in subsection (2) authorises an enforcement officer to direct a driver or person in charge to travel a distance exceeding 5 km from the place where the direction is given to a specified place for vehicle inspection.

(4) The driver of a motor vehicle must, whenever directed by an enforcement officer, stop the vehicle and keep it stopped so that an enforcement officer may determine whether or not to—

(a) take any action under subsection (2); or

(b) complete the exercise of any other power conferred on an enforcement officer by this Act.

Section 128C: inserted, on 1 December 2009, by section 33 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

128D Appointment of parking wardens

(1) A local authority may appoint a person to hold the office of parking warden.

(2) A person who holds the office of parking warden at the commencement of this section is to be treated as having been appointed under subsection (1).

(3) A parking warden may perform the functions and duties, and exercise the powers, of a parking warden that are conferred or imposed by or under this or any other Act only on a road within the district or region of the local authority that appointed the parking warden.

(4) A local authority that appoints a person under subsection (1) is liable for the actions of that person as a parking warden in all respects as if—

(a) that person were an officer or employee of the local authority (whether or not that is the case); and

(b) any directions given or control exercised by any other person over the parking warden in that capacity were directions given or control exercised by the local authority.

Section 128D: inserted, on 10 May 2011, by section 71 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

128E Powers of parking wardens

(1) A parking warden in uniform or in possession of a warrant or other evidence of authority as a parking warden—

(a) may enforce the provisions of any stationary vehicle offence or special vehicle lane offence:

(b) may, in relation to enforcing the provisions of any stationary vehicle offence or special vehicle lane offence, direct any person on any road, and apparently in charge of or in any vehicle, to—

(i) provide the person's full name and full address and give any other identifying particulars required as to the person's identity (for example, the person's date of birth, occupation, and telephone number):

(ii) give any information that is within the person's knowledge and that may lead to the identification of the driver or person in charge of any vehicle (for example, the other person's full name, full address, date of birth, occupation, and telephone number):

(c) may direct the driver or person in charge of any vehicle on any road to remove the vehicle from the road or any specified part of any road, if the parking warden believes on reasonable grounds that—

(i) the vehicle causes an obstruction in the road or to any vehicle entrance to any property; or

(ii) the removal of the vehicle is desirable in the interests of road safety or for the convenience or in the interests of the public:

(d) may, if the parking warden believes on reasonable grounds that a vehicle on a road causes an obstruction in the road or to any vehicle entrance to any property or that the removal of the vehicle is desirable in the interests of road safety or for the convenience or in the interests of the public,—

(i) enter, or authorise another person to enter, the vehicle for the purpose of moving it or preparing it for movement; and

(ii) move, or authorise another person to move, the vehicle to any place where it does not constitute a traffic hazard.

(2) Every person commits an offence and is liable on conviction to a fine not exceeding $1,000 who—

(a) fails to comply with any direction given under subsection (1)(b); or

(b) gives, in response to a direction given under subsection (1)(b), any information that the person knows to be false.

(3) Every person to whom any direction is given under the authority of subsection (1) must comply with the direction, and no person may do any act that is for the time being forbidden by any direction given under the authority of subsection (1).

(4) A person who is authorised by a parking warden to enter a vehicle for the purpose of moving it or preparing it for movement or to move a vehicle to a place where it does not constitute a traffic hazard may do so, but must do everything reasonably necessary to ensure that the vehicle is not damaged while doing so.

(5) Every person commits an offence and is liable on conviction for a fine not exceeding $1,000 if the person—

(a) has possession of a vehicle as a result of its being moved under subsection (1)(d); and

(b) fails to deliver possession of the vehicle, as soon as practicable, to a person who produces satisfactory evidence, at any reasonable time, to the effect that the person was lawfully entitled to possession of the vehicle immediately before it was moved.

Section 128E: inserted, on 10 May 2011, by section 71 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 128E(1)(b): replaced, on 1 August 2012, by section 12 of the Land Transport Amendment Act 2011 (2011 No 31).

Section 128E(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 128E(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

128F Powers of enforcement officers in relation to public transport service fares

(1) An enforcement officer may direct a person to provide evidence that the person has paid a public transport service fare that the person is liable to pay.

(2) If a person fails to provide evidence of payment after a direction is given under subsection (1), the enforcement officer may—

(a) direct the person to provide the person's full name, full address, telephone number, and date of birth; and

(b) direct the person not to board, or direct the person to disembark, the public transport service concerned.

Section 128F: inserted, on 11 August 2017, by section 38 of the Land Transport Amendment Act 2017 (2017 No 34).

Dangerous goods

129 Vehicles may be inspected and directed to remain stopped for contravening dangerous goods rules

(1) An enforcement officer or dangerous goods enforcement officer who has good cause to suspect a breach of rules relating to the carriage of dangerous goods involving a vehicle—

(a) may direct the driver or person in charge of the vehicle to stop the vehicle or that the vehicle remain stopped; and

(b) for the purposes of this subsection, has the powers conferred by section 132.

(2) An enforcement officer or dangerous goods enforcement officer may also direct that—

(a) the vehicle be kept stopped; or

(b) the vehicle be moved to a place of safety approved by the officer and remain stopped at that place—

until the officer is satisfied that the breach has been rectified.

(2A) An enforcement officer or a dangerous goods enforcement officer may give such reasonable directions as are necessary in relation to the loading or unloading of the vehicle or the packing or unpacking of any thing to ensure compliance with the rules or otherwise to ensure safety in relation to the transportation of dangerous goods.

(2B) Every enforcement officer or dangerous goods enforcement officer exercising any of the powers conferred under this section must, at the time of exercising that power, and thereafter on request, produce—

(a) evidence of that person's appointment as an officer; and

(b) evidence of that person's identity.

(2C) An enforcement officer or a dangerous goods enforcement officer may, if authorised (either generally or specifically) in writing for the purpose by the Agency or the Commissioner, take a person or an animal to assist the officer with an inspection, and a person assisting the officer has the powers conferred on an officer by this section.

(3) Nothing in this section limits or affects the privilege against self incrimination.

Compare: 1962 No 135 s 70I

Section 129(1): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 129(2A): inserted, on 11 August 2017, by section 94 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 129(2B): inserted, on 11 August 2017, by section 94 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 129(2C): inserted, on 11 August 2017, by section 94 of the Land Transport Amendment Act 2017 (2017 No 34).

130 Power to inspect railway lines

(1) A dangerous goods enforcement officer—

(a) may at any reasonable time go on, into, under, and over any premises for the purpose of inspection to determine whether or not the requirements of the rules relating to dangerous goods are being complied with in relation to a rail vehicle or a railway line; and

(b) for the purposes of this section, has the powers conferred by section 132.

(2) If a dangerous goods enforcement officer has good cause to suspect that, in respect of a rail vehicle or the driver of a rail vehicle, there has been a breach of the rules, the enforcement officer may, by direction given to the driver or person in charge of the vehicle, direct that—

(a) the vehicle not be moved; or

(b) the vehicle be moved to a place of safety approved by the enforcement officer in consultation with the rail operator and kept stopped at that place—

until the enforcement officer is satisfied that the breach has been rectified.

(3) Nothing in subsection (2) authorises a dangerous goods enforcement officer to—

(a) stop a rail vehicle in motion; or

(b) direct that a vehicle not be moved if it would be unsafe or unnecessarily disruptive for the vehicle to remain in that place.

(4) Every dangerous goods enforcement officer exercising any of the powers conferred under this section must, at the time of exercising that power, and subsequently on request, produce—

(a) evidence of that person's appointment as an enforcement officer; and

(b) evidence of that person's identity.

(5) A dangerous goods enforcement officer may, if authorised (either generally or specifically) in writing for the purpose by the Agency or the Commissioner, take a person or animal onto the premises to assist the officer with an inspection, and a person assisting the officer has the powers conferred on a dangerous goods enforcement officer by this section.

(6) Nothing in this section limits or affects the privilege against self incrimination.

Compare: 1962 No 135 s 70IA

Section 130 heading: amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 130(1)(a): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 130(2): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 130(2)(b): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 130(3)(a): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 130(5): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

131 Power to inspect premises used for loading and unloading of dangerous goods

(1) A dangerous goods enforcement officer—

(a) may, at any reasonable time, go into, under, and over—

(i) any premises on or at or in which the operator of a transport service vehicle loads or unloads the vehicle or a rail operator loads or unloads a rail vehicle; or

(ii) any premises on or at or in which goods are loaded onto or unloaded from a transport service vehicle or a rail vehicle, or are packed with a view to being loaded onto a transport service vehicle or a rail vehicle, by a person other than the operator of the vehicle, if the dangerous goods enforcement officer has reason to believe that any of those goods may be dangerous goods—

for the purpose of inspection to ensure that all persons involved in the transport of dangerous goods comply with the requirements of the rules and otherwise to ensure the safe transportation of dangerous goods; and

(b) for the purposes of this section, has the powers conferred by section 132.

(2) A dangerous goods enforcement officer may give such reasonable directions as are necessary in relation to the loading or unloading of a vehicle or rail vehicle or the packing or unpacking of any thing to ensure compliance with the rules or otherwise to ensure safety in relation to the transportation of dangerous goods.

(3) Every dangerous goods enforcement officer exercising any of the powers conferred under this section must, at the time of exercising that power, and thereafter on request, produce—

(a) evidence of that person's appointment as an enforcement officer; and

(b) evidence of that person's identity.

(4) A dangerous goods enforcement officer may, if authorised (either generally or specifically) in writing for the purpose by the Agency or the Commissioner, take a person or animal onto the premises to assist the officer with an inspection, and a person assisting the officer has the powers conferred on a dangerous goods enforcement officer by this section.

(5) Nothing in this section limits or affects the privilege against self incrimination.

Compare: 1962 No 135 s 70IB

Section 131(1)(a)(i): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 131(1)(a)(ii): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 131(2): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 131(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

132 Inspection powers concerning dangerous goods

For the purposes of sections 129(1), 130(1), and 131(1), any enforcement officer or dangerous goods enforcement officer, and any person assisting the officer under section 129(2C), 130(5), or 131(4), may—

(a) take samples of a substance; and

(b) open containers or packages (including secured or sealed containers or packages) to inspect the contents; and

(c) take measurements and sketches; and

(d) inspect any documents or other records relating to the obligations imposed by or under the rules; and

(e) require the production of any documents or information relevant to the purpose of the inspection; and

(f) take copies of the documents or information or extracts from those documents or information.

Compare: 1962 No 135 ss 70IA, 70IB

Section 132: amended, on 11 August 2017, by section 95 of the Land Transport Amendment Act 2017 (2017 No 34).

Part 10
Proceedings enforcing responsibilities

133 Owner liability for moving vehicle offences and special vehicle lane offences

(1) Proceedings for a moving vehicle offence or a special vehicle lane offence may be taken against any 1 or more of the following persons:

(a) the person who allegedly committed the offence:

(b) the person who, at the time of the alleged offence, was registered under Part 17 in respect of the vehicle involved in the offence (or, if the offence is alleged to have been committed before the commencement of section 242, a person who, at the time of the alleged offence, was registered as the owner, or one of the owners, of that vehicle in a register kept under section 18 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986):

(c) a person who, at the time of the alleged offence, was lawfully entitled to possession of the vehicle involved in the offence (whether jointly with any other person or not);—

whether or not (in the case of a person referred to in paragraph (b) or paragraph (c)) the person is an individual or was the driver or person in charge of the vehicle at the time the alleged offence was committed.

(2) In proceedings taken against a person under paragraph (b) or paragraph (c) of subsection (1), in the absence of proof to the contrary, it must be presumed that—

(a) the defendant was the driver or person in charge of the vehicle at the time of the alleged offence (whether or not the person is an individual); and

(b) the acts or omissions of the driver or person in charge of the vehicle at that time were the acts or omissions of the defendant.

(3) It is a defence to proceedings against a person for a moving vehicle offence or a special vehicle lane offence if another person has, by virtue of an order under the Criminal Procedure Act 2011 or the Summary Proceedings Act 1957, become liable to pay a fine or costs, or both, in respect of the offence.

(4) It is a defence to proceedings against a person under paragraph (b) or paragraph (c) of subsection (1) if,—

(a) at the time the alleged offence was committed,—

(i) the person was not lawfully entitled to possession of the vehicle (either jointly with any other person or severally); or

(ii) another person was driving the vehicle; and

(b) immediately after becoming aware of the alleged offence, the person advised the enforcement authority in writing that, at the time the offence was committed, he or she was not lawfully entitled to possession of the vehicle or another person was driving the vehicle (as the case may be); and

(c) the person has given the enforcement authority a statutory declaration—

(i) identifying the driver, by giving—

(A) the full name and full address of the driver; and

(B) any other identifying particulars, so far as they are within the person's knowledge, such as the driver's date of birth, occupation, telephone number; or

(ii) establishing that the person could not identify the driver, after taking all reasonable steps to do so.

(5) In proceedings for a moving vehicle offence or a special vehicle lane offence, a statutory declaration given under subsection (4) is, in the absence of proof to

the contrary, sufficient evidence of the matters stated in the declaration; and it is admissible for all purposes of any proceedings under this section.

Section 133 heading: amended, on 10 May 2011, by section 72(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 133(1): amended, on 10 May 2011, by section 72(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 133(1)(b): substituted, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 133(2): amended, on 10 May 2011, by section 72(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 133(2)(a): amended, on 10 May 2011, by section 72(4) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 133(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 133(3): amended, on 10 May 2011, by section 72(5) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 133(4)(c)(i): replaced, on 1 August 2012, by section 13 of the Land Transport Amendment Act 2011 (2011 No 31).

Section 133(5): amended, on 10 May 2011, by section 72(6) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

133A Owner liability for stationary vehicle offences

(1) Proceedings for a stationary vehicle offence may be taken against 1 or more of the following persons (whether or not, in the case of a person referred to in paragraph (b) or (c), the person is an individual or was the driver, person in charge, or user of the vehicle at the time the alleged offence was committed):

- (a) the person who allegedly committed the offence:
- (b) the person who, at the time of the alleged offence,—
  - (i) was registered as the owner, or one of the owners, of the vehicle involved in the offence in a register kept under section 18 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986; or
  - (ii) was the registered person in respect of the vehicle under Part 17 of this Act:
- (c) the person who, at the time of the alleged offence, was lawfully entitled to possession of the vehicle involved in the offence (whether or not jointly with any other person).

(2) Subject to subsection (4), in any proceedings taken against a person under subsection (1)(b) or (c), in the absence of proof to the contrary, it must be presumed that—

- (a) the person was the driver, person in charge, and user of the vehicle at the time of the alleged offence (whether or not the person is an individual); and

(b) the acts or omissions of the driver, person in charge, or user of the vehicle at that time were the acts or omissions of the first-mentioned person.

(3) It is a defence to proceedings taken against a person for a stationary vehicle offence if the person proves that another person has, by virtue of an order under the Criminal Procedure Act 2011 or the Summary Proceedings Act 1957, become liable to pay a fine or costs, or both, in respect of the offence.

(4) It is a defence to proceedings taken against a person under subsection (1)(b) or (c) if—

(a) the person proves that, at the time the alleged offence was committed,—

(i) he or she was not lawfully entitled to possession of the vehicle (either jointly with any other person or individually); or

(ii) another person was unlawfully in charge of the vehicle; and

(b) as soon as practicable after becoming aware of the alleged offence, he or she advised the enforcement authority in writing that, at the time the offence was committed, he or she was not lawfully entitled to possession of the vehicle or another person unlawfully had charge of the vehicle, as the case may be; and

(c) he or she has given the enforcement authority a statutory declaration that—

(i) identifies another person who was, at the time of the alleged offence, lawfully entitled to possession, or was unlawfully in charge, of the vehicle by providing—

(A) the full name and full address of the other person; and

(B) any other identifying particulars of the other person that are known to the person making the declaration (for example, the other person's date of birth, occupation, and telephone number); or

(ii) establishes that the person making the declaration was unable to identify the other person after taking all reasonable steps to do so.

(5) In the case of any stationary vehicle offence, any defence available under subsection (3) or (4) is in addition to and not in substitution for any defences available under the enactment creating the offence.

Compare: 1962 No 135 s 41A

Section 133A: inserted, on 10 May 2011, by section 73 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 133A(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 133A(4)(c): replaced, on 1 August 2012, by section 14 of the Land Transport Amendment Act 2011 (2011 No 31).

134 Strict liability for offences involving insecure loads and loads falling from vehicles

(1) In proceedings for an offence against section 42 (which relates to failing to secure a load),—

(a) it is not necessary for the prosecution to prove that the defendant knew or should have known that the load was not secured or contained in such a manner that it could not fall or escape from the vehicle:

(b) it is not necessary for the prosecution to allege or prove that a load did fall or escape from the vehicle:

(c) it is no defence that the defendant's conduct was not materially different from that of other operators of heavy motor vehicles:

(d) it is no defence that the defendant took some steps to ensure that the load was secured or contained unless the court is satisfied that those steps were such that no fault could be attributed to the defendant:

(e) it is no defence that the defendant believed that the weight or nature of the load was such that it was not necessary to secure or contain it.

(2) Despite subsection (1), it is a defence to any proceedings for an offence against section 42 if—

(a) the load was secured on or contained in the vehicle; and

(b) a failure to ensure that the securing or containing of the load was in such a manner that it could not fall or escape from the vehicle occurred without fault on the defendant's part.

(3) If the court is satisfied that a load has fallen or escaped from the vehicle or a vehicle being towed by the vehicle, it is to be presumed that the operator of the vehicle has not ensured that the load was secured or contained in such a manner that it could not fall or escape from the vehicle, unless the falling or escaping of the load occurred without fault on the defendant's part.

(4) In proceedings for an offence against section 42, the court must, in determining whether or not the operator of a vehicle has been at fault, have regard to any of the following provisions if the court considers the operator was or should have been aware of them:

(a) the provisions of any code of practice issued by the Agency (or any amendment or addition to any such code):

(b) the provisions of the rules.

Compare: 1962 No 135 s 70

Section 134(4)(a): amended, on 29 June 2009, by section 24 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 134(4)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Commencement of proceedings

135 Commencing proceedings, and jurisdiction, for offences

(1) *[Repealed]*

(1A) Proceedings for an offence against Part 6A or 6B must be commenced by the Agency or an enforcement officer.

(1B) In the absence of proof to the contrary, it is presumed that proceedings for an offence against Part 6A or 6B have been commenced by a person authorised to do so under subsection (1A).

(2) The District Court presided over by 2 or more Justices of the Peace or 1 or more Community Magistrates has jurisdiction in respect of any category 1 offence under Part 5 or Part 6, or under any regulations made under this Act (other than regulations relating to heavy motor vehicles).

Compare: 1962 No 135 s 194

Section 135 heading: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 135(1): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 135(1A): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 135(1B): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 135(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 135(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

136 Time for instituting proceedings

(1) In proceedings for a category 1 or 2 offence against this Act, the court may dismiss the charge if satisfied that the person charged has been prejudiced in the person's defence by any unreasonable delay in instituting the proceedings or in notifying the person of the time, place, and nature of the offence.

(2) If a delay in instituting the proceedings has been caused by a change in the address of the defendant, the delay is not an unreasonable delay for the purposes of this section.

(3) Section 25 of the Criminal Procedure Act 2011 does not apply to a prosecution for—

(a) an offence against—

(i) section 32 that involves driving while disqualified or contrary to the conditions of a licence, an alcohol interlock licence, a zero alcohol licence, or a limited licence; or

(ii) section 44 that involves giving information that the person knows to be false or misleading; or

(b) an offence against this Act concerning—

(i) work time under subpart 1 of Part 6B; or

(ii) logbooks under subpart 2 of Part 6B; or

(iia) the chain of responsibility under Part 6C; or

(iii) the issue of installation certificates and inspection certificates for alternative fuel systems.

Compare: 1962 No 135 s 195

Section 136(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 136(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 136(3)(a): substituted, on 10 May 2011, by section 74(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 136(3)(b): substituted, on 1 October 2007, by section 72 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 136(3)(b)(iia): inserted, on 10 May 2011, by section 74(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Certain matters not defences

137 Compliance with speed limit and certain other matters not to be defences

(1) It is no defence in any proceedings for an offence relating to the driving of a motor vehicle on a road, other than the offence of exceeding a speed limit, that at the time of the alleged offence the motor vehicle was being driven at a speed not exceeding the applicable speed limit.

(2) It is no defence to a charge of manslaughter that the guilty act or omission proved against the person charged is an offence against this Act.

Compare: 1962 No 135 s 54

Infringement offences

138 Infringement offences

(1) If a person is alleged to have committed an infringement offence, the person may either—

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) be served with an infringement notice as provided in section 139.

(2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if the enforcement authority commences proceedings for an infringement offence by filing a charging document under the Criminal Procedure Act 2011.

Section 138: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

139 Issue of infringement notice

(1) If an enforcement officer has reasonable cause to believe an infringement offence is being or has been committed by a person, an infringement notice in respect of that offence may be issued to that person by an enforcement officer.

(2) An infringement notice may be served—

(a) by attaching it, or a copy of it, to the vehicle to which the notice relates; or

(b) by delivering it, or a copy of it, personally to the person who appears to have committed the infringement offence; or

(ba) by delivering it, or a copy of it, personally to the person who appears to be in charge of the vehicle to which the notice relates; or

(c) by sending it, or a copy of it, by post addressed to the person who appears to have committed the infringement offence at the person's last known place of residence or business or postal address; or

(d) if the person is a holder of a land transport document, by serving it, or a copy of it, by post on that person at his or her last address for service provided for the purposes of that document.

(3) An infringement notice that—

(a) is attached to a vehicle under subsection (2)(a) or personally delivered under subsection (2)(ba) must be treated as having been served on every person liable in respect of the alleged offence when it is attached to the vehicle or personally delivered:

(b) is sent to a person by post under subsection (2)(c) or (d) must be treated as having been served on the person when it would have been delivered in the ordinary course of post.

(4) *[Repealed]*

(5) *[Repealed]*

(6) If a parking warden has reason to believe that the user of a vehicle has committed an infringement offence that may be enforced by a parking warden under section 128E,—

(a) the user of the vehicle may be proceeded against for the alleged offence under the Criminal Procedure Act 2011; or

(b) the parking warden may issue an infringement notice in respect of the alleged offence.

(7) For the purposes of any proceedings in respect of an infringement offence that is an offence against a bylaw made under section 9(1)(e) or (g) of the Airport Authorities Act 1966, **enforcement officer** includes officers appointed by an airport authority.

Compare: 1993 No 88 s 32

Section 139(2)(ba): inserted, on 11 August 2017, by section 96(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 139(2)(c): amended, on 11 August 2017, by section 96(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 139(3): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 139(3)(a): replaced, on 11 August 2017, by section 96(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 139(4): repealed, on 1 August 2012, by section 15 of the Land Transport Amendment Act 2011 (2011 No 31).

Section 139(5): repealed, on 1 August 2012, by section 15 of the Land Transport Amendment Act 2011 (2011 No 31).

Section 139(6): added, on 10 May 2011, by section 75 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 139(6)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 139(7): added, on 10 May 2011, by section 75 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

139A Towage fees if parking offences prosecuted

(1) The court must order the defendant to pay, in addition to any fine and any costs ordered by the court, the amount of the appropriate towage fee if, in proceedings in respect of a parking offence,—

(a) the defendant is found guilty of, or pleads guilty to, the offence; and

(b) the court is satisfied that expenses have been incurred by an enforcement authority in respect of the movement or proposed movement of the vehicle involved in the offence (whether or not the vehicle was in fact moved).

(2) If, in proceedings in respect of a parking offence (including proceedings commenced by the filing of a copy of a reminder notice under section 21(5) of the Summary Proceedings Act 1957 or the provision of particulars of a reminder notice under section 21 of that Act), the defendant is ordered to pay an amount in respect of a towage fee, the amount of the fee recovered must be paid to the enforcement authority that incurred the towage expenses.

Compare: 1962 No 135 s 43A

Section 139A: inserted, on 10 May 2011, by section 76 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

140 Contents of infringement and reminder notices

(1) An infringement notice must be in the form prescribed by regulations made under this Act and must contain—

(a) details of the alleged infringement offence that are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and

(b) in the case of a speeding offence, the applicable speed limit and the speed at which it is alleged the driver was travelling at the time of the alleged offence; and

(c) in the case of an infringement offence (other than a speeding offence) in respect of which a scale of infringement fees is prescribed having regard to the extent of the alleged offence, the extent of the infringement offence alleged; and

(d) the amount of the infringement fee specified in respect of that offence; and

(e) the address of the place at which the infringement fee may be paid; and

(f) the time within which the infringement fee may be paid; and

(g) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and

(h) in the case of an alleged infringement offence that is a moving vehicle offence, a summary of the provisions of section 133 of this Act; and

(ha) in the case of an alleged infringement offence that is a stationary vehicle offence, an outline of the process under section 133A for transferring liability in relation to the alleged offence; and

(i) a statement of the right of the person served with the notice to request a hearing; and

(j) a statement of the consequences if the person served with the notice does not pay the infringement fee and does not make a request for a hearing; and

(k) any other particulars as are prescribed.

(2) A reminder notice must—

(a) be in the form prescribed by regulations made under this Act; and

(b) include the same particulars, or substantially the same particulars, as the infringement notice; and

(c) in the case of an offence to which demerit points apply, include a statement that demerit points apply to the alleged offence; and

(d) in the case of an alleged infringement offence that is a stationary vehicle offence, include a summary of the provisions of section 133A.

(3) Different forms of infringement notices and reminder notices may be prescribed for different kinds of infringement offences.

Section 140: replaced, on 1 August 2012, by section 16 of the Land Transport Amendment Act 2011 (2011 No 31).

Section 140(1)(ha): inserted, on 11 August 2017, by section 97 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 140(2)(c): amended, on 26 March 2015, by section 7(1) of the Land Transport Amendment Act 2015 (2015 No 17).

Section 140(2)(d): inserted, on 26 March 2015, by section 7(2) of the Land Transport Amendment Act 2015 (2015 No 17).

141 Provisions relating to infringement fees

(1) The infringement fee payable in respect of an infringement offence is the appropriate infringement fee prescribed in respect of the relevant offence by or under this Act.

(2) If an infringement fee is paid to an enforcement authority other than the Police, the enforcement authority must give the Commissioner the particulars of the infringement and of the payment that the Commissioner requires.

(3) Subject to subsections (4) and (5), all infringement fees received under this Act by an enforcement authority or recovered under the Summary Proceedings Act 1957 must be paid into a Crown Bank Account, except that the enforcement authority may retain any portion of the fees so received that the Minister of Finance from time to time approves as being the expenses incidental to their collection.

(4) An enforcement authority that is the Agency or a local authority may retain the portion of the infringement fees received by it under this Act—

(a) that the Minister of Finance from time to time approves; and

(b) that is received in respect of an infringement offence in relation to the use of a special vehicle lane.

(5) An enforcement authority that is a road controlling authority may retain—

(a) all infringement fees that it receives in respect of offences that involve—

(i) parking in breach of a bylaw of the road controlling authority on any portion of a road where parking is for the time being governed by the location of parking meters placed pursuant to a bylaw of the road controlling authority; or

(ii) parking on any other portion of a road in breach of a bylaw of the road controlling authority that prohibits parking for a period in excess of the period fixed by the bylaw where the infringement notice in respect of the offence was issued by an officer or other person appointed by the road controlling authority; and

(b) all towage fees received by it; and

(c) the portion of all other infringement fees received by it that the Minister of Finance from time to time approves.

(6) The Commissioner must from time to time, out of money appropriated by Parliament for the purpose, pay to a road controlling authority the portions of the infringement fees (other than towage fees) that the Minister of Finance from time to time approves and that the Commissioner receives in respect of other offences that involve breaches of the road controlling authority's bylaws (not being offences that are also offences against an Act or a regulation).

(7) For the purposes of subsections (4) and (5), the Minister of Finance may approve the retention of different portions for road controlling authorities or enforcement authorities and different categories of infringement offences.

(8) For the purposes of this section, **road controlling authority** includes an airport authority.

Section 141: substituted, on 10 May 2011, by section 77 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Evidence

142 Evidence of driver history relating to infringement fees

(1) In proceedings against a person for an offence in connection with the driving of a motor vehicle, a certificate purporting to be signed by an employee of the Agency or a constable to the effect described in subsection (2) that has annexed to it a printout of the record referred to in that subsection is, in the absence of evidence to the contrary, sufficient evidence of the matters contained in the certificate.

(2) The certificate referred to in subsection (1) must be to the effect that the employee or constable—

(a) has checked the information stored in relation to driver history on such computer system as is for the time being maintained by the Police or the Agency or the Ministry of Justice for the purposes of storing law enforcement information; and

(b) either—

(i) has found a record to the effect that an infringement fee has been paid by that person in respect of an infringement offence; or

(ii) has found a record to the effect that a court has made an order in respect of an infringement offence or a minor offence.

Compare: 1962 No 135 s 42A(11)

Section 142(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 142(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 142(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 142(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 142(2)(a): amended, on 1 October 2003, pursuant to section 14(1) of the State Sector Amendment Act 2003 (2003 No 41).

143 Evidence of driver licence

(1) This section applies to offences alleged against paragraph (a) or paragraph (b) of section 31(1).

(2) In proceedings against a person for an offence to which this section applies, a certificate that meets the requirements of subsection (3) and purports to be signed by a constable or Police employee who is not a constable or an employee of the Agency is, in the absence of proof to the contrary, sufficient evidence of the matters contained in the certificate.

(3) A certificate referred to in subsection (2) must state that the constable or Police employee who is not a constable or the employee has checked the register of driver licences kept by the Agency under section 199 and—

(a) has found no record showing that, on or before the date of the alleged offence, the person had ever held a driver licence; or

(b) has found a record showing that the person has held a licence to drive a vehicle of the class referred to in the proceedings, and that, at the date of the alleged offence, the licence had expired; or

(c) has found a record showing that, at the date of the alleged offence, the person held a licence to drive a vehicle, but not a vehicle of the class referred to in the proceedings; or

(d) has found a record showing that the person held a licence to drive a vehicle, but not a vehicle of the class referred to in the proceedings, and that, at the date of the alleged offence, the licence had expired.

Compare: 1986 No 6 s 39

Section 143(2): amended, on 1 October 2008, pursuant to section 116(a)(vii) of the Policing Act 2008 (2008 No 72).

Section 143(2): amended, on 1 October 2008, pursuant to section 116(d) of the Policing Act 2008 (2008 No 72).

Section 143(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 143(3): amended, on 1 October 2008, pursuant to section 116(a)(vii) of the Policing Act 2008 (2008 No 72).

Section 143(3): amended, on 1 October 2008, pursuant to section 116(d) of the Policing Act 2008 (2008 No 72).

Section 143(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

144 Evidence in certain proceedings

(1) In proceedings for an offence against this Act relating to the driving of motor vehicles, whether by way of hearing in the first instance or by way of appeal or otherwise, the court may receive as evidence—

(a) an affidavit filed in the court by or on behalf of the defendant:

(b) evidence adduced by or on behalf of the defendant that the court thinks fit, whether or not it would, apart from this paragraph, be legally admissible evidence.

(2) Except by special direction of the court, subsection (1)(a) does not apply in any case where it appears to the court that the deponent's usual place of residence is less than 80 km by road from the place of hearing.

(3) A copy of the *Gazette* containing an appointment, warrant, order, or other act of authority made under this Act is evidence in all courts that the appointment, warrant, order, or other act has been duly made or performed under the authority of this Act.

Compare: 1962 No 135 s 196; 1986 No 6 s 51

145 Evidence of approved vehicle surveillance equipment

(1) In proceedings for a moving vehicle offence or a special vehicle lane offence, an image produced by means of an exposure taken by approved vehicle surveillance equipment and showing or recording a motor vehicle on a road, the speed of the vehicle, the location of the vehicle, the colour or form of a traffic control device, the fact that a toll has not been paid in respect of the vehicle, and the date and time when the image was taken, or showing or recording any of those things, is, in the absence of proof to the contrary, sufficient evidence of that fact or event.

(2) The production, in proceedings for a moving vehicle offence or a special vehicle lane offence, of an image purporting to be an image referred to in subsection (1) is, in the absence of proof to the contrary, sufficient evidence that the image was produced by means of an exposure taken by approved vehicle surveillance equipment.

Compare: 1962 No 135 s 42

Section 145(1): amended, on 1 July 2017, by section 19(1) of the Energy Innovation (Electric Vehicles and Other Matters) Amendment Act 2017 (2017 No 27).

Section 145(1): amended, on 13 November 2003, by section 90 of the Land Transport Management Act 2003 (2003 No 118).

Section 145(2): amended, on 1 July 2017, by section 19(2) of the Energy Innovation (Electric Vehicles and Other Matters) Amendment Act 2017 (2017 No 27).

145A Evidence and proof

In any proceedings for an offence against Part 6A,—

(a) if it is proved that passengers or goods were carried in or on any motor vehicle, the passengers or goods are deemed to have been carried in such a manner as to bring the motor vehicle under the requirements of this Act unless the defendant satisfies the court to the contrary:

(b) evidence of the contents of the register maintained under section 199A may be given by a certificate signed by an officer of the Agency or a Police employee and every such certificate is sufficient evidence of the matters stated in it, until the contrary is proved:

(c) the production of a certificate signed by an officer of the Agency or a Police employee to the effect that on a specified date a person was or

was not the holder of any transport service licence or any specified type of transport service licence is sufficient evidence of the matter certified, until the contrary is proved:

(d) it is to be presumed that every certificate purporting to have been certified or given under this section has been certified or given by an officer of the Agency or a Police employee to certify documents or give certificates under this section, until the contrary is proved.

Compare: 1989 No 74 s 63

Section 145A: inserted, on 1 October 2007, by section 73 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 145A(b): amended, on 10 May 2011, by section 78(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 145A(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 145A(c): amended, on 10 May 2011, by section 78(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 145A(c): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 145A(d): amended, on 10 May 2011, by section 78(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 145A(d): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

146 Evidence of testing and accuracy of speed-measuring devices, etc

(1) In proceedings for a speeding offence against any bylaws or enactment, any other offence against this Act, or an offence against the Road User Charges Act 2012 (or any regulations made under that Act), the production of a certificate (or a document purporting to be a copy of the certificate) purporting to be signed by a constable or Police employee who is not a constable authorised for the purpose by the Commissioner or by a person authorised for the purpose by the Agency, as to the testing and accuracy of any equipment or device to which this section applies that is referred to in the certificate, is, in the absence of proof to the contrary, sufficient proof that the equipment or device referred to was tested on the date specified in the certificate and was accurate on the date of the alleged offence.

(2) Every document purporting to be a copy of a certificate issued under this section is, in the absence of proof to the contrary, to be presumed to be a true copy.

(3) Every certificate issued under this section is, in the absence of proof to the contrary, to be presumed to have been signed by a person duly authorised to sign it; and it is not necessary for any such certificate to show on its face that the person signing it was so authorised.

(4) This section applies to distance-measuring devices, speed-measuring devices, approved vehicle surveillance equipment, and tuning forks used to check such devices or equipment.

(5) The fact that any equipment or device to which this section applies was tested before or after the date of the alleged offence does not of itself affect the validity of any certificate given under this section in relation to the testing of that equipment or device. However, any testing must not be more than 12 months before the date of the alleged offence.

(6) In any proceedings where a certificate has been produced under this section, the court may, on application made not less than 14 days before the hearing of the charge concerned, and if satisfied that there is good cause to do so, set aside the certificate and require the accuracy of the equipment or device to be established by evidence other than the certificate.

Compare: 1962 No 135 s 197

Section 146(1): amended, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Section 146(1): amended, on 1 October 2008, pursuant to section 116(a)(vii) of the Policing Act 2008 (2008 No 72).

Section 146(1): amended, on 1 October 2008, pursuant to section 116(d) of the Policing Act 2008 (2008 No 72).

Section 146(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 146(1): amended, on 22 June 2005, by section 74 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 146(1): amended, on 19 December 2001, by section 11 of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

147 Evidence of accuracy of weighing devices and sites

(1) In proceedings for an offence against this Act or an offence against the Road User Charges Act 2012 (or any regulations made under that Act), the production of a certificate (or a document purporting to be a copy of a certificate) purporting to be signed by a constable or Police employee who is not a constable authorised by the Commissioner in that behalf (either generally or in a particular case) to the effect described in subsection (2) is, in the absence of evidence to the contrary, sufficient evidence that the device or site to which the certificate relates has been tested and was accurate on the date of the alleged offence.

(2) A certificate referred to in subsection (1) may be to the effect that,—

(a) on a specified date, being a date not more than 12 months earlier than the date of the alleged offence, a weighing device referred to in the certificate was tested and found to be accurate by—

(i) an Inspector of Weights and Measures; or

(ii) an accredited person (within the meaning of the Weights and Measures Act 1987); or

(iii) an employee of a laboratory for the time being approved for the purpose by the Science Minister, by notice in the *Gazette*; or

(iv) any other person who is approved for the purpose by the Minister, by notice in the *Gazette*; or

(b) on a specified date, being a date not more than 5 years earlier than the date of the alleged offence, a site referred to in the certificate was tested or surveyed, and found to be accurate, by—

(i) an employee of the Agency; or

(ii) a constable or Police employee who is not a constable; or

(iii) an employee or contractor of a laboratory for the time being approved for the purpose by the Science Minister, by notice in the *Gazette*.

(3) *[Repealed]*

(4) A certificate issued under subsection (1) sufficiently identifies the weighing device to which it refers if (in the case of a portable wheel weigher) it contains the serial number of the wheel weigher or if (in the case of a weighbridge or site) it refers to the location of the weighbridge or site.

(5) Every document purporting to be a copy of a certificate issued under this section is, in the absence of evidence to the contrary, to be presumed to be a true copy.

(6) Every certificate issued under this section is, in the absence of evidence to the contrary, to be presumed to have been signed by a person duly authorised to sign it; and it is not necessary for any such certificate to show on its face that the person signing it was so authorised.

(7) In proceedings for an offence against this Act or an offence against the Road User Charges Act 2012 (or any regulations made under that Act), evidence that—

(a) a weighing device bore the stamp of a mark of verification under the Weights and Measures Act 1987 indicating that the weighing device had been so stamped; or

(b) at the time of the alleged offence, there was in force in respect of a weighing device a certificate of accuracy issued under the Weights and Measures Act 1987—

is, in the absence of evidence to the contrary, sufficient evidence that the weighing device was accurate on the date of the alleged offence.

(8) In this section, **site** does not include weigh-in-motion technology.

Compare: 1962 No 135 s 197

Section 147(1): amended, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Section 147(1): amended, on 1 October 2008, pursuant to section 116(a)(vii) of the Policing Act 2008 (2008 No 72).

Section 147(1): amended, on 1 October 2008, pursuant to section 116(d) of the Policing Act 2008 (2008 No 72).

Section 147(1): amended, on 19 December 2001, by section 12 of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Section 147(2)(b)(i): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 147(2)(b)(ii): amended, on 1 October 2008, pursuant to section 116(a)(vii) of the Policing Act 2008 (2008 No 72).

Section 147(2)(b)(ii): amended, on 1 October 2008, pursuant to section 116(d) of the Policing Act 2008 (2008 No 72).

Section 147(3): repealed, on 11 August 2017, by section 55(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 147(7): amended, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Section 147(7): amended, on 19 December 2001, by section 12 of the Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Section 147(8): inserted, on 11 August 2017, by section 55(2) of the Land Transport Amendment Act 2017 (2017 No 34).

147A Certification of accuracy of alternative weighing technology

(1) Alternative weighing technology may be certified as having been tested and found to be accurate if, on a specified date, it was tested and found to be accurate by—

(a) an Inspector of Weights and Measures; or

(b) an accredited person (within the meaning of the Weights and Measures Act 1987); or

(c) an employee of a laboratory for the time being approved for the purpose by the Science Minister by notice in the *Gazette*; or

(d) any other person who is approved for the purpose by the Minister by notice in the *Gazette*.

(2) A certificate issued under subsection (1) sufficiently identifies the alternative weighing technology to which it refers if it contains the serial number of the technology or if it refers to the location of the technology.

(3) For the purposes of this section, **alternative weighing technology** means technology that—

(a) is capable of measuring the mass of a vehicle or the mass on each axle of a vehicle; and

(b) is not described in section 147(4).

(4) If alternative weighing technology has been certified under subsection (1) on a date not more than 12 months earlier than the date of the use of the technology, the technology—

(a) may be used to assess whether to investigate a possible offence against this Act or an offence against the Road User Charges Act 2012 (or any regulations made under those Acts); or

(b) may be used to assess whether such an offence has been committed.

Section 147A: inserted, on 11 August 2017, by section 56 of the Land Transport Amendment Act 2017 (2017 No 34).

148 Presumptions relating to axle weights and dangerous goods

(1) This section applies in proceedings for an offence against section 43(1) (which relates to overloading offences) where the gross weight of the motor vehicle or the weight on an axle or group of axles or the total number of axles of the motor vehicle is measured at some place other than the place where the overloading offence is alleged to have been committed.

(2) If subsection (1) applies, it is to be presumed, in the absence of evidence to the contrary, that the gross weight of the motor vehicle or (as the case may be) the weight on that axle or group of axles or the total number of axles, at the time when and the place where the offence is alleged to have been committed, was the same as the gross weight or (as the case may be) the weight on that axle or group of axles or the total number of axles, as ascertained at the time when and the place where that weight was measured.

(3) In any proceedings for an offence against this Act concerning the carriage of dangerous goods, it is to be presumed, in the absence of evidence to the contrary, that,—

(a) if any marks, labels, or placards on the vehicle or rail vehicle or the load indicated the presence of dangerous goods or other material or food or food containers, then such dangerous goods or other material or food or food containers were present on the vehicle or rail vehicle or in the load, and were—

(i) of the nature indicated by the mark, label, or placard; and

(ii) of the quantity (if any) indicated by the mark, label, or placard:

(b) if the vehicle or rail vehicle or load on the vehicle or rail vehicle contained any dangerous goods or other material, or food or food containers, for which documentation was carried by the driver or inside or on the vehicle or rail vehicle, then such dangerous goods or other material, or food or food containers, were of the nature indicated and were of the quantity (if any) specified in that documentation.

(4) With respect to subsection (3), the definition of load in section 2(1) must be read as if the references to a vehicle or vehicles in that definition were references to a rail vehicle or rail vehicles, as the case may be.

Compare: 1962 No 135 ss 69B(4), 70F(4)

Section 148(3)(a): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 148(3)(b): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 148(4): added, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

149 Admissibility of certain statements by drivers of certain vehicles

(1) A statement made to an enforcement officer, or to an employee of the Agency authorised for the purpose by the Agency, to the effect described in subsection (2) may be given in evidence by that officer or employee and is admissible in evidence in proceedings for an offence against this Act as evidence of the matters referred to in the statement.

(2) A statement referred to in subsection (1) must be to the effect that the statement—

(a) was made by the driver of—

(i) a vehicle that is or ought to be used in a transport service (other than a rental service); or

(ii) a heavy motor vehicle; and

(b) was made to an enforcement officer or to an employee of the Agency authorised for the purpose by the Agency; and

(c) relates to the identity of the employer of that driver or a matter that is or ought to be specified in a logbook.

Compare: 1962 No 135 s 196A

Section 149(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 149(2)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

150 Evidence of certain documents

(1) In proceedings for an offence against this Act,—

(a) a document that purports to be issued by an employee of the Agency who is authorised by the Agency for the purpose, and that is certified by that person to be a true copy of a certificate or other document issued under this Act or the regulations or the rules, is (in the absence of evidence to the contrary) sufficient evidence of the facts stated in the copy:

(b) a document that is certified by an employee of the Agency authorised by the Agency for the purpose to be a true copy of a person's demerit points record, including any attempts by the employee to notify the person under section 90(1), is (in the absence of evidence to the contrary) sufficient evidence of the facts stated in the copy:

(c) a scanned copy of a document specified in paragraph (a) or (b) is (in the absence of evidence to the contrary) sufficient evidence of the facts stated in the scanned copy.

(2) An employee of the Agency who certifies such a copy as a true copy is, in the absence of evidence to the contrary, to be presumed to be authorised to certify it.

Compare: 1962 No 135 s 196B

Section 150(1): substituted, on 10 May 2011, by section 79 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 150(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

151 Evidence of rules

Without limiting any other method of proof, the production in proceedings of a copy of—

(a) an ordinary rule purporting to have been made by the Minister or the Governor-General under Part 11; or

(b) an emergency rule purporting to have been made by the Agency under section 162—

is, in the absence of evidence to the contrary, sufficient evidence of the rule and of the fact that it has been made in accordance with the provisions of this Act.

Compare: 1993 No 88 s 14

Section 151(a): amended, on 10 May 2011, by section 80 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 151(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Part 11
Land transport subordinate legislation

152 Power of Minister to make ordinary rules

The Minister may make rules (**ordinary rules**) for all or any of the following purposes:

(a) safety and licensing for any form of transport within the land transport system, including (but not limited to) technical requirements and standards:

(b) assisting land transport safety and security, including (but not limited to) personal security:

(ba) providing for the appropriate management of infrastructure:

(c) assisting economic development:

(d) improving access and mobility:

(e) protecting and promoting public health:

(f) ensuring environmental sustainability:

(g) any matter related, or reasonably incidental, to any of the following:

(i) the Minister's objectives under section 169:

(ii) the Minister's functions under section 169A:

(iii) the Agency's objective under section 94 of the Land Transport Management Act 2003:

(iv) the Agency's functions under section 95 of the Land Transport Management Act 2003:

(h) any other matter contemplated by a provision of this Act.

Section 152: substituted, on 1 December 2004, by section 4 of the Land Transport Amendment Act 2004 (2004 No 96).

Section 152(ba): inserted, on 11 August 2017, by section 57 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 152(g): substituted, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

152A Governor-General may make ordinary rules

(1) Despite anything in this Part, the Governor-General may, by Order in Council, on the recommendation of the Minister, make, amend, or revoke an ordinary rule for any of the purposes for which the Minister may make, amend, or revoke an ordinary rule under this Part.

(2) The Minister must have regard to the criteria specified in section 164(2) before making a recommendation under subsection (1).

(3) Section 161(1)(a) and (2) do not apply to an ordinary rule made by Order in Council under subsection (1).

(4) An ordinary rule or an amendment to an ordinary rule made by Order in Council under subsection (1) must (despite section 161(3)) be notified and made available in accordance with section 161(3) as if the Minister had made the rule or the amendment to the rule.

(5) The Minister may amend or revoke an ordinary rule or an amendment to an ordinary rule made by Order in Council under subsection (1) as if the Minister had made the ordinary rule or the amendment to the ordinary rule under this Part.

(6) An Order in Council under subsection (1)—

(a) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but

(b) is not a legislative instrument for the purposes of the Legislation Act 2012 (*see* subsection (4), and section 161(3) of this Act); and

(c) is not to be drafted by the PCO under section 59(2)(a) of the Legislation Act 2012.

Compare: 1990 No 98 s 34A

Section 152A: inserted, on 10 May 2011, by section 81 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 152A(4): amended, on 29 October 2019, by section 4 of the Legislation (Repeals and Amendments) Act 2019 (2019 No 59).

Section 152A(6): replaced, on 29 October 2019, by section 4 of the Legislation (Repeals and Amendments) Act 2019 (2019 No 59).

153 Rules concerning road user behaviour

Without limiting the general power to make rules under section 152, ordinary rules may—

(a) set out standards and requirements concerning road user behaviour, including standards and requirements concerning the conduct of drivers, pedestrians, and other persons using roads:

(b) regulate traffic of all classes (including vehicular, pedestrian, and animal traffic), and prohibit traffic or a class of traffic, either absolutely or conditionally, on a specified road or specified class of road:

(c) set out standards and requirements concerning the use of vehicle safety equipment by drivers, and passengers in or on vehicles:

(d) regulate the movement of animals on roads.

Compare: 1993 No 88 s 5(c), (f)

154 Rules concerning driver licensing

Without limiting the general power to make rules under section 152, ordinary rules may—

(a) put in place a system or provide for the licensing of drivers of motor vehicles, including provisions for the issue, endorsement, alteration, replacement, renewal, surrender, suspension, expiry, and revocation of licences:

(b) specify different requirements for drivers of different age groups or experience, including requirements concerning the issue and expiry of licences:

(c) provide for different classes of driver licences, and for the endorsement of licences for different purposes, and specify their effect:

(d) specify the documentary evidence and other information to be submitted with applications concerning driver licences:

(e) provide for the theoretical, practical, and medical examination and testing of applicants and holders of driver licences, and set out standards for theoretical, practical, and medical examinations and tests:

(f) provide for the approval of persons who have functions under the rules, including persons who are to conduct the theoretical or practical or medical examination or testing of applicants for or holders of driver licences:

(g) provide for the use of aids or the driving of vehicles that are specially adapted or have particular features:

(h) provide for the issue of driver identification cards; and provide for driver identification cards to remain the property of the Agency:

(i) provide for the recognition of driver licences issued outside New Zealand:

(j) prescribe the form and content of temporary driver licences for the purposes of this Act:

(k) give effect to any international convention concerning the recognition of driver licences and permits issued outside New Zealand and the recognition of international driving permits.

Compare: 1986 No 6 ss 48, 48A

Section 154(h): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

155 Rules concerning vehicles

Without limiting the general power to make rules under section 152, ordinary rules may—

(a) set out standards and requirements concerning vehicles, including their construction, mass and dimensions, emissions, environmental requirements, loading requirements, identification, repair, maintenance, modification, inspection, and fuel systems:

(b) set out standards and requirements concerning systems, components, devices, fittings, or equipment to be incorporated in the construction of, fitted to, or carried in or on motor vehicles, or to be used by the driver or any other person:

(c) provide for the recall of vehicles, or components or equipment of vehicles, that do not meet standards or requirements imposed by the rules, and for their recall where there is reason to believe that a procedure or requirement imposed by a rule has not adequately been carried out or complied with, including provisions—

(i) specifying the circumstances in which a vehicle must be recalled:

(ii) empowering persons to direct the recall of vehicles:

(iii) specifying the persons who may be directed to recall a vehicle (including the manufacturer, the agent of the manufacturer, the importer of the vehicle, the person or organisation responsible for certifying that a vehicle complies with standards or requirements imposed by the rules, or any other person responsible for the presence of a vehicle on a road):

(d) require and provide for vehicle identification numbers to be assigned to motor vehicles being operated in New Zealand:

(e) provide for the periodical or other examination of motor vehicles and the issue of evidence of vehicle inspection and certificates of loading:

(ea) provide for the periodical or other examination of traction engines and the issue of a certificate of compliance for boilers and other pressure vessels:

(f) subject to Part 17,—

(i) specify when vehicles are to be registered, deregistered, or re-registered:

(ii) set out procedures to verify compliance with standards and requirements of the regulations and the rules:

(iii) provide for the recording and making available of information about vehicles (including their systems, components, devices, fittings, and equipment).

Compare: 1993 No 88 s 5(d), (e)

Section 155(ea): inserted, on 16 January 2006, by section 75 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 155(f): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

156 Rules concerning dangerous goods

Without limiting the general power to make rules under section 152, ordinary rules may set out requirements and provisions concerning the packing, loading, consignment, and carriage of dangerous goods within the land transport system.

157 Rules concerning roads

Without limiting the general power to make rules under section 152, ordinary rules may—

(a) regulate the use of roads, and empower road controlling authorities to control, restrict, and prohibit traffic, and to close roads in specified circumstances or on specified occasions, in accordance with the rules:

(b) set out standards, specifications, or codes of practice for the design, construction, alteration, or maintenance of roads and related property:

(c) provide for the classification of roads according to their suitability for use by different classes of motor vehicles:

(d) set, or provide for the setting of, speed limits (including maximum, minimum, variable, and temporary speed limits) for roads throughout New Zealand or in a particular locality, which speed limits may vary according to vehicle classes, types of roads, locality, and time of year:

(e) empower or require road controlling authorities to set speed limits referred to in paragraph (d) for roads within their jurisdiction, and—

(i) set out criteria, requirements, and procedures to be complied with by road controlling authorities when setting speed limits:

(ii) authorise the Agency to change, or modify the application of, a speed limit that does not comply with the prescribed criteria, requirements, or procedures:

(f) provide that a road controlling authority may declare any of its roads or part of any such road to be a construction zone; prescribe the signs to be

erected in a construction zone; and provide for the exemption from specified provisions of the rules of specified classes of motor vehicles while used within a construction zone:

(g) provide for the design, construction, maintenance, and operation of traffic control devices:

(h) regulate or prohibit the use of reflective material on signs, hoardings, and similar structures that may pose a traffic hazard on any road.

Section 157(e): amended, on 1 September 2020, by section 113 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 157(e)(ii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

158 Rules concerning licensing, standard-setting, etc

Without limiting the general power to make rules under section 152, ordinary rules may—

(a) provide for the identification, classification, registration, licensing, inspection, and audit of all or any of the following:

(i) vehicles:

(ii) road users:

(iii) transport service operators:

(iv) transport services:

(v) land transport education, training, testing, and licensing organisations:

(vi) vehicle inspectors and inspecting organisations:

(vii) vehicle design and construction organisations:

(viii) road controlling authorities:

(ix) any other person who provides services in the land transport system (other than the rail transport system), and any vehicles, land transport related services, facilities, and equipment operated in support of the land transport system (other than the rail transport system), or classes of such persons, vehicles, land transport related services, facilities, and equipment operated in support of the land transport system (other than the rail transport system):

(b) provide for the setting of standards, specifications, restrictions, registration, and licensing requirements for all or any of those persons or things specified in paragraph (a), including provisions that—

(i) specify conditions, privileges, and limitations associated with licences or other forms of approval:

(ii) set standards for training systems and techniques, including recurrent training requirements:

(iii) set medical standards for personnel:

(iv) specify the information to be given by persons applying for licences and other authorities issued under or for the purposes of the rules, and specify the persons by and to whom the information must be given:

(v) set out the requirements of systems and procedures to be used in the exercise of a power given to a person under a rule:

(vi) set out the responsibilities and required behaviour of transport service operators, including—

(A) the permissible driving hours of persons driving transport service vehicles, including the work time and rest time to be observed by drivers; and

(B) the obligations and restrictions in respect of signs on vehicles; and

(C) requirements relating to fares, complaints procedures, and the recording of complaints; and

(D) the maintenance of a register of tows and hires; and

(E) the obligations of rental service operators; and

(F) requirements concerning logbooks; and

(G) requirements of a safety management system where required for the issue of land transport documents:

(vii) set out the categories of performance for transport service operators; and

(viia) specify the publication requirements for the performance levels for the categories of performance; and

(viib) provide the means for assessing and re-assessing levels of performance; and

(viic) provide incentives and rewards for transport service operators that meet specified levels of performance:

(viii) empower the Agency to approve tests, courses, and course providers for the purpose of issuing certificates of knowledge of law and practice or other certificates:

(ix) specify the circumstances in which the Agency can require an applicant for, or the holder of, a certificate of knowledge of law and practice or other certificates to undergo such tests, including (but not limited to) a second or subsequent test:

(x) specify the drivers involved in transport services that must display or wear a photographic identification card and the details of such a card:

(xi) *[Repealed]*

(xii) provide for the notification of vehicles used in a transport service:

(xiii) provide for the issue of certificates of responsibility where a person other than the owner operates a vehicle in a transport service under licence:

(xiv) provide for the display of identification on goods service vehicles, vehicle recovery service vehicles, and large passenger service vehicles:

(xv) provide for registers of complaints and prescribing the matters to be entered in such registers and the manner in which they are to be entered and maintained, and the manner in which they are to be made available for inspection:

(xvi) provide for the giving by any person in relation to any transport service carried on by the person of information relating to that service and prescribing the nature of the information and the form, manner, and time in or at which it is to be given:

(xvii) specify requirements for a small passenger service including signs, notices, fares, equipment, identification, driver duties and conduct, availability, complaint management, record keeping, and vehicle condition:

(xviii) specify requirements for a vehicle recovery service including identification, driver duties and conduct, operator duties, complaints management, record keeping, and towing restrictions and authorisations:

(xix) specify requirements for a rental service including a register of vehicles and hirers, details to be included in a rental service agreement, insurance requirements, the ability of rental service licence holders to charge hirers for fees incurred from owner-liability offences, and any requirements that rental service operators must comply with when charging for owner-liability offence fees:

(xx) provide for the approval of qualifications and specify conditions for the safe use of traction engines:

(c) provide for the appointment or approval of persons or organisations who are to carry out inspections, tests, certify things, issue licences or other documents, and provide other services under this Act:

(d) set out the procedure for appeals under this Act to the District Court or apply (with such modifications as may be specified in the rules) a procedure for appeals to the District Court under any other enactment.

Compare: 1993 No 88 s 6

Section 158(a)(ix): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 158(b)(vi)(A): amended, on 22 June 2005, by section 76(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(b)(vi)(C): amended, on 1 October 2017, by section 87(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 158(b)(vii): substituted, on 10 May 2011, by section 82 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 158(b)(vii): amended, on 1 October 2017, by section 87(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 158(b)(viia): inserted, on 10 May 2011, by section 82 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 158(b)(viib): inserted, on 10 May 2011, by section 82 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 158(b)(viic): inserted, on 10 May 2011, by section 82 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 158(b)(viic): amended, on 1 October 2017, by section 87(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 158(b)(viii): added, on 22 June 2005, by section 76(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(b)(viii): amended, on 1 October 2017, by section 87(4) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 158(b)(viii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 158(b)(ix): added, on 22 June 2005, by section 76(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(b)(ix): amended, on 1 October 2017, by section 87(5) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 158(b)(ix): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 158(b)(x): added, on 22 June 2005, by section 76(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(b)(xi): repealed, on 1 October 2017, by section 87(6) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 158(b)(xii): added, on 22 June 2005, by section 76(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(b)(xiii): added, on 22 June 2005, by section 76(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(b)(xiv): added, on 22 June 2005, by section 76(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(b)(xv): added, on 22 June 2005, by section 76(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(b)(xvi): added, on 22 June 2005, by section 76(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(b)(xvii): added, on 22 June 2005, by section 76(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(b)(xviii): added, on 22 June 2005, by section 76(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(b)(xix): added, on 22 June 2005, by section 76(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(b)(xx): added, on 22 June 2005, by section 76(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 158(d): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

159 Rules concerning land transport documents

(1) Without limiting the general power to make rules under section 152, ordinary rules may require that a land transport document be held by or in respect of all or any of the following:

(a) vehicles:

(b) road users:

(c) transport service operators:

(d) transport services:

(e) land transport education, training, testing, and licensing organisations:

(f) vehicle inspectors and inspecting organisations:

(g) vehicle design and construction organisations:

(h) road controlling authorities:

(i) any other person who provides services in the land transport system (other than the rail transport system), and any vehicles, land transport related services, facilities, and equipment operated in support of the land transport system (other than the rail transport system), or classes of such persons, vehicles, land transport related services, facilities, and equipment operated in support of the land transport system (other than the rail transport system).

(2) The rules may set out the requirements, standards, and application procedure for each land transport document, and the maximum period for which each document may be issued or recognised (as the case may be).

(3) The rules may require a person who applies for or holds a land transport document that is required for the provision of a service that involves contact with the public (such as driving instruction or driver testing) to satisfy the Agency that the person is a fit and proper person to hold that document, and—

(a) specify which of the criteria set out in subpart 2 of Part 4A are to be applied in determining whether a person is a fit and proper person:

(b) set out different fit and proper person assessments for different classes of land transport documents, applicants, or holders.

(4) The rules may provide for the issue, endorsement, alteration, replacement, renewal, surrender, expiry, suspension, and revocation of land transport documents.

(5) Subject to the rules, a land transport document may be issued or a document may be recognised as a land transport document, as the case may be, by the Agency for such period and subject to such conditions as the Agency considers appropriate in each particular case.

Compare: 1994 No 104 s 34

Section 159(1)(i): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 159(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 159(3)(a): amended, on 1 October 2007, by section 77 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 159(5): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

159A Ordinary rule may require committee to be established

(1) An ordinary rule may require the Agency to establish a committee that has 1 or more purposes associated with speed management, including—

(a) reviewing a state highway speed management plan provided for in a rule:

(b) reviewing guidance or information on speed management prepared by the Agency.

(2) The rule must set out—

(a) the purpose for which the committee is to be established; and

(b) the committee's functions, powers, and duties; and

(c) which of the following persons is authorised to appoint members of the committee (and the term for which they are appointed):

(i) the Minister:

(ii) the Agency:

(iii) the Secretary:

(iv) any combination of the persons listed in subparagraphs (i) to (iii).

(3) The rule may set out—

(a) the date on which the committee is to be dissolved or a process by which that date is determined:

(b) any other matter relating to establishing and operating the committee.

(4) Section 96B of the Land Transport Management Act 2003 applies when the relevant person referred to in subsection (2)(c) of this section is considering appointing a member of a committee established by a rule under this section.

(5) Section 96C of the Land Transport Management Act 2003 applies to any committee established by a rule under this section.

Section 159A: inserted, on 1 September 2020, by section 116 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

160 Other provisions concerning ordinary rules

(1) An ordinary rule may apply generally or to different classes of person, vehicle, or land transport related service, or to the same class of person, vehicle, or land transport related service in different circumstances.

(2) An ordinary rule may apply generally throughout New Zealand or within a specified part or parts of New Zealand.

(3) The commencement of an ordinary rule may be wholly suspended until it is applied by the Minister, by notice in the *Gazette*.

(4) An ordinary rule may—

(a) require or provide for a matter to be determined, undertaken, or approved by the Agency or any other person, and empower the Agency or any other person to impose requirements or conditions as to the performance of activities:

(b) specify standards, procedures, and requirements for the purposes of the rules:

(c) impose conditions, restrictions, and prohibitions:

(d) specify the definitions, abbreviations, and units of measurement to apply within the land transport system:

(e) prescribe, or provide for the approval of, forms, documents, and records for the purposes of the rules:

(f) make transitional and savings provisions for the purposes of implementing any rule; and for the purposes of determining the expiry date of licences under section 23(4).

(5) An ordinary rule may incorporate or apply, with any necessary modifications, a regulation or order or notice made or given under the Transport Act 1962 or Part 2 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 or Part 17.

(6) An ordinary rule (except for an ordinary rule made by an Order in Council under section 152A(1))—

(a) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but

(b) is not a legislative instrument for the purposes of the Legislation Act 2012 (*see* section 161(3) of this Act).

(7) If a bylaw of a local authority is inconsistent with or repugnant to any ordinary rules in force in the same locality, the rules override the bylaws.

(8) Despite clause 5 of Schedule 6 of the Public Service Act 2020, the Minister may not delegate his or her power to make ordinary rules under this Act.

Compare: 1993 No 88 s 4

Section 160(4)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 160(5): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 160(6): replaced, on 29 October 2019, by section 4 of the Legislation (Repeals and Amendments) Act 2019 (2019 No 59).

Section 160(8): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

161 Procedure concerning ordinary rules

(1) Every ordinary rule must—

(a) be signed by the Minister; and

(b) contain a statement specifying the objective of the rule and the extent of any consultation under subsection (2); and

(c) set out fully the requirements of the rule, except where certain information is incorporated in the rule by reference under section 165.

(2) Before making an ordinary rule, the Minister must—

(a) publish a notice of his or her intention to make the rule; and

(b) give interested persons a reasonable time, which must be specified in the notice published under paragraph (a), to make submissions on the proposal; and

(c) consult with such persons, representative groups within the land transport system or elsewhere, government departments, and Crown entities as the Minister in each case considers appropriate.

(3) If an ordinary rule (except for an ordinary rule made by an Order in Council under section 152A(1)) is made under this Act,—

(a) notice of the making of the rule must be given in the *Gazette*; and

(b) the rule must be made available for purchase by members of the public at a reasonable price; and

(c) the notice must specify a place where the rule is available for inspection free of charge and for purchase.

(4) *[Repealed]*

Compare: 1993 No 88 ss 8, 10

Section 161(2)(a): substituted, on 10 May 2011, by section 83(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 161(3): replaced, on 29 October 2019, by section 4 of the Legislation (Repeals and Amendments) Act 2019 (2019 No 59).

Section 161(4): repealed, on 10 May 2011, by section 83(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Emergency rules

162 Agency may make emergency rules

(1) The Agency may from time to time, in accordance with section 163, make such emergency rules as may be necessary to alleviate or minimise any risk of the death of or a serious injury to a person, or of damage to property.

(2) The Agency may not make emergency rules unless it is impracticable in the circumstances of the particular case for the Minister to make ordinary rules, or recommend that ordinary rules be made, to effectively alleviate or minimise the risk concerned.

(3) The Minister may revoke any emergency rule made under subsection (1), and the revocation must be notified as if it were an emergency rule.

(4) An emergency rule—

(a) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act; but

(b) is not a legislative instrument for the purposes of the Legislation Act 2012 (*see* section 163(2) to (4) of this Act).

Compare: 1993 No 88 s 7

Section 162 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 162(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 162(2): amended, on 10 May 2011, by section 84 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 162(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 162(4): replaced, on 29 October 2019, by section 4 of the Legislation (Repeals and Amendments) Act 2019 (2019 No 59).

163 Procedure for making emergency rules

(1) Before making an emergency rule, the Agency must consult with such persons, representative groups within the land transport system or elsewhere, government departments, and Crown entities as the Agency in each case considers appropriate.

(2) Every emergency rule must be notified in the *Gazette* and be made available by the Agency for purchase by members of the public at a reasonable price, and the notification must specify a place where the rule is available for inspection free of charge and for purchase.

(3) Every emergency rule comes into force immediately on being notified in the *Gazette*, or, where notified by service on a person under subsection (4), immediately on service of notification upon that person and in respect of that person only.

(4) If, for reasons of safety, it is impracticable or inappropriate to notify an emergency rule in accordance with subsection (2),—

(a) the Agency must notify such persons as the Agency considers appropriate or necessary in the circumstances and service of such notification may be effected by fax, telephone, or such other manner as the Agency considers appropriate or necessary in the circumstances; and

(b) subsection (2) does not apply.

(5) An emergency rule may be in force for a period not exceeding 90 days, and may be renewed once only for a further period not exceeding 90 days.

(6) So far as any emergency rule is inconsistent with or repugnant to any ordinary rule made under this Act, the emergency rule prevails.

Compare: 1993 No 88 s 11

Section 163(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 163(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 163(4)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

General provisions concerning making of rules

164 Matters to have regard to when making or recommending rules

(1) *[Repealed]*

(2) The Minister in making or recommending a rule, or the Agency in making a rule, must have regard to, and give such weight as the Minister or the Agency (as the case may be) considers appropriate in each case to, the following:

(a) the level of risk existing to land transport safety in each proposed activity or service:

(b) the nature of the particular activity or service for which the rule is being established:

(c) the level of risk existing to land transport safety in New Zealand in general:

(d) the need to maintain and improve land transport safety and security, including (but not limited to) personal security:

(da) the appropriate management of infrastructure, including (but not limited to)—

(i) the impact of vehicles on infrastructure; and

(ii) whether the costs of the use of the infrastructure are greater than the economic value generated by its use:

(e) whether the proposed rule—

(i) assists economic development:

(ii) improves access and mobility:

(iii) protects and promotes public health:

(iv) ensures environmental sustainability:

(ea) the costs of implementing measures for which the rule is being proposed:

(eb) New Zealand's international obligations concerning land transport safety:

(f) the international circumstances in respect of land transport safety:

(g) such other matters as the Minister (in the case of ordinary rules) or the Agency (in the case of emergency rules) considers appropriate in the circumstances.

Compare: 1993 No 88 s 9

Section 164 heading: amended, on 10 May 2011, by section 85(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 164(1): repealed, on 10 May 2011, by section 85(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 164(2): amended, on 10 May 2011, by section 85(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 164(2)(d): substituted, on 1 December 2004, by section 5 of the Land Transport Amendment Act 2004 (2004 No 96).

Section 164(2)(da): inserted, on 11 August 2017, by section 58 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 164(2)(e): substituted, on 1 December 2004, by section 5 of the Land Transport Amendment Act 2004 (2004 No 96).

Section 164(2)(ea): inserted, on 1 December 2004, by section 5 of the Land Transport Amendment Act 2004 (2004 No 96).

Section 164(2)(eb): inserted, on 10 May 2011, by section 85(4) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 164(2)(g): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

165 Incorporation by reference

(1) The following, whether in written or electronic form, may be incorporated by reference in a rule made by the Minister, the Governor-General, or the Agency:

(a) standards, requirements, or recommended practices of another State or an international organisation:

(b) standards, requirements, or rules of the NZ Standards Organisation, or a body or organisation outside New Zealand that has functions corresponding to the functions of the NZ Standards Organisation:

(c) material formulated by a specialist public sector organisation or a specialist private sector organisation:

(d) any other material or document that, in the opinion of the Minister or the Agency (as the case may be), is too large or impractical to be printed as part of the rule.

(2) Material may be incorporated by reference in a rule—

(a) in whole or in part; and

(b) with modifications, additions, or variations specified in the rule.

(3) A copy of any material incorporated by reference in rules, including any amendment to, or replacement of, the material, must be—

(a) certified as a correct copy of the material by the Minister or the Agency (as the case may be); and

(b) retained by the Agency.

(4) Any material incorporated in a rule by reference under subsection (1) is to be treated for all purposes as forming part of the rule; and, unless otherwise provided in the rules, every amendment to any material incorporated by reference under subsection (1) that is made by the person or organisation originating the material is, subject to subsections (5) and (6), to be treated as being a part of the rule.

(5) The Agency must give notice on the Agency's Internet site stating—

(a) that the material is incorporated in the rule and the date on which the rule was made; and

(b) that the material is available for inspection during working hours, free of charge; and

(c) the place where the material can be inspected; and

(d) that copies of the material can be purchased; and

(e) the place where the material can be purchased; and

(f) if copies of the material are available in other ways, the details of where or how the material can be accessed or obtained.

(6) All material incorporated by reference under subsection (1) or (2) must be made available at the Agency for inspection by the public free of charge.

(7) Part 2 of the Legislation Act 2012 does not apply to material incorporated by reference in a rule, or to an amendment to, or a replacement of, that material.

(8) Nothing in section 41 of the Legislation Act 2012 requires material that is incorporated by reference in a rule to be presented to the House of Representatives.

(8) *[Repealed]*

(9) Subsections (1) to (8) do not affect the application of sections 29 to 32 of the Standards and Accreditation Act 2015.

Compare: 1990 No 98 s 36

Section 165: substituted, on 10 May 2011, by section 86 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 165(1)(b): amended, on 1 March 2016, by section 45(1) of the Standards and Accreditation Act 2015 (2015 No 91).

Section 165(1)(d): amended, on 17 December 2016, by section 62 of the Statutes Amendment Act 2016 (2016 No 104).

Section 165(7): replaced, on 29 October 2019, by section 4 of the Legislation (Repeals and Amendments) Act 2019 (2019 No 59).

Section 165(8): inserted, on 29 October 2019, by section 4 of the Legislation (Repeals and Amendments) Act 2019 (2019 No 59).

Section 165(8): repealed, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

Section 165(9): amended, on 1 March 2016, by section 45(1) of the Standards and Accreditation Act 2015 (2015 No 91).

166 Agency may grant exemptions

(1) The Agency may, if the Agency considers it appropriate and upon such conditions as the Agency considers appropriate, exempt a person, vehicle, rail vehicle, or land transport related service from a specified requirement in a rule made under this Part.

(2) Before granting an exemption under this section, the Agency must be satisfied in the circumstances of each case that the risk to safety will not be significantly increased by the granting of the exemption and that—

(a) the requirement has been substantially complied with and that further compliance is unnecessary; or

(b) the action taken or provision made in respect of the matter to which the requirement relates is as effective or more effective than actual compliance with the requirement; or

(c) the prescribed requirements are clearly unreasonable or inappropriate in the particular case; or

(d) events have occurred that make the prescribed requirements unnecessary or inappropriate in the particular case.

(2A) In addition to the factors that must be considered under subsection (2), if the exemption relates to a heavy vehicle, the Agency must have regard to the potential impact on infrastructure (including, for example, potential damage to infrastructure such as roads and the cost of repairing the infrastructure).

(3) The number and nature of exemptions granted under subsection (1) must be notified in the *Gazette* at intervals not longer than 3 months.

(4) Nothing in this section applies in a case where a rule specifically provides that no exemptions are to be granted, but in other cases nothing in the rules limits or affects the Agency's powers under this section.

Compare: 1993 No 88 s 13

Section 166 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 166(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 166(1): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 166(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 166(2A): inserted, on 11 August 2017, by section 59 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 166(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

166A Agency may grant exemptions to New Zealand Defence Force

(1) The Agency may, if the Agency considers it appropriate and on the conditions the Agency considers appropriate, exempt the New Zealand Defence Force from a specified requirement in a rule made under this Part in relation to a vehicle, a group of vehicles, or a type of vehicle belonging to the Defence Force.

(2) Section 166(2) to (4) applies to an exemption made under this section in the same way as section 166(2) to (4) applies to an exemption made under section 166(1).

Section 166A: inserted, on 11 August 2017, by section 98 of the Land Transport Amendment Act 2017 (2017 No 34).

Regulations

167 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) specifying those breaches of the rules that constitute offences against this Act:

(b) specifying infringement offences for the purposes of this Act:

(c) setting out defences to offences referred to in paragraph (a) or paragraph (b):

(d) setting the maximum penalty for each offence prescribed under paragraph (a), which,—

(i) in the case of an individual, may be a fine not exceeding $10,000; or

(ii) in the case of a body corporate, may be a fine not exceeding $50,000:

(e) setting the infringement fee for each offence prescribed under paragraph (b), which,—

(i) in the case of an individual, may not exceed $2,000; or

(ii) in the case of a body corporate, may not exceed $10,000; or

(iii) *[Repealed]*

(iv) in the case of an overloading or over-dimension offence, may not exceed $15,000:

(f) setting the penalty for each overloading or over-dimension infringement offence against section 43:

(fa) setting the infringement fee for a toll offence:

(g) setting the number of demerit points to be recorded in relation to offences against this Act or any regulations (which offences are in connection with the driving of a motor vehicle), including regulations—

(i) providing for a greater number of demerit points to be recorded in respect of a second or subsequent conviction for an offence:

(ii) setting a graduated scale of demerit points for speeding offences:

(h) creating offences against any regulations made under this Act; and setting the maximum penalty for each offence, which,—

(i) in the case of an individual, may not exceed $10,000; or

(ii) in the case of a body corporate, may not exceed $50,000:

(i) declaring which offences against any rules, regulations, or bylaws made under this Act or the Transport (Vehicle and Driver Registration and Licensing) Act 1986 are—

(i) moving vehicle offences:

(ii) stationary vehicle offences:

(iii) special vehicle lane offences:

(ia) specifying the criteria that—

(i) a person must meet to install or remove an alcohol interlock device:

(ii) a person with an alcohol interlock licence must meet to apply for the removal of an alcohol interlock device from the person's vehicle:

(ib) specifying the circumstances in which the Agency may authorise the removal of an alcohol interlock device, whether or not the relevant person has met any criteria specified under paragraph (ia)(ii):

(j) specifying the matters for which fees or charges are to be paid under this Act or any other land transport Act:

(k) providing for the collection of land transport related fees and charges:

(l) prescribing forms for the purposes of this Act:

(m) specifying the conditions, requirements, and other provisions that must be included in arrangements the Commissioner or an authorised officer may enter into for the purposes of section 97 with vehicle recovery service operators or storage providers, including provisions specifying or providing for—

(i) the investigations that may be carried out by the Commissioner or an authorised officer for the purposes of the arrangement:

(ii) the qualifications or standards that must be met by employees of the operator or provider who are likely in the course of their duties to have contact with members of the public or access to impounded vehicles:

(iii) the vetting of prospective employees of the operator or provider:

(iv) measures to ensure the security of impounded vehicles and personal property carried in or on them:

(v) the hours during which the Police and members of the public are to have access to the premises:

(vi) the arrangements for the payment of fees and charges in respect of impounded vehicles:

(ma) exempting any service or class or category of service from being a transport service for the purposes of Part 4A and Part 6A:

(mb) exempting any vehicle or class or category of vehicle from being a transport service vehicle for the purposes of Part 4A and Part 6A:

(mc) specifying that a substance, preparation, mixture, or article is not a qualifying drug for the purposes of this Act:

(md) prescribing, for the purpose of section 98D(2)(a), the maximum amount that may be charged by an operator:

(me) prescribing criteria for the purpose of considering whether an operator has complied with section 98D(3):

(mf) providing for any matter necessary to establish, maintain, and operate the register of land transport records established by section 200E:

(n) providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

(2) The maximum number of demerit points that may be set by regulations made under subsection (1) in respect of any offence—

(a) is 60 demerit points in the case of—

(i) an offence against any of sections 35(1), 36(1), 38(1), and 39(1) (which relate to reckless or dangerous driving, careless or inconsiderate driving causing injury or death, and failing to stop after an accident):

(ii) an offence against any of sections 56, 57, 57A, 58(1), 60(1), 61(1), 61(2), 62(1), and 62(1B) (which relate to offences involving alcohol or drugs):

(iii) an offence against section 33(1) (which relates to applying for or obtaining a driver licence while disqualified from doing so):

(iv) a first or second offence against section 32(1) (which relates to offences involving driving while disqualified or contrary to a limited licence or contrary to an alcohol interlock licence or a zero alcohol licence or while a licence is suspended or revoked) where the court does not order that the defendant be disqualified:

(b) is 50 demerit points in the case of any other offence.

Compare: 1962 No 135 ss 77, 199; 1993 No 88 s 33

Section 167(1)(e)(iii): repealed, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Section 167(1)(e)(iv): added, on 22 June 2005, by section 78(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 167(1)(e)(iv): amended, on 11 August 2017, by section 60(1)(a) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 167(1)(e)(iv): amended, on 11 August 2017, by section 60(1)(b) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 167(1)(f): amended, on 11 August 2017, by section 60(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 167(1)(fa): inserted, on 13 November 2003, by section 90 of the Land Transport Management Act 2003 (2003 No 118).

Section 167(1)(i): substituted, on 10 May 2011, by section 87(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 167(1)(ia): inserted, on 10 May 2011, by section 87(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 167(1)(ib): inserted, on 10 May 2011, by section 87(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 167(1)(j): amended, on 1 September 2020, by section 118(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 167(1)(ma): inserted, on 1 October 2007, by section 78(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 167(1)(mb): inserted, on 1 October 2007, by section 78(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 167(1)(mc): inserted, on 1 November 2009, by section 25 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 167(1)(mc): amended, on 1 November 2009, by section 34 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 167(1)(md): inserted, on 2 January 2020, by section 6 of the Land Transport (Wheel Clamping) Amendment Act 2019 (2019 No 70).

Section 167(1)(me): inserted, on 2 January 2020, by section 6 of the Land Transport (Wheel Clamping) Amendment Act 2019 (2019 No 70).

Section 167(1)(mf): inserted, on 1 September 2020, by section 118(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 167(2)(a)(ii): amended, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 167(2)(a)(ii): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 167(2)(a)(ii): amended, on 1 November 2009, by section 39(2) of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 167(2)(a)(iv): amended, on 10 May 2011, by section 87(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

168 Regulations relating to fees and charges for land transport

(1) Without limiting the generality of section 167(1)(j), regulations may be made under that provision prescribing, or providing for the fixing of, fees and charges payable for all or any of the following purposes:

(a) to provide funds for the establishment, maintenance, and operation of facilities, works, goods, and services under the Railways Act 2005, the Government Roading Powers Act 1989, the Land Transport Management Act 2003, this Act, or any other enactment relating to land transport:

(b) to meet, or assist in meeting, the costs and expenses incurred by the Agency or the Crown in the exercise of functions or powers, or in the performance of duties, or the provision of services under any enactment specified in paragraph (a) or any other enactment relating to land transport:

(c) to meet, or assist in meeting, the costs incurred by a regional council in processing notifications of the commencement, variation, or withdrawal of exempt services under the Land Transport Management Act 2003.

(2) Different rates of fees or charges, or both, may be so prescribed or fixed in respect of different classes of persons, vehicles, products, or any other property or item, or on the basis of different times of use, or different distances, or on any other differential basis.

(3) Regulations under section 167(1)(j) may authorise persons carrying out statutory functions concerning land transport (such as persons issuing evidence of vehicle inspection) to charge a reasonable fee for the service or work performed.

(4) Any regulation under section 167(1)(j) may—

(a) specify the persons by whom, and to whom, any fees or charges, or both, are payable:

(aa) prescribe fees and charges payable, or provide for their fixing (including a means by which they may be calculated and ascertained, or a rate at which they may be calculated or ascertained):

(ab) provide for the imposition by the person to whom the fees are payable of reasonable charges in connection with the administration of any payment:

(b) prescribe, or provide for the fixing of, additional fees or charges, or both, for services or work carried out outside normal working hours, at weekends, or on statutory holidays:

(c) prescribe, or provide for the fixing of, charges for reimbursement of travelling time, accommodation, and other expenses:

(d) provide for the refund, waiver, or rebate or enabling the refund, waiver, or rebate, of any fee or charge, or both:

(e) fix, or empower the fixing of, a date by which any fee or charge is to be paid:

(f) fix, or enable the fixing of, discounts for early payment of any fee or charge, and penalties for late payment:

(g) prescribe any returns, and the conditions relating to such returns, to be made by persons by whom any fees, charges, or penalties are payable:

(h) identify those fees and charges that are land transport revenue for the purposes of the Land Transport Management Act 2003.

(5) *[Repealed]*

(6) *[Repealed]*

Section 168(1)(a): amended, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Section 168(1)(a): amended, on 10 May 2011, by section 88 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 168(1)(a): amended, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 168(1)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 168(1)(a): amended, on 1 October 2007, by section 79(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 168(1)(a): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 168(1)(a): amended, on 13 November 2003, by section 90 of the Land Transport Management Act 2003 (2003 No 118).

Section 168(1)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 168(1)(c): added, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 168(1)(c): amended, on 13 June 2013, by section 72 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 168(2): amended, on 1 October 2007, by section 79(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 168(4)(aa): inserted, on 11 August 2017, by section 99 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 168(4)(ab): inserted, on 11 August 2017, by section 99 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 168(4)(h): inserted, on 1 July 2020, by section 18 of the Land Transport (Rail) Legislation Act 2020 (2020 No 33).

Section 168(5): repealed, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 168(6): repealed, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

168AAA Regulations relating to register of land transport records

(1) Without limiting the generality of section 167(1)(mf), regulations made under that provision may—

(a) specify a category of decisions or other things for which land transport records may be created (for example, specifying a category of speed limits or cycle paths):

(b) require that a land transport record be created for 1 or more bylaws, or 1 or more classes of bylaws:

(c) provide for a land transport record to be created for 1 or more bylaws or 1 or more classes of bylaws:

(d) provide for the consequences of a land transport record being created for a bylaw, which may include amending, replacing, or revoking the bylaw:

(e) specify the circumstances in which the Registrar is required or authorised to create a land transport record, amend a land transport record, or remove a land transport record from the register (including, for example, any criteria that the land transport record must satisfy, or any criteria the Registrar must consider before doing so):

(f) specify any information the Registrar must record in the register for a land transport record:

(g) prescribe when, or the circumstances in which, the Registrar is not required to operate the register:

(h) provide for any limitations on, or requirements for, accessing or searching the register, or making copies of information in the register (including, for example, the requirement to pay a fee or charge):

(i) provide for any notices, records, certificates, or other information that must be given, kept, or produced in relation to a land transport record or the register:

(j) prescribe the persons or class of persons the Registrar must inform if the Registrar amends or revokes a land transport record:

(k) provide for the consequences if a land transport record—

(i) conflicts with or duplicates a bylaw; or

(ii) conflicts with any other secondary legislation made under a land transport Act:

(l) prescribe transitional or savings provisions relating to land transport records.

(2) The following provisions do not apply when amending, replacing, or revoking a bylaw in accordance with regulations made for the purposes of subsection (1)(d), (k), or (l):

(a) section 22AD:

(b) section 156 of the Local Government Act 2002.

(3) In this section, **bylaw**—

(a) means a bylaw, or part of a bylaw, made by a road controlling authority—

(i) under any enactment (including section 22AB); and

(ii) whether made before or after regulations made for the purposes of subsection (1)(a), (b), or (c); and

(b) includes any decision or resolution made under a bylaw referred to in paragraph (a) (for example, a resolution under section 22AB(3) of this Act); and

(c) includes any resolution made under section 22AB(3A).

Section 168AAA: inserted, on 1 September 2020, by section 120 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

168AA Land transport revenue to be paid into national land transport fund

All fees and charges (excluding applicable refunds and goods and services tax) identified in regulations made under this Part as land transport revenue for the purposes of the Land Transport Management Act 2003 must be paid into a Crown Bank Account and treated as land transport revenue.

Section 168AA: inserted, on 1 July 2020, by section 19 of the Land Transport (Rail) Legislation Act 2020 (2020 No 33).

168AAB Certain orders are confirmable instruments

(1) This section applies to regulations made by Order in Council under this Part that identify fees or charges as land transport revenue for the purposes of the Land Transport Management Act 2003.

(2) The explanatory note of the Order in Council must indicate that—

(a) it is a confirmable instrument under section 47B of the Legislation Act 2012; and

(b) it is revoked at a time stated in the note, unless earlier confirmed by an Act of Parliament; and

(c) the stated time is the applicable deadline under section 47C(1)(a) or (b) of that Act.

Section 168AAB: inserted, on 1 July 2020, by section 19 of the Land Transport (Rail) Legislation Act 2020 (2020 No 33).

168A Agency may declare that vehicle is mobility device or is not motor vehicle

(1) If a vehicle or type of vehicle is powered solely by a motor that has a maximum power output not exceeding 1 500 W, the Agency may, by notice in the *Gazette*, declare that the vehicle or type of vehicle is a mobility device.

(2) If a vehicle or type of vehicle is propelled by a motor that has a maximum power output not exceeding 300 W, the Agency may, by notice in the *Gazette*, declare that the vehicle or type of vehicle is not a motor vehicle.

(3) If a vehicle or type of vehicle is propelled by a motor that has a maximum power output greater than 300 W but not exceeding 600 W, the Agency may, by notice in the *Gazette*, declare that the vehicle or type of vehicle is not a motor vehicle.

(4) If the Agency makes a declaration under subsection (3), the Agency may—

(a) impose conditions with respect to—

(i) the operation of the vehicle or type of vehicle; and

(ii) the equipment required on the vehicle or type of vehicle; and

(b) specify those conditions in the notice.

(5) A notice given under this section is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 168A: inserted, on 22 June 2005, by section 80 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 168A heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 168A(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 168A(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 168A(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 168A(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 168A(5): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

168B Order in Council for certain land transport revenue

[Repealed]

Section 168B: repealed, on 1 May 2011, by section 35(1) of the Land Transport Amendment Act 2009 (2009 No 17).

168C Piloting fees

(1) In any case where the Agency gives written permission under any regulations made under this Part for the use on any road of any motor vehicle that, or the

load of which, exceeds any maximum dimension prescribed by the regulations, the Agency may, as a condition of that permission, require that—

(a) the motor vehicle be used only under the supervision of 1 or more enforcement officers; and

(b) the person to whom the permission is given pay to the Commissioner any fee that the Commissioner fixes to cover the costs incurred by the Police in providing that supervision.

(2) Any fee payable to the Commissioner under subsection (1) constitutes a debt due to the Crown and may be recovered accordingly in any court of competent jurisdiction.

Compare: 1962 No 135 s 78A

Section 168C: inserted, on 10 May 2011, by section 89 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Part 12
The Crown and land transport

169 Objectives of Minister

The objectives of the Minister under this Act are—

(a) to undertake the Minister's functions in a way that contributes to an integrated, safe, responsive, and sustainable transport system; and

(b) to ensure that New Zealand's obligations under international agreements relating to land transport are implemented.

Section 169: substituted, on 1 December 2004, by section 6 of the Land Transport Amendment Act 2004 (2004 No 96).

169A Functions of Minister

The functions of the Minister under this Act are—

(a) to promote safety in land transport:

(b) to administer New Zealand's participation in any international convention, agreement, or understanding relating to land transport to which the Government of New Zealand is a party:

(c) to make ordinary rules under this Act.

Section 169A: inserted, on 1 December 2004, by section 6 of the Land Transport Amendment Act 2004 (2004 No 96).

Part 13
Land transport strategies

[Repealed]

Part 13: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

National land transport strategy

[Repealed]

Heading: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

170 National land transport strategy

[Repealed]

Section 170: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

171 Procedure for completing national land transport strategy

[Repealed]

Section 171: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

172 Currency of national land transport strategy

[Repealed]

Section 172: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

173 Amendment or revocation of national land transport strategy

[Repealed]

Section 173: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

174 Effect of national land transport strategy

[Repealed]

Section 174: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Regional land transport strategies

[Repealed]

Heading: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

175 Regional land transport strategies

[Repealed]

Section 175: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

176 Currency of regional land transport strategies

[Repealed]

Section 176: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

177 Copies of regional land transport strategy to be made available to certain persons

[Repealed]

Section 177: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

178 Regional land transport committees

[Repealed]

Section 178: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

179 Consultation requirements for preparation of regional land transport strategies

[Repealed]

Section 179: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

180 Regional councils to consider contracting out functions under this Act

[Repealed]

Section 180: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

181 Effect of regional land transport strategies

[Repealed]

Section 181: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

182 Annual reports on regional land transport strategy

[Repealed]

Section 182: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

183 Certain territorial authorities to prepare land transport strategy

[Repealed]

Section 183: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Part 14
Administrative provisions

Part 14 heading: substituted, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

184 Land Transport Safety Authority of New Zealand continued

[Repealed]

Section 184: repealed, on 1 December 2004, by section 11(1)(d) of the Land Transport Amendment Act 2004 (2004 No 96).

185 Authority to be Crown entity

[Repealed]

Section 185: repealed, on 1 December 2004, by section 11(1)(d) of the Land Transport Amendment Act 2004 (2004 No 96).

186 Director of Land Transport

[Repealed]

Section 186: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

187 Acting Director

[Repealed]

Section 187: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

188 Use of words Land Transport Safety Authority

[Repealed]

Section 188: repealed, on 1 December 2004, by section 11(1)(e) of the Land Transport Amendment Act 2004 (2004 No 96).

Role of Land Transport Safety Authority and Director

[Repealed]

Heading: repealed, on 1 December 2004, by section 11(1)(f) of the Land Transport Amendment Act 2004 (2004 No 96).

189 Principal objective of Authority

[Repealed]

Section 189: repealed, on 1 December 2004, by section 11(1)(f) of the Land Transport Amendment Act 2004 (2004 No 96).

190 Functions of Authority

[Repealed]

Section 190: repealed, on 1 December 2004, by section 11(1)(g) of the Land Transport Amendment Act 2004 (2004 No 96).

191 Authority to comply with policy directions

[Repealed]

Section 191: repealed, on 1 December 2004, by section 11(1)(g) of the Land Transport Amendment Act 2004 (2004 No 96).

192 Performance agreement

[Repealed]

Section 192: repealed, on 1 December 2004, by section 11(1)(g) of the Land Transport Amendment Act 2004 (2004 No 96).

193 Minister may determine content of agreement or amendment

[Repealed]

Section 193: repealed, on 1 December 2004, by section 11(1)(g) of the Land Transport Amendment Act 2004 (2004 No 96).

194 Amendment of agreement

[Repealed]

Section 194: repealed, on 1 December 2004, by section 11(1)(g) of the Land Transport Amendment Act 2004 (2004 No 96).

195 Service charter

[Repealed]

Section 195: repealed, on 1 December 2004, by section 11(1)(g) of the Land Transport Amendment Act 2004 (2004 No 96).

Powers and additional functions of Authority and Director

[Repealed]

Heading: repealed, on 1 December 2004, by section 11(1)(h) of the Land Transport Amendment Act 2004 (2004 No 96).

196 Authority to have powers of natural person

[Repealed]

Section 196: repealed, on 1 December 2004, by section 11(1)(h) of the Land Transport Amendment Act 2004 (2004 No 96).

197 Functions and powers of Director

[Repealed]

Section 197: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

198 Inspections and audits

(1) The Agency may in writing require any person who holds a land transport document that authorises the provision of a service in the land transport system to undergo such inspections and audits as the Agency reasonably considers

necessary in the interests of land transport safety (including inspections and audits of vehicles operated by such persons).

(2) The Agency may carry out such inspections and audits as the Agency reasonably considers necessary in the interests of land transport safety.

(3) For the purposes of any inspection or audit carried out in respect of any person under this section, the Agency may in writing require that person to provide such information as the Agency reasonably considers relevant to the inspection or audit.

(4) A person to whom a requirement is made under this section must comply with that requirement.

Section 198(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 198(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 198(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

199 Agency to maintain register of driver licences

(1) The Agency must continue and maintain the national register of all driver licences that was established under section 45 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986.

(2) The national register must show for each driver licence the following information:

(a) the holder's full name, address, gender, date of birth, place of birth (if known to the Agency), and signature:

(b) the number of the licence:

(c) the original date of issue of the licence and the date of issue of the current licence:

(d) the date of expiry of the licence:

(e) the class or classes of vehicles to which the licence applies:

(f) endorsements applying to the licence:

(g) any conditions applying to the licence:

(h) information about any order of disqualification made against the holder of the licence under this Act or any former enactment:

(i) information about any court order under this Act or any former enactment authorising the issue of a limited licence to the holder (if the holder has been disqualified from holding or obtaining a driver licence):

(ia) information about any court order under this Act authorising the issue of an alcohol interlock licence or zero alcohol licence to the holder:

(j) information about any order removing a disqualification imposed on the holder under this Act or any former enactment:

(k) information about any suspension of any licence held by the holder, including under any driver licence stop order, or any disqualification from holding or obtaining a licence imposed on the holder under this Act or any former enactment:

(l) information about any revocation or suspension of a driver licence entitling the holder to drive a transport service vehicle, or a prohibition placed on the holder from driving any such vehicle, under Part 4A:

(m) information about any order of disqualification made against the holder under section 83 of the Criminal Justice Act 1985 or section 124 of the Sentencing Act 2002:

(n) information about any revocation or suspension under this Act or any former enactment of any driver licence held by the holder:

(na) information about any cancellation or termination of a driver licence stop order:

(o) photographic images of the holder taken for the purposes of this Act:

(p) information about demerit points recorded under this Act or any other enactment against the holder for any offence:

(q) organ donor information about the holder.

(3) The national register must also show information identifying whether a person is disqualified from holding or obtaining a driver licence.

(4) A person (being the licence holder or another person who obtains the consent of the licence holder) who applies to the Agency and pays the prescribed fee (if any), is entitled to information about the driver licence that is referred to in subsection (2)(b) or (p).

(5) A medical practitioner is entitled (without payment of a fee) to information about any driver licence holder referred to in subsection (2)(q).

(6) A person who applies to the Agency and pays the prescribed fee (if any) is entitled to the following information stored in the national register in respect of a person named in the application:

(a) any information specified in paragraph (d) or paragraph (e) of subsection (2):

(b) any information specified in paragraphs (f) to (na) of subsection (2) that is current at the date of the application.

(7) An application under any of subsections (4) to (6)—

(a) may be made in writing or electronically or orally; and

(b) must describe the person named with sufficient particularity to enable the Agency to identify the person and the licences concerned.

(8) Information requested under any of subsections (4) to (6) may be given in writing or electronically or orally.

(12) For the purposes of this section, **driver licence** includes (but is not limited to) an alcohol interlock licence, a zero alcohol licence, and a limited licence.

Compare: 1986 No 6 s 45

Section 199 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 199(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 199(2)(a): amended, on 10 May 2011, by section 90(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 199(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 199(2)(c): substituted, on 16 January 2006, by section 82(1) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 199(2)(ia): inserted, on 10 May 2011, by section 90(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 199(2)(k): amended, on 1 November 2013, by section 17(1) of the Land Transport Amendment Act 2011 (2011 No 31).

Section 199(2)(l): amended, on 1 October 2007, by section 82(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 199(2)(m): amended, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Section 199(2)(na): inserted, on 1 November 2013, by section 17(2) of the Land Transport Amendment Act 2011 (2011 No 31).

Section 199(3): amended, on 1 December 2009, by section 35 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 199(4): substituted, on 10 May 2011, by section 90(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 199(5): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 199(6): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 199(6)(b): amended, on 1 November 2013, by section 17(3) of the Land Transport Amendment Act 2011 (2011 No 31).

Section 199(6)(b): amended, on 16 January 2006, by section 82(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 199(7): amended, on 16 January 2006, by section 82(4) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 199(7)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 199(8): amended, on 16 January 2006, by section 82(5) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 199(12): added, on 10 May 2011, by section 90(4) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

199A Register of transport service licences

(1) The Agency must continue and maintain the register of transport service licences that was established under section 29 of the Transport Services Licensing Act 1989.

(2) The register must show for each licence the following information:

(a) the holder's full name:

(b) if the holder is a natural person, the holder's date of birth:

(c) the holder's business or residential address:

(d) the full name and address of any person in control:

(e) the number of the licence:

(f) the date of issue of the licence:

(g) the class or classes of transport services to which the licence applies:

(h) information about any operator safety rating, or other similar information, specified in the regulations or the rules:

(i) any conditions applying to the licence:

(j) information about any revocation, suspension, or surrender:

(k) information about any order of disqualification made against the holder of the licence under this Act or any former enactment:

(l) information about any order removing a disqualification imposed on the holder under this Act or any former enactment:

(m) the dates of any amendments to the licence.

(3) *[Repealed]*

(4) A person who applies to the Agency and pays the prescribed fee (if any)—

(a) is, with the consent of the holder of the transport service licence named in the application, entitled to the information stored in the register in respect of the licence holder; but

(b) is, without the consent of the holder of the transport service licence named in the application, entitled only to the information stored in the register in respect of the licence holder that is specified in subsection (2)(a) and (g) to (l).

(5) An application under subsection (4)—

(a) may be made in writing or electronically or orally; and

(b) must describe the person named with sufficient particularity to enable the Agency to identify the person and the licences concerned.

(6) Information requested under subsection (4) may be given in writing or electronically or orally.

Compare: 1989 No 74 s 29

Section 199A: inserted, on 1 October 2007, by section 83 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 199A(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 199A(3): repealed, on 1 October 2017, by section 88(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 199A(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 199A(4)(b): replaced, on 1 October 2017, by section 88(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 199A(5)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

200 Restrictions on access to photographic images of driver licence holders

(1) No person other than a person acting in the course of the person's official duties as an employee of the Agency may access or use any photographic image stored under section 28(5).

(1A) Subsection (1) is subject to—

(a) subsections (2), (3), and (4):

(b) section 141 of the Intelligence and Security Act 2017:

(c) subpart 2 of Part 7 of the Privacy Act 2020.

(2) A person who is acting in the course of the person's official duties as an employee of the Department of Internal Affairs may access or use any photographic image stored under section 28(5) to verify the identity of a particular individual.

(3) A person who is the next of kin of a deceased individual to whom a photographic image stored under section 28(5) relates may access the photographic image—

(a) on production to the Agency of—

(i) a death certificate (within the meaning of section 2 of the Births, Deaths, Marriages, and Relationships Registration Act 1995) relating to the death of the individual; or

(ii) the grant of probate of the will of the individual or of letters of administration to the individual's estate; and

(b) only if the person who is seeking access to the photographic image satisfies the Agency that the person is the individual's next of kin.

(4) A person who is acting in the course of the person's official duties as an employee of a specified agency may access or use any photographic image stored under section 28(5) to verify the identity of a particular individual for the purpose of law enforcement.

(5) For the purposes of this section,—

next of kin includes a spouse, a civil union partner, and a de facto partner

specified agency means any of the following:

(a) the Department of Corrections:

(b) the part of the Ministry of Business, Innovation, and Employment that administers the Immigration Act 2009:

(c) the Ministry of Justice:

(d) the New Zealand Customs Service:

(e) the New Zealand Police.

Section 200: replaced, on 22 August 2017, by section 41 of the Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42).

Section 200(1): replaced, on 28 September 2017, by section 282 of the Intelligence and Security Act 2017 (2017 No 10).

Section 200(1A): inserted, on 28 September 2017, by section 282 of the Intelligence and Security Act 2017 (2017 No 10).

Section 200(1A)(c): replaced, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Register of land transport records

Heading: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200A Interpretation

In sections 200B to 200O, unless the context otherwise requires,—

bylaw has the meaning given in section 168AAA(3)

register means the register of land transport records established by section 200E

Registrar means the Agency

regulations means any regulations made for the purposes of section 167(1)(mf), including for any purpose set out in section 168AAA.

Section 200A: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200B Secondary legislation may require creation of land transport record

(1) Secondary legislation made under a land transport Act may require that a land transport record be created for a decision or other thing made or done in accordance with that legislation.

(2) Subsection (1) applies only if the decision or other thing falls within a category of decisions or other things specified in regulations made for the purpose of section 168AAA(1)(a) of this Act.

(3) Nothing in subsection (1) limits any other power in a land transport Act in relation to secondary legislation.

Section 200B: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200C Land transport records must be created for certain bylaws

(1) A land transport record must be created for a bylaw.

(2) Subsection (1) applies only if—

(a) regulations made for the purpose of section 168AAA(1)(b) require that a record be created; and

(b) the bylaw falls within a category of decisions or other things specified in regulations made for the purpose of section 168AAA(1)(a).

Section 200C: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200D Land transport records may be created for certain bylaws

(1) A land transport record may be created for a bylaw.

(2) Subsection (1) applies only if—

(a) regulations made for the purpose of section 168AAA(1)(c) provide for a record to be created; and

(b) the bylaw falls within a category of decisions or other things specified in regulations made for the purpose of section 168AAA(1)(a).

Section 200D: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200E Register of land transport records

(1) A register called the register of land transport records is established.

(2) The Registrar must keep and operate the register in accordance with—

(a) sections 200F to 200O; and

(b) the regulations.

Section 200E: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200F Purpose of register

The purpose of the register is—

(a) to create legally enforceable obligations (as set out in section 200H(2)); and

(b) to provide a public record of land transport records; and

(c) to enable any person to access, or get copies of, land transport records; and

(d) to assist or enable any person to perform or exercise the person's functions, powers, or duties under this Act or any other land transport Act (for example, to commence proceedings against a person for exceeding a speed limit).

Section 200F: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200G When Registrar must create land transport record

(1) This section applies if a land transport record—

(a) is required to be created for a decision or other thing in accordance with section 200B or 200C; or

(b) is authorised to be created for a decision or other thing in accordance with section 200D.

(2) The Registrar must create a land transport record for the decision or other thing if—

(a) any relevant criteria specified by the regulations are satisfied; and

(b) the Registrar has received the necessary information submitted under section 200L.

Section 200G: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200H Effect of land transport record

(1) A land transport record has effect only on and from the day after it is created, unless any later date is specified in the record, in which case it has effect on and from that later date.

(2) A land transport record is the source of any legally enforceable obligation (not the decision or other thing for which the land transport record has been created).

Section 200H: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200I Contents of register

(1) The Registrar must record in the register the prescribed information for each land transport record.

(2) The Registrar may record in the register any other information the Registrar considers appropriate.

Section 200I: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200J Operation, access, and search of register

(1) The register may be kept in any manner that the Registrar thinks fit provided it permits the contents to be readily accessed or reproduced in usable form.

(2) The register must be operated at all times unless—

(a) the Registrar suspends its operation (in whole or in part)—

(i) for maintenance purposes; or

(ii) in response to technical difficulties; or

(iii) to ensure the security or integrity of the register; or

(b) the regulations prescribe otherwise.

(3) Any person may access or search the register, or make copies of information in the register, except to the extent that—

(a) the Registrar suspends its operation in accordance with subsection (2); or

(b) the regulations provide otherwise.

Section 200J: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200K Amendments to register

(1) The Registrar may amend the register if the Registrar is satisfied at any time that the register—

(a) contains a typographical error or a mistake; or

(b) omits information that is required or permitted to be included in the register.

(2) The Registrar must amend the register—

(a) if the regulations require the Registrar to do so; or

(b) to give effect to an order or a direction of a court.

Section 200K: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200L Submitting information to Registrar

(1) A person submitting information to the Registrar for the purpose of creating a land transport record must submit the following information:

(a) information required by the regulations; and

(b) any other information required by the Registrar.

(2) For the purpose of subsection (1), the Registrar may—

(a) specify how the person must submit the information:

(b) require the person submitting the information to confirm that any legal requirements in relation to the decision or other thing have been satisfied (for example, that consultation has been properly undertaken).

Section 200L: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200M Registrar must notify person that record created

Once a land transport record is created, the Registrar must notify the person that submitted the information in relation to the record of that fact.

Section 200M: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200N Registrar may notify record or changes to register

(1) The Registrar must inform the persons or class of persons prescribed in the regulations if the Registrar amends or revokes a land transport record.

(2) The Registrar may also give notice of the following matters to any person or class of persons or to the public generally:

(a) that a land transport record has been created:

(b) that changes have been made to the register.

(3) The Registrar may inform or give notice in any manner that the Registrar thinks fit.

Section 200N: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

200O Certified copy of information on register

(1) The Registrar must provide a copy, or a certified copy, of any information on the register to any person who applies for it and pays the prescribed fee or charge (if any).

(2) A certified copy of information on the register purporting to be signed by the Registrar is conclusive evidence for all purposes that the information in the certified copy is entered in the register.

Section 200O: inserted, on 1 September 2020, by section 123 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Use of outside agencies in performance of functions

[Repealed]

Heading: repealed, on 1 December 2004, by section 11(1)(i) of the Land Transport Amendment Act 2004 (2004 No 96).

201 Authority to consider delegating or contracting out of functions and powers

[Repealed]

Section 201: repealed, on 1 December 2004, by section 11(1)(i) of the Land Transport Amendment Act 2004 (2004 No 96).

202 Authority may arrange for services to be provided by outside agencies

[Repealed]

Section 202: repealed, on 1 December 2004, by section 11(1)(j) of the Land Transport Amendment Act 2004 (2004 No 96).

Delegations

203 Authority may delegate functions or powers to employees

[Repealed]

Section 203: repealed, on 1 December 2004, by section 11(1)(j) of the Land Transport Amendment Act 2004 (2004 No 96).

204 Director may delegate functions or powers to employees of Authority

[Repealed]

Section 204: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

205 Director may delegate functions or powers to persons outside Authority

[Repealed]

Section 205: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

206 General provisions concerning delegations under sections 204 and 205

[Repealed]

Section 206: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

207 Delegation of Minister's functions or powers to Agency

(1) The Minister may from time to time, either generally or particularly, delegate to the Agency all or any of the Minister's functions and powers under this Act or under any other enactment affecting land transport.

(2) A delegation under this section must be in writing.

(3) No delegation under this section may include the power to delegate under this section.

(4) The power of the Minister to delegate under this section—

(a) is subject to section 160(8) and to any prohibitions, restrictions, or conditions contained in any other Act in relation to the delegation of the Minister's functions or powers; but

(b) does not limit a power of delegation conferred on the Minister by any other Act.

(5) Subject to any general or special directions given or conditions imposed by the Minister, the Agency may exercise any functions or powers so delegated to the Agency in the same manner and with the same effect as if they had been conferred on the Agency directly by this section and not by delegation.

(6) If the Agency purports to act under a delegation made under this section, the Agency is, in the absence of proof to the contrary, to be presumed to be acting in accordance with the terms of the delegation.

(7) A delegation under this section does not affect or prevent the performance or exercise of any function or power by the Minister, nor does the delegation affect the responsibility of the appropriate Minister for the actions of a person acting under the delegation.

Compare: 1993 No 88 s 26

Section 207 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 207(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 207(5): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 207(6): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Part 15
Miscellaneous provisions

208 Appointment of enforcement officers and dangerous goods enforcement officers

(1) The Commissioner may, by warrant, appoint a person who is not a constable to be—

(a) an enforcement officer for the purposes of—

(i) this Act:

(ii) Part 2 of the Land Transport Management Act 2003:

(iii) Part 5 of the Land Transport Management Act 2003; or

(iv) the Road User Charges Act 2012; or

(b) a dangerous goods enforcement officer.

(2) The Commissioner may, by warrant, appoint any constable to be a dangerous goods enforcement officer.

(3) The Agency may, by warrant, appoint an employee of the Agency to be—

(a) an enforcement officer for the purposes of—

(i) any of Parts 4A, 4B, 6A, and 6B, including any rules or regulations made in relation to transport services, or sections 22B, 22C, 36B, 113(2)(f), 113A, 115, 118(6), 124, 128A, 128B, 135(1A), 138, and 139:

(ia) subpart 3 of Part 2 of the Land Transport Management Act 2003:

(ii) Part 5 of the Land Transport Management Act 2003:

(iii) any provision in the Land Transport Management Act 2003 relating to tolls; or

(b) a dangerous goods enforcement officer.

(4) Only persons who, in the opinion of the Commissioner or the Agency (as the case may be), are qualified by knowledge or experience to undertake enforcement of the functions specified in the warrant of appointment may be appointed under this section.

(5) Each enforcement officer or dangerous goods enforcement officer appointed under this section is to be supplied by the Commissioner or the Agency (as the case may be) with a warrant which specifies the functions that the officer is entitled or required to undertake.

(6) In specifying the functions of an enforcement officer or dangerous goods enforcement officer under this section, the Commissioner or the Agency (as the case may be) may specify which powers are or are not exercisable by the officer and impose conditions on the exercise of powers.

(7) The Commissioner or the Agency (as the case may be) may at any time revoke an appointment made by the Commissioner or the Agency under this section.

Compare: 1962 No 135 ss 6, 70K

Section 208(1): amended, on 1 October 2008, pursuant to section 116(a)(vii) of the Policing Act 2008 (2008 No 72).

Section 208(1)(a): substituted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 208(1)(a)(iii): replaced, on 13 June 2013, by section 72 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 208(1)(a)(iv): inserted, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Section 208(2): amended, on 1 October 2008, pursuant to section 116(a)(vii) of the Policing Act 2008 (2008 No 72).

Section 208(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 208(3)(a): substituted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 208(3)(a)(ia): inserted, on 27 June 2018, by section 8(2) of the Land Transport Management (Regional Fuel Tax) Amendment Act 2018 (2018 No 15).

Section 208(3)(a)(ii): replaced, on 13 June 2013, by section 72 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 208(3)(a)(iii): inserted, on 13 June 2013, by section 72 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 208(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 208(5): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 208(6): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 208(7): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

208A Agency is enforcement officer for certain infringement offences

For the purposes of issuing an infringement notice under section 139, the Agency is an enforcement officer where—

(a) the infringement offence to which the notice relates is a moving vehicle offence; and

(b) the alleged offence was detected by approved vehicle surveillance equipment (whether the equipment is owned or operated by the Agency or some other person).

Section 208A: inserted, on 1 September 2020, by section 125 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

209 Taking of blood specimens for statistical or research purposes

(1) Despite anything in any Act or rule of law, a health practitioner or medical officer employed by an approved health authority—

(a) may, with the general or special approval of that health authority, take for statistical or research purposes, whether in the hospital at which the practitioner or officer is employed or otherwise, a blood specimen from a person who the practitioner or officer believes is in the hospital at which the practitioner or officer is employed for examination, care, or treatment as a result of an accident involving a motor vehicle:

(b) may, with the consent of a person from whom such a blood specimen may be taken under this subsection, take for such purposes a specimen of breath, saliva, urine, perspiration, or eye vapour from that person.

(2) A blood, breath, saliva, urine, perspiration, or eye vapour specimen taken under this section must be labelled that it was taken for statistical or research purposes, and evidence as to the proportion of alcohol or of a drug found in that specimen is not admissible in any civil or criminal proceedings in any court or in proceedings before a person acting judicially.

(2A) *[Repealed]*

(2B) *[Repealed]*

(2C) *[Repealed]*

(3) Subsections (5) and (6) of section 73 apply to every blood, breath, saliva, urine, perspiration, or eye vapour specimen taken under this section as if the specimen had been taken under that section.

(4) For the purposes of this section, a **person acting judicially** means any person having in New Zealand by law authority to hear, receive, and examine evidence.

Compare: 1962 No 135 s 58J

Section 209(1): amended, on 7 November 2018, by section 20 of the Land Transport Amendment Act 2016 (2016 No 77).

Section 209(1): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 209(2): amended, on 1 August 2007, by section 216 of the Evidence Act 2006 (2006 No 69).

Section 209(2A): repealed, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 209(2B): repealed, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 209(2C): repealed, on 1 December 2014, by section 15 of the Land Transport Amendment Act (No 2) 2014 (2014 No 57).

Section 209(4): added, on 1 August 2007, by section 216 of the Evidence Act 2006 (2006 No 69).

209AA Expiry and repeal of section 209(2A) to (2C)

Subsections (2A) to (2C) of section 209 expire and are repealed with the close of a date to be appointed by the Governor-General by Order in Council.

Section 209AA: inserted, on 7 August 2011, by section 92 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

209A Analysing blood specimens for statistical or research purposes related to use of drugs or alcohol

(1) Without limiting the purposes for which a blood specimen may be analysed or re-analysed under this Act, a person may, for statistical or research purposes related to the use of drugs or alcohol, analyse or re-analyse in an approved laboratory a blood specimen from a person taken under section 72 or 73.

(2) Subsection (1) applies to any blood specimen taken under this Act before, during, or after it comes into force.

(3) No analysis of a blood specimen under subsection (1) may be used as evidence in any proceedings for an offence.

(4) A blood specimen analysed or re-analysed under subsection (1) must be treated in a manner that does not identify the person from whom the blood specimen is taken.

Section 209A: inserted, on 1 November 2009, by section 26 of the Land Transport Amendment Act 2009 (2009 No 17).

210 Service of notices

(1) A notice required to be given to a person for the purposes of this Act, or a request in writing under section 118, may be given or made by causing it to be delivered to that person, or to be left at the person's usual or last known place of residence or business or at the address specified by the person in any application or other document under this Act or the Transport (Vehicle and Driver Registration and Licensing) Act 1986, or to be posted in a letter addressed to the person at that place of residence or business or address.

(2) If any such notice or request is sent to a person by post, then, unless the contrary is shown, it is to be treated as having been delivered to him or her when it would have been delivered in the ordinary course of post, and in proving the delivery it is sufficient to prove that the letter was properly addressed and posted.

(3) This section does not apply to an infringement notice or a copy of the notice.

Compare: 1962 No 135 s 192

210A Transfer of responsibilities between regional councils and territorial authorities

(1) A regional council may transfer 1 or more of its responsibilities under this Act to a territorial authority under section 17 of the Local Government Act 2002.

(2) A territorial authority may transfer 1 or more of its responsibilities under this Act to a regional council under section 17 of the Local Government Act 2002.

(3) In this section, **responsibility** means any responsibility, duty, or legal obligation under this Act and includes—

(a) a responsibility that has previously been transferred under section 17 of the Local Government Act 2002; and

(b) any powers associated with the responsibility, duty, or legal obligation.

Section 210A: inserted, on 22 October 2019, by section 38 of the Local Government Act 2002 Amendment Act 2019 (2019 No 54).

211 Commissioner to provide traffic accident reports

(1) A person may apply to the Commissioner for a copy of any traffic accident report and is, on payment of the prescribed fee (if any), entitled to obtain a copy of the report.

(2) The Commissioner may delete or omit from a copy of a report required to be supplied under subsection (1) any information that may be withheld in accordance with the provisions of the Official Information Act 1982 or the Privacy Act 2020 but, if any such deletion or omission occurs,—

(a) the Commissioner must inform the applicant that information has been deleted or omitted from the copy of the report; and

(b) the provisions of the Official Information Act 1982 and the Privacy Act 2020 apply to the deletion or omission as if, following a request under that Act for the information deleted or omitted, the information had been withheld in reliance on that Act.

(3) The fee referred to in subsection (1) is, despite section 24(1) of the Official Information Act 1982 and section 66 of the Privacy Act 2020, payable by every person (including a natural person to whom the report relates) applying for a copy of a traffic accident report.

(4) In this section, **traffic accident report** means a written report prepared by an enforcement officer who is a Police employee that relates to an investigation of a traffic accident.

Compare: 1962 No 135 s 199A

Section 211(2): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Section 211(2)(b): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Section 211(3): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Section 211(4): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

211A Payment of fees

All fees and other money (not being fines, infringement fees, or other penalties) received or recovered for the purposes of Part 4A must be paid or credited to the Agency.

Compare: 1989 No 74 s 65

Section 211A: inserted, on 1 October 2007, by section 86 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 211A: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

212 Agency to pay sum to assessment centres

The Agency must pay each assessment centre, from money appropriated for the purpose by Parliament, such sum as may be prescribed for the first attendance of a person ordered under this Act to attend an assessment centre, if that person has not previously attended an assessment centre following the making of the order.

Compare: 1962 No 135 s 30B(3)

Section 212 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 212: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

213 Customs control over imported vehicles

(1) If a regulation or rule specifies requirements for motor vehicles imported into New Zealand, a motor vehicle imported into New Zealand must remain subject to the control of Customs until those requirements are complied with.

(2) The importer is liable for any fees and charges payable in respect of a motor vehicle while it is subject to the control of Customs for the purposes of this section.

213A Public right of way at level crossings

(1) At a level crossing, the public right of way at the crossing—

(a) ceases whenever a rail vehicle on the railway line is approaching and is within a distance of 800 m from the crossing; and

(b) at all other times, extends only to the right of crossing the railway line with all convenient speed, but not to stopping or remaining on it.

(2) In this section, **level crossing** has the same meaning as in section 4(1) of the Railways Act 2005.

Section 213A: inserted, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Part 16
Repeals, amendments to other enactments, and transitional and savings provisions

214 Repeals

(1) The enactments specified in Parts 1 to 3 of Schedule 2 are repealed on 1 March 1999.

(2) The enactments specified in clauses 1 to 14 of Part 4 of Schedule 2 are repealed on such date or dates as may be appointed by Order in Council under section 1(3).

(3) *[Repealed]*

Section 214(3): repealed, on 10 May 2011, by section 94 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

215 Amendments to other enactments

(1) The enactments specified in Schedule 3 are amended in the manner indicated in that schedule.

(2) The Transport Act 1962 is amended by repealing Parts 1, 2, 5, 7, 8, 9, and 10 of Schedule 2, and substituting the Parts set out in Schedule 4.

216 Transitional regulations

Without limiting the powers conferred by section 167, the Governor-General may from time to time, by Order in Council, make regulations—

(a) prescribing transitional and savings provisions concerning the coming into force of this Act, which may be in addition to or in place of the transitional and savings provisions of this Part:

(b) to facilitate the bringing into force of any rules under this Act; and to remove any inconsistency between regulations or orders made under the Transport Act 1962:

(c) providing that subject to such conditions as may be specified in the regulations, during a specified transitional period,—

(i) specified provisions of this Act (including definitions) do not apply:

(ii) specified terms have the meanings given to them by the regulations:

(iii) specified provisions repealed or amended or revoked by this Act are to continue to apply:

(d) prescribing matters that would otherwise be covered by rules made under section 158.

Section 216(b): amended, on 29 June 2009, by section 28 of the Land Transport Amendment Act 2009 (2009 No 17).

Section 216(d): added, on 22 June 2005, by section 88 of the Land Transport Amendment Act 2005 (2005 No 77).

217 Expiry of section 216

[Repealed]

Section 217: repealed, on 29 June 2009, by section 29 of the Land Transport Amendment Act 2009 (2009 No 17).

218 Regulations and other enactments having effect under this Act

(1) The following regulations are to be treated as regulations made under this Act:

(a) the Goods Service Vehicle (Constructional) Regulations 1936 (Reprinted SR 1961/94):

(b) the Transport (Vehicular Traffic Road Closure) Regulations 1965 (SR 1965/63):

(c) the Heavy Motor Vehicle Regulations 1974 (SR 1974/218):

(d) the Traffic Regulations 1976 (SR 1976/227).

(e) *[Repealed]*

(f) *[Repealed]*

(g) *[Repealed]*

(h) *[Repealed]*

(i) *[Repealed]*

(j) *[Repealed]*

(2) The following notices are to be treated as notices under section 2 or section 115 (as the case may be):

(a) *[Repealed]*

(b) the Transport (Breath Tests) Notice (No 2) 1989 (SR 1989/389):

(c) *[Repealed]*

(d) *[Repealed]*

(e) the Transport (Approved Vehicle Surveillance Equipment) Notice 1994 (SR 1994/202):

(f) *[Repealed]*

(g) the Transport (Measurement of Weight) Notice 1997 (SR 1997/375).

(3) The enactments specified in subsection (1) or subsection (2), which were made under the Transport Act 1962 or the Transport (Vehicle and Driver Registration and Licensing) Act 1986, may be amended from time to time under the corresponding empowering provision (if any) in this Act or (if there is no corresponding empowering provision in this Act) as if this section contained the rele-

vant empowering provision (as it read immediately before the commencement of section 214).

(4) Every regulation prescribing or providing for the fixing of fees and charges under the Transport Act 1962, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Transport Services Licensing Act 1989, or the Government Roading Powers Act 1989, and is in force immediately before the commencement of this section, continues to have effect and may be amended, revoked, or replaced under section 167.

Section 218(1)(e): repealed, on 29 June 2009, by section 30(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 218(1)(f): repealed, on 29 June 2009, by section 30(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 218(1)(g): repealed, on 29 June 2009, by section 30(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 218(1)(h): repealed, on 29 June 2009, by section 30(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 218(1)(i): repealed, on 29 June 2009, by section 30(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 218(1)(j): repealed, on 29 June 2009, by section 30(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 218(2)(a): repealed, on 29 June 2009, by section 30(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 218(2)(c): repealed, on 29 June 2009, by section 30(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 218(2)(d): repealed, on 29 June 2009, by section 30(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 218(2)(f): repealed, on 29 June 2009, by section 30(2) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 218(4): amended, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Section 218(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

219 Expiry of section 218

[Repealed]

Section 219: repealed, on 29 June 2009, by section 31 of the Land Transport Amendment Act 2009 (2009 No 17).

220 Rules having effect under this Act

All rules made under Part 2 of the Land Transport Act 1993 and in force immediately before the commencement of this section, and all rules made under that Part of that Act that are expressed to come into force on or after the commencement of this section, are to be treated as rules made under this Act.

221 Appointments

(1) *[Repealed]*

(2) The warrants of traffic officers appointed under the Transport Act 1962 are revoked.

(3) Every member of the Board of the Agency who holds office as such immediately before the commencement of section 184 is to continue in office as if appointed under that section and, subject to that section, holds office until his or her appointment would have expired under the Land Transport Act 1993 if this Act had not been passed.

(4) Every member of a regional land transport committee who holds office as such immediately before the commencement of section 178 is to continue in office as if appointed under that section and, subject to that section, holds office until his or her appointment would have expired under the Land Transport Act 1993 if this Act had not been passed.

(5) Every person who, immediately before the commencement of this section, held office as a hazardous substances enforcement officer under section 70K of the Transport Act 1962 is deemed to have been appointed as a dangerous goods enforcement officer under section 208.

Section 221(1): repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 221(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

222 Saving of certain land transport documents

(1) All certificates, permits, licences, warrants of fitness, exemptions, notices, and other documents issued under the Transport Act 1962 (other than those documents to which any other provision of this Part applies) and in force immediately before the commencement of this section have effect for the purposes of this Act as if issued under this Act.

(2) Exemptions granted under section 13 of the Land Transport Act 1993 have effect as if granted under section 166.

223 Transfer provisions for certain employees of Agency

(1) This section applies to any person (the **transferee**) who,—

(a) as an employee of the Agency, is or was engaged principally on duties relating to any 1 or more of the following matters:

(i) the administration of motor vehicle registration and licensing under Part 1 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 or the administration of driver licensing under Part 2 of that Act or under this Act:

(ii) the administration or enforcement of road user charges under the Road User Charges Act 1977 or Part 2 of the Land Transport Management Act 2003:

(iii) the administration of fuel excise duty refunds under Part 5 of the Government Roading Powers Act 1989:

(iv) the collection of revenue under the Road User Charges Act 1977, Part 1 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986, or Part 5 of the Government Roading Powers Act 1989; and

(b) becomes or is offered the opportunity to become an employee or director of—

(i) any department or other part of the State services (as defined in section 2 of the State Sector Act 1988); or

(ii) any company, partnership, or person—

to which the responsibility for any of the matters specified in paragraph (a) has been or is delegated, contracted, or otherwise transferred (the **employer**).

(2) No transferee is entitled to any payment, benefit, or compensation, whether for redundancy or otherwise, by reason only of the transferee ceasing to be employed by the Agency if—

(a) the transferee has been or is offered terms and conditions of employment that are similar in overall effect to those of the transferee with the Agency; and

(b) the employer has agreed to treat the transferee's service with the Agency as if it were service with the employer and as if it were continuous; and

(c) the duties of the transferee are similar in overall effect to those of the transferee with the Agency or the transferee is willing to accept alternative duties.

(3) Any transferee who, immediately before the transfer, was a contributor to the Government Superannuation Fund under the Government Superannuation Fund Act 1956 is, for purposes of that Act, deemed to be employed in the Government service so long as that person continues to be employed with, or be a director of, the employer.

(4) Subject to the Government Superannuation Fund Act 1956, nothing in subsection (3) entitles a transferee to become a contributor to the Government Superannuation Fund after that transferee has ceased to be a contributor.

(5) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subsection (3), the term **controlling authority**, in relation to a transferee, means the employer.

Section 223 heading: amended, on 10 May 2011, by section 93 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 223 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 223(1)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 223(1)(a)(ii): amended, on 13 November 2003, by section 90 of the Land Transport Management Act 2003 (2003 No 118).

Section 223(1)(a)(iii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 223(1)(a)(iv): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 223(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 223(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 223(2)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 223(2)(c): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

224 Saving of certain notices issued by enforcement officers

A notice issued under subsection (2) or subsection (2A) of section 68B of the Transport Act 1962 and in force immediately before the commencement of this section has effect as if issued under section 115.

224A Saving of certain directions given by parking wardens

A direction under section 68BA(2) of the Transport Act 1962 that is in effect immediately before the commencement of this section is to be treated as if it were given under section 128E of this Act.

Section 224A: inserted, on 10 May 2011, by section 95 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

224B Savings of bylaws made under certain Acts

A bylaw made under the Local Government Act 1974 or the Transport Act 1962 that concerns a matter specified in section 22AB and that is in force immediately before the commencement of this section is to be treated as if it were made under section 22AB.

Section 224B: inserted, on 10 May 2011, by section 95 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

225 Savings relating to court orders, proceedings, etc

(1) A proceeding, action, or investigation commenced under any provision of the Transport Act 1962 or Transport (Vehicle and Driver Registration and Licensing) Act 1986, that is pending or in progress immediately before the repeal of that provision by this Act, may be continued, completed, or enforced (as the case may require) as if that provision had not been repealed.

(2) A certificate given or evidence produced under any provision of the Transport Act 1962 or Transport (Vehicle and Driver Registration and Licensing) Act 1986 that is repealed by this Act, and given or produced before the commence-

ment of this section for the purposes of any proceeding, action, or investigation to which subsection (1) applies, continues to be as admissible for the purposes of the proceeding, action, or investigation as it would be if this Act had not been passed.

(3) A limited licence issued under section 38 of the Transport Act 1962 and in force immediately before the commencement of this section has effect as if issued under section 105 of this Act.

(4) A court order made under any provision of the Transport Act 1962 or the Transport (Vehicle and Driver Registration and Licensing) Act 1986 that is repealed by this Act, which order is in force immediately before the repeal of that provision, has effect under the corresponding provision of this Act.

(5) In any proceeding, action, or investigation to which subsection (1) applies, service of any document that was effected before the commencement of this section and in accordance with the Transport Act 1962 or Transport (Vehicle and Driver Registration and Licensing) Act 1986 (as the case required) is sufficient service for the purposes of the continuation, completion, and enforcement of the proceeding, action, or investigation.

226 Saving of notices suspending driver licences

A notice given under section 48 of the Transport Act 1962 suspending a person's driver licence under the demerit points system and in force immediately before the commencement of this section has effect as if given under section 90 of this Act.

227 Saving of demerit points

The number of demerit points recorded under section 44 of the Transport Act 1962 against any person and in force immediately before the commencement of this section have effect as if recorded under section 88 of this Act.

228 Saving of certain applications under Transport Act 1962

An application pending under any provision of the Transport Act 1962 that is repealed by this Act, which application is pending immediately before the repeal of that provision, may be determined under the corresponding provision of this Act.

229 Savings relating to rules and land transport strategies

(1) Any action taken by or on behalf of the Minister before the commencement of this section under section 10(1) of the Land Transport Act 1993, which action was taken in relation to any proposed rule under that Act, is deemed to have been taken by the Minister under, and for the purposes of, section 161(2) of this Act before the making of the rule.

(2) Any action taken by or on behalf of the Minister before the commencement of this section under section 29B of the Land Transport Act 1993, which action

was taken in relation to any proposed national land transport strategy under that Act, is deemed to have been taken by the Minister under, and for the purposes of, section 171 of this Act before the making of the strategy.

(3) Any national land transport strategy and regional land transport strategy in force under Part 3A of the Land Transport Act 1993 immediately before the commencement of Part 13 of this Act has effect as if made under that Part.

230 Savings relating to functions of Agency

(1) The notice published in the *Gazette* (1993, at page 2626) under section 17(2) of the Land Transport Act 1993, specifying additional functions of the Agency, has effect as if given under section 190(2) of this Act.

(2) The Authority's performance agreement under section 21 of the Land Transport Act 1993, as it stood immediately before the commencement of sections 192 to 194 of this Act, has effect as if approved or determined or amended under those provisions.

(3) The Authority's service charter under section 22 of the Land Transport Act 1993, as it stood immediately before the commencement of section 195 of this Act, has effect as if prepared and made available to the public, or amended, under section 195.

Section 230 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 230(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

231 Savings relating to blood specimens taken under Transport Act 1962

(1) This section applies to blood specimens taken under section 58C or section 58D of the Transport Act 1962 before the commencement of this section.

(2) A blood specimen to which this section applies may be analysed or the analysis of that blood specimen may be completed (as the case requires) under this Act by any approved analyst.

(3) A certificate of the kind referred to in section 75(5) may, after the commencement of this section, be issued in respect of a blood specimen to which this section applies by any approved analyst.

(4) No analysis under this Act of a blood specimen to which this section applies, and no certificate issued under this Act in respect of such a blood specimen, is invalid on the ground—

(a) that the blood specimen was delivered or posted before the commencement of this section and was addressed to a ministry analyst (within the meaning of the Transport Act 1962); or

(b) that the analysis was done or completed, or the certificate was issued, by an approved analyst who was not the ministry analyst to whom the blood specimen was delivered or posted, in accordance with subsection (3) or

subsection (4) of section 58F of the Transport Act 1962, before the commencement of this Act; or

(c) that the person who carried out or completed the analysis or issued the certificate is an approved analyst, regardless of whether or not that person was a ministry analyst (within the meaning of the Transport Act 1962) at the time the blood specimen was taken.

(5) If any person makes an application under section 74 for a part of a blood specimen to which this section applies to be sent to a private analyst,—

(a) the approved analyst who for the time being has custody of the blood specimen is deemed, for the purposes of section 74(5), to be the approved analyst to whom the blood specimen had been delivered or posted in accordance with subsection (3) or subsection (4) of that section; and

(b) the approved analyst having such custody may give a certificate of the kind referred to in section 75(6), and no certificate so given is invalid on the ground that it was given by an approved analyst and not by a ministry analyst (within the meaning of the Transport Act 1962).

(6) Where a certificate of the kind referred to in section 58G(1)(d) of the Transport Act 1962 has been issued for any blood specimen to which this section applies, a certificate under section 75 may, from time to time, after the commencement of this section, be issued in respect of that blood specimen by any approved analyst who has available to him or her the information that is necessary to enable that analyst to fully complete that certificate.

(7) Section 58G(1) of the Transport Act 1962 applies in respect of any certificate issued under the authority of subsection (6) as if the certificate had been signed, before the commencement of this Act, by a ministry analyst (within the meaning of the Transport Act 1962).

232 Savings relating to blood specimens taken under this Act and posted in accordance with Transport Act 1962

(1) This section applies to a blood specimen if that blood specimen—

(a) is taken under section 72 or section 73 and posted by registered post in any package, parcel, or other container that is addressed to a ministry analyst (within the meaning of the Transport Act 1962); and

(b) is received by an approved analyst (or person employed by an approved laboratory and approved for the purpose by an approved analyst).

(2) Sections 74 and 75 apply in all respects to a blood specimen to which this section applies as if—

(a) that blood specimen had been delivered to an approved analyst (or a person employed by an approved laboratory and approved for the purpose by an approved analyst) in a package properly addressed to the approved analyst; and

(b) that approved analyst is deemed to be the approved analyst notified under section 74(4)(b); and

(c) any certificate of the kind referred to in section 75(4) that certifies that the blood specimen was sent or caused to be sent by registered post to a ministry analyst (within the meaning of the Transport Act 1962) is deemed to certify that the specimen was sent or caused to be sent to a specified approved analyst in accordance with section 74.

Part 17
Motor vehicle registration and licensing

Part 17: added, on 29 June 2009, by section 32(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Preliminary provisions

Heading: added, on 29 June 2009, by section 32(1) of the Land Transport Amendment Act 2009 (2009 No 17).

233 Interpretation matters applying to this Part

(1) In this Part, unless the context otherwise requires,—

accident insurance levy means the appropriate levy payable under section 214 of the Accident Compensation Act 2001

enforcement authority, in relation to an infringement offence under this Part, means—

(a) the New Zealand Police:

(b) the Agency, if an infringement notice is issued by an employee of the Agency or by a person acting on behalf of the Agency:

(c) a local authority, if an infringement notice is issued by an employee of the local authority or by a person acting on behalf of the local authority:

(d) the Registrar

motor vehicle (synthetic greenhouse gas) levy means the levy payable under section 227(1)(a) of the Climate Change Response Act 2002

ordinary plate means a registration plate that must be displayed on a motor vehicle unless a personalised plate or a trade plate is issued for display on the motor vehicle

personal information means the name and address (and, in the case of an individual, the date of birth and driver licence number) and any other information about a person registered or previously registered in respect of a motor vehicle

personalised plate means a registration plate with a single letter or number or combination of letters, numbers, or letters and numbers allocated under section 259

prescribed fees means the applicable fees and charges prescribed by regulations made under this Part and, in relation to a particular application or notification under this Part, **prescribed fee** means the fee or charge, if any, prescribed for that application or notification (subject to section 270(5))

registered person means a person registered under this Part in respect of a motor vehicle and, in relation to a particular motor vehicle, means the person registered in respect of that vehicle

Registrar means the person appointed by the Minister to be the Registrar of Motor Vehicles, and includes, where appropriate,—

(a) any person to whom the Registrar has delegated any of the powers, duties, or functions of the Registrar under this Part:

(b) any person for the time being authorised by the Registrar to perform any specified function of the Registrar under this Part

registration plate—

(a) means a plate issued under—

(i) this Part; or

(ii) the Transport Act 1962; or

(iii) the Transport (Vehicle and Driver Registration and Licensing) Act 1986; and

(b) includes ordinary plates, supplementary plates, personalised plates, and trade plates

sale, in relation to a motor vehicle, means the disposition or change of ownership of the motor vehicle, whether or not for consideration, and includes disposition by way of hire purchase; and **sell, seller, acquirer**, and **purchaser** have corresponding meanings

supplementary plate means a registration plate that matches an ordinary plate or a personalised plate issued for a motor vehicle

tractor means a motor vehicle (other than a traction engine) designed principally for traction at speeds not exceeding 50 kilometres per hour

trade plate means a registration plate issued to a person or class of persons for the purposes specified by the Minister by notice in the *Gazette*

trailer means a vehicle without its own power source that is capable of being drawn or propelled by a motor vehicle from which it is readily detachable, but does not include—

(a) a sidecar attached to a motorcycle; or

(b) a vehicle normally propelled by mechanical power while it is being temporarily towed without the use of its own power.

(2) Except in proceedings for an offence against this Part or regulations made under this Part, a question as to whether a motor vehicle is of a particular

design or type for the purposes of this Part or of regulations made under this Part must be determined by the Registrar.

Compare: 1986 No 6 s 2

Section 233: added, on 29 June 2009, by section 32(1) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 233(1) **accident insurance levy**: amended, on 3 March 2010, pursuant to section 5(1)(b) of the Accident Compensation Amendment Act 2010 (2010 No 1).

Section 233(1) **moped**: repealed, on 10 May 2011, by section 96(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 233(1) **motor vehicle (synthetic greenhouse gas) levy**: inserted, on 1 January 2013, by section 103 of the Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012 (2012 No 89).

Section 233(1) **motorcycle**: repealed, on 10 May 2011, by section 96(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Register of motor vehicles

Heading: inserted, on 1 May 2011, by section 32(2) of the Land Transport Amendment Act 2009 (2009 No 17).

234 Register of motor vehicles

(1) The Registrar must continue and maintain the register of all motor vehicles for which registration plates are issued.

(2) In any proceedings, the contents of the register are proved by the production of a certificate indicating its contents if signed by the Registrar or a person acting under a delegation from—

(a) the Registrar; or

(b) an enforcement authority.

Compare: 1986 No 6 s 18

Section 234: inserted, on 1 May 2011, by section 32(2) of the Land Transport Amendment Act 2009 (2009 No 17).

235 Purposes of register

The purposes of the register are to facilitate—

(a) enforcement of the law:

(b) maintenance of the security of New Zealand:

(c) collection of charges imposed or authorised by an enactment:

(d) administration and development of transport law and policy.

Section 235: inserted, on 1 May 2011, by section 32(2) of the Land Transport Amendment Act 2009 (2009 No 17).

236 Application for information from register

(1) Any person may apply to the Registrar, in relation to a specified motor vehicle, for—

(a) access to the following information from the register:

(i) information on that motor vehicle:

(ii) personal information:

(b) confirmation that certain information matches personal information on the register, as provided for in section 238.

(2) The application must be—

(a) made in accordance with any regulations made under this Part; and

(b) accompanied by the prescribed fee.

(3) The person who receives the application must make and keep, in the form provided by the Registrar for the purpose, a record of the application and of the information supplied.

Compare: 1986 No 6 s 19(1), (2)

Section 236: inserted, on 1 May 2011, by section 32(3) of the Land Transport Amendment Act 2009 (2009 No 17).

237 Entitlement to receive information

(1) A person who applies for information under section 236 is entitled to receive information from the register in relation to a specified motor vehicle.

(2) However, the Registrar may not disclose personal information about an individual unless the Registrar is satisfied that—

(a) the person applying for the information is that individual; or

(b) the information is required for a purpose specified in section 235; or

(c) the information is within the exception specified in section 241; or

(d) the information may be disclosed under an enactment.

(3) Information from the register must not be supplied unless—

(a) the prescribed fee is paid; or

(b) the Registrar is satisfied that satisfactory arrangements have been made for payment of that fee.

(4) The Registrar must, at the request of an individual, supply to the individual—

(a) the name of any person to whom personal information about the individual has been disclosed under—

(i) subsection (2)(c); or

(ii) subsection (2)(d), but only if the enactment in question was the Official Information Act 1982 or the Privacy Act 2020; and

(b) the purpose of any such disclosure.

Compare: 1986 No 6 s 19(1), (3)

Section 237: inserted, on 1 May 2011, by section 32(3) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 237(4)(a)(ii): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

238 Registrar may confirm or deny match of information

(1) If an application is made under section 236(1)(b) for confirmation of personal information, the Registrar may confirm or deny that the person specified by the applicant is registered in respect of the motor vehicle specified by the applicant.

(2) To avoid doubt, the Registrar—

(a) may use associated data provided by the applicant such as (in the case of an individual) the date of birth or driver licence number for the purpose of confirming or denying that a specified person is registered in respect of a specified motor vehicle; but

(b) may only confirm or deny, as permitted by subsection (1).

Section 238: inserted, on 1 May 2011, by section 32(3) of the Land Transport Amendment Act 2009 (2009 No 17).

239 Further restrictions

(1) Despite section 237, for a period of up to 28 days the Registrar may decline to supply information if the Registrar is considering whether to exercise the power provided for in subsection (2).

(2) The Registrar may grant confidential status in respect of a specified motor vehicle if the Registrar certifies that the supply of personal information or information on that motor vehicle would be likely to prejudice—

(a) the security or defence of New Zealand:

(b) the international relations of the Government of New Zealand:

(c) the maintenance of the law, including the detection, investigation, and prevention of offences:

(d) the right to a fair trial of any person:

(e) the privacy or personal safety of any person.

(3) The Registrar must decline to supply personal information or information on a motor vehicle if the Registrar has granted confidential status under subsection (2).

(4) Despite subsection (3), information from the register—

(a) may be supplied for the purposes set out in section 235(a) to (c) if the supply of the information is approved by the Registrar; and

(b) must be released if disclosure is—

(i) required by another enactment; or

(ii) to the Police at the request of the Commissioner of Police.

(5) In considering under subsection (4)(a) whether to approve a supply of information, the Registrar must—

(a) consult any agency that provided advice in support of the granting of confidential status in respect of the vehicle or vehicles to which the information relates; and

(b) have regard to the reasons for which that status was granted.

Compare: 1986 No 6 s 19(4), (5)

Section 239: inserted, on 1 May 2011, by section 32(3) of the Land Transport Amendment Act 2009 (2009 No 17).

240 Complaints procedure

(1) Complaints may be made to the Attorney-General against a decision of the Registrar made under section 239(1) or (2).

(2) The Attorney-General may investigate a complaint and either—

(a) confirm the decision of the Registrar that was the subject of the complaint; or

(b) if the Attorney-General considers that the complaint is valid, reverse the Registrar's decision.

Compare: 1986 No 6 s 19(5A)

Section 240: inserted, on 1 May 2011, by section 32(3) of the Land Transport Amendment Act 2009 (2009 No 17).

241 Authorised access to name and address only

(1) After consulting with the Privacy Commissioner, the Chief Ombudsman, and the Commissioner of Police, the Secretary may, by notice in the *Gazette*, authorise specified persons or classes of persons to have access to the names and addresses of persons registered in respect of motor vehicles and information on those vehicles—

(a) for specified purposes (in addition to the purposes recognised by section 235); and

(b) on conditions that the Secretary thinks fit; and

(c) for a specified event or specified period of time not exceeding 5 years.

(2) The Secretary may, as he or she thinks fit, cancel or amend by notice in the *Gazette* a notice published under subsection (1).

(3) An application for authorisation under subsection (1) must be—

(a) made to the Secretary in accordance with any regulations made under this Part; and

(b) accompanied by the prescribed fee.

(4) The Secretary must decide whether to approve the application, and must inform the applicant of his or her decision, within a reasonable time after receiving the information reasonably required by him or her to make the decision.

(5) The Secretary may refuse to consider the application if the Secretary believes that it is vexatious or frivolous.

(6) The Registrar may withhold the names and addresses of registered persons from a person authorised by a notice published under subsection (1) until the Registrar is satisfied that—

(a) the names and addresses will be—

(i) kept secure by that person and his or her agents, if any; and

(ii) used only for the purpose specified in the notice published under subsection (1); and

(b) provision of the names and addresses will not compromise the purpose of any confidential status granted under section 239; and

(c) any conditions specified in that notice will be complied with.

(7) An authorisation under subsection (1) does not authorise any person or class of person to have access to the names and addresses of persons—

(a) who were previously registered in respect of motor vehicles; or

(b) who have notified the Registrar, in accordance with any regulations made under this Part, that they do not wish to have their names and addresses made available under subsection (1).

Section 241: added, on 29 June 2009, by section 32(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Registration and licensing requirements

Heading: inserted, on 1 May 2011, by section 32(5) of the Land Transport Amendment Act 2009 (2009 No 17).

242 Motor vehicles must be registered and licensed

(1) A motor vehicle must not be operated on a road unless the motor vehicle—

(a) is registered and licensed in accordance with this Part; and

(b) has affixed to it and displayed in the manner prescribed by regulations made under this Part the registration plates issued for it; and

(c) has displayed in the manner prescribed by regulations made under this Part a current licence issued for it and appropriate for its use under section 244.

(2) The person registered in respect of a motor vehicle in accordance with this Part must—

(a) keep the motor vehicle licensed at all times in accordance with this Part; and

(b) ensure that the prescribed fees and accident insurance levies are paid for the time that the motor vehicle is required to be licensed (whether or not it is actually licensed).

(3) Subsections (1) and (2) do not override any provisions of this Part or of regulations made under this Part that provide expressly for a motor vehicle to be operated on a road otherwise than in accordance with subsections (1) and (2).

(4) A motor vehicle that is a registered motor vehicle under the Transport (Vehicle and Driver Registration and Licensing) Act 1986 or any corresponding former Act immediately before the commencement of this Part is to be treated as if it were registered under this Part.

Compare: 1986 No 6 s 5(1), (1A), (5)

Section 242: inserted, on 1 May 2011, by section 32(5) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 242(1)(b): replaced, on 11 August 2017, by section 100 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 242(1)(c): inserted, on 11 August 2017, by section 100 of the Land Transport Amendment Act 2017 (2017 No 34).

243 Application for registration

(1) An application for registration of a motor vehicle must be—

(a) made by or on behalf of the owner to the Registrar in accordance with any regulations made under this Part; and

(b) accompanied by—

(i) the prescribed fee; and

(ii) an application for a licence for the motor vehicle.

(1A) An application for registration of a motor vehicle must also be accompanied by the amount of the motor vehicle (synthetic greenhouse gas) levy for the motor vehicle if required under section 227(1)(a) of the Climate Change Response Act 2002.

(2) The only persons who may be registered in respect of motor vehicles are—

(a) a natural person of or over 15 years of age; or

(b) a body corporate; or

(c) an agent of the Executive Government of New Zealand.

(3) If more than 1 person owns a motor vehicle, only 1 of them may be registered in respect of that vehicle at any given time.

(4) Unless the registration is cancelled under this Part, the registration of a motor vehicle continues in force without renewal.

(5) In relation to a vehicle treated by virtue of section 242(4) as if it were registered under this Part,—

(a) the person registered as the owner of the vehicle immediately before the commencement of this section is to be treated as being registered in respect of the vehicle under this Part; and

(b) if there is more than 1 such person, each of them is to be treated as being so registered (accordingly, subsection (3) does not apply until there is to be a change of registered person).

Compare: 1986 No 6 ss 6A, 7(1), (1A), (2), (3), (4), 8(2), 22(3)

Section 243: inserted, on 1 May 2011, by section 32(5) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 243(1A): inserted, on 1 January 2013, by section 103 of the Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012 (2012 No 89).

244 Application for, and issuing of, licence

(1) An application for a licence for a motor vehicle must be made to the Registrar by or on behalf of the person registered (or to be registered) in respect of the vehicle in accordance with any regulations made under this Part.

(2) As soon as practicable after receiving a completed application under subsection (1), together with the prescribed fees and accident insurance levies, the Registrar must, if satisfied that the application is in order, issue the appropriate licence for the motor vehicle—

(a) in accordance with any regulations made under this Part; and

(b) for a licensing period specified in any regulations made under this Part.

(3) A licence must not be issued for a motor vehicle that is not registered in accordance with section 242.

(4) In relation to a vehicle treated by virtue of section 242(4) as if it were registered under this Part, a licence issued for the vehicle under the Transport (Vehicle and Driver Registration and Licensing) Act 1986 and in force immediately before the commencement of this section continues to have effect as if it had been issued for the vehicle under this Part.

Compare: 1986 No 6 ss 10(1), (2), 13(1)–(3)

Section 244: inserted, on 1 May 2011, by section 32(5) of the Land Transport Amendment Act 2009 (2009 No 17).

245 Commencement of licence

Except as otherwise prescribed by regulations made under this Part, a licence commences,—

(a) in the case of a newly registered motor vehicle, on the day of its registration; or

(b) on the day after the expiry of the previous licence.

Section 245: inserted, on 1 May 2011, by section 32(5) of the Land Transport Amendment Act 2009 (2009 No 17).

246 Change of use of motor vehicle

(1) If a motor vehicle is to be used for a purpose other than that indicated by the existing licence, the person registered in respect of the motor vehicle must, without delay, apply for the appropriate new licence.

(2) The issue of a new licence must be in accordance with regulations made under this Part.

Compare: 1986 No 6 s 16(1)

Section 246: inserted, on 1 May 2011, by section 32(5) of the Land Transport Amendment Act 2009 (2009 No 17).

Change of registered person on sale or other disposition

Heading: inserted, on 1 May 2011, by section 32(6) of the Land Transport Amendment Act 2009 (2009 No 17).

247 Obligations of sellers and acquirers of motor vehicles

(1) After the sale of a registered motor vehicle,—

(a) the person registered in respect of the vehicle at the time of sale must, without delay, notify the Registrar of the particulars required by any regulations made under this Part; and

(b) the person who acquires a motor vehicle must, without delay, notify the Registrar of the particulars required by any regulations made under this Part.

(2) A person must, without delay, notify the Registrar of the particulars required by any regulations made under this Part, if that person acquires a motor vehicle—

(a) by means other than the sale of that vehicle; and

(b) in a manner specified in any regulations made under this Part.

(3) A notification required by this section must be made in accordance with any regulations made under this Part.

Section 247: inserted, on 1 May 2011, by section 32(6) of the Land Transport Amendment Act 2009 (2009 No 17).

248 Prohibition against use of motor vehicle

(1) This section applies if an enforcement officer or a parking warden believes on reasonable grounds that—

(a) a person driving a motor vehicle on a road has committed an offence in relation to which an officer or warden has enforcement powers under this Act or another enactment; and

(b) the motor vehicle is not registered under this Part in the name of the current owner of the motor vehicle or with the current address of that person.

(2) The enforcement officer or parking warden may give to the driver or owner of the motor vehicle, if present, or affix or cause to be affixed to the motor vehicle, a notice in the form approved by the Registrar for the purpose directing that the motor vehicle—

(a) be removed from the road immediately; and

(b) not be driven on a road for as long as the notice is in force in accordance with subsection (3).

(3) A notice given under subsection (2)—

(a) comes into effect at 11.59 pm on the working day after the day when the notice is issued (unless the name and current address of the owner are registered before that time); and

(b) remains in force until the motor vehicle has been registered in the name and current address of the owner.

(4) Where more than 1 person owns a motor vehicle, reference in this section to the owner is to any 1 of those persons.

Section 248: inserted, on 1 May 2011, by section 32(7) of the Land Transport Amendment Act 2009 (2009 No 17).

249 Circumstances when motor vehicle may be seized and impounded

(1) An enforcement officer may seize and impound, or seize and authorise the impoundment of, a motor vehicle if the enforcement officer believes on reasonable grounds that a person has driven the motor vehicle on a road while a notice given under section 248(2) was in force.

(2) If a motor vehicle is seized and impounded under subsection (1), the enforcement officer must issue to the driver of the motor vehicle, if present, and to the storage provider, copies of a notice in the form approved by the Registrar for the purpose that—

(a) acknowledges that the specified motor vehicle has been seized and impounded; and

(b) sets out the following matters (if the particulars are reasonably ascertainable):

(i) the name and address of the driver; and

(ii) the year and make of the motor vehicle, and the details of its registration plates or vehicle identification number; and

(iii) the date and time of the seizure; and

(iv) the place where the motor vehicle is, or is to be, impounded; and

(v) an outline of the driver's rights of appeal under section 267.

Section 249: inserted, on 1 May 2011, by section 32(7) of the Land Transport Amendment Act 2009 (2009 No 17).

250 Personal property

Personal property (other than property attached to or used in connection with the operation of the motor vehicle) present in a motor vehicle at the time of its seizure and impoundment under section 249 must be released—

(a) on request made at the time of the seizure, to a person who produces satisfactory evidence that he or she was lawfully entitled to possess the motor vehicle or the personal property immediately before the motor vehicle was seized and impounded; or

(b) subsequently, to—

(i) the owner of the personal property; or

(ii) a person acting on behalf of the owner of the personal property, if the person produces satisfactory evidence of the owner's consent to the property being released to that person.

Section 250: inserted, on 1 May 2011, by section 32(7) of the Land Transport Amendment Act 2009 (2009 No 17).

251 Storage of impounded motor vehicles

(1) A motor vehicle seized and impounded under section 249 must be stored as and where the enforcement officer directs.

(2) The owner of the impounded motor vehicle is liable for the fees and charges incurred for towage and storage.

(3) The local authority or storage provider, as the case may be, is entitled to recover the due fees and charges from the owner of the motor vehicle.

(4) Subsections (2) and (3) do not limit or affect any rights that may be exercised by the vehicle recovery service operator, the storage provider, or the local authority against the owner of the motor vehicle, or in respect of the motor vehicle.

(5) No person may remove or release an impounded motor vehicle from storage, unless that is permitted under this Act.

(6) For the purpose of this section, the Commissioner, a person authorised for the purpose by the Commissioner, or a local authority may, as that person thinks necessary, enter into appropriate arrangements with vehicle recovery service operators and storage providers.

Section 251: inserted, on 1 May 2011, by section 32(7) of the Land Transport Amendment Act 2009 (2009 No 17).

252 Release of motor vehicle

(1) The owner of a motor vehicle that has been seized and impounded under section 249, or a person authorised for the purpose by the owner, is entitled to recover the motor vehicle from storage by—

(a) showing to an enforcement officer—

(i) proof of the owner's identity and either—

(A) the certificate of registration of the motor vehicle in the name of that owner; or

(B) proof that the owner has supplied to the Registrar the details required under section 247(1); and

(ii) proof that no fines for which an owner is liable, and that were incurred while the owner owned the motor vehicle, are in default; and

(b) paying the towage and storage fees and charges.

(2) The storage provider must release the motor vehicle as soon as practicable after the requirements of subsection (1) have been satisfied.

(3) An enforcement officer must order the release of an impounded motor vehicle to the owner of the motor vehicle, or a person authorised for the purpose by the owner, as soon as practicable after receiving evidence that the motor vehicle was registered in the name of that owner and with the current address of that owner, at the time of its impoundment.

(4) The owner of a motor vehicle released under subsection (3) is not liable to pay the fees and charges for towing and storing the motor vehicle.

Section 252: inserted, on 1 May 2011, by section 32(7) of the Land Transport Amendment Act 2009 (2009 No 17).

253 Disposal of motor vehicle

(1) This section applies to a motor vehicle seized and impounded under section 249 if the motor vehicle is not released within 10 working days of its impoundment.

(2) The storage provider with possession of the motor vehicle may dispose of the motor vehicle in accordance with subsection (3) or (5), as appropriate.

(3) A storage provider that is not a local authority may—

(a) apply to an enforcement officer authorised for the purpose by the Commissioner for approval to dispose of a motor vehicle under subsection (2); and

(b) with the enforcement officer's written approval, dispose of the motor vehicle on such terms and conditions as the officer thinks fit.

(4) If approval is given under subsection (3) for the disposal of a motor vehicle, the storage provider becomes the owner of the motor vehicle for all purposes.

(5) A storage provider that is a local authority may dispose of a motor vehicle under subsection (2) in accordance with section 356A(7), (8), and (9) of the Local Government Act 1974.

(6) However, before disposing of a motor vehicle under subsection (3) or (5), a storage provider must—

(a) search the personal property securities register to identify every person with a security interest in the motor vehicle; and

(b) notify in writing every person with a security interest in the motor vehicle.

(7) For the purposes of subsection (6), **security interest** has the same meaning as in section 17 of the Personal Property Securities Act 1999.

Section 253: inserted, on 1 May 2011, by section 32(7) of the Land Transport Amendment Act 2009 (2009 No 17).

254 Impounded motor vehicle not to be damaged

(1) This section applies to a person authorised by an enforcement officer to—

(a) enter a motor vehicle for the purpose of moving it or preparing it for movement; or

(b) impound a motor vehicle.

(2) The person referred to in subsection (1) must do everything reasonably necessary to ensure that the motor vehicle and personal property in or on the motor vehicle are not damaged.

Section 254: inserted, on 1 May 2011, by section 32(7) of the Land Transport Amendment Act 2009 (2009 No 17).

Cancellation of registration

Heading: inserted, on 1 May 2011, by section 32(8) of the Land Transport Amendment Act 2009 (2009 No 17).

255 Cancellation of registration

The Registrar may cancel the registration of a registered motor vehicle in accordance with any regulations made under this Part.

Section 255: inserted, on 1 May 2011, by section 32(8) of the Land Transport Amendment Act 2009 (2009 No 17).

256 Discretion to refund fees

(1) This section applies if—

(a) the Registrar cancels the registration of a motor vehicle under section 255; or

(b) a person surrenders a trade plate before the expiry of that plate and the Registrar considers it appropriate to exercise the power specified in subsection (2).

(2) If this section applies, the Registrar may, without further authority than this section, refund or cause to be refunded out of a Crown Bank Account an amount equal to the amount of the—

(a) licence fee paid for the period for which registration is cancelled:

(b) trade plate fee paid for the period for which the trade plate is surrendered.

Compare: 1986 No 6 s 27(2)

Section 256: inserted, on 1 May 2011, by section 32(8) of the Land Transport Amendment Act 2009 (2009 No 17).

Registration plates

Heading: inserted, on 1 May 2011, by section 32(9) of the Land Transport Amendment Act 2009 (2009 No 17).

257 Issue of plates and certificates of registration

(1) The Registrar must, if satisfied that an application for registration of a motor vehicle made in accordance with regulations made under this Part is in order,—

(a) in the case of ordinary plates,—

(i) assign numbers, letters, a distinguishing mark, or a combination of any of these for the ordinary plates that are to be affixed to the motor vehicle; and

(ii) issue to the applicant an ordinary plate or plates for the motor vehicle; and

(b) in the case of personalised plates, issue the unique numbers, letters, distinguishing marks, or combination of any of these assigned for use on the plates that are to be affixed to the motor vehicle; and

(c) issue a certificate of registration for the motor vehicle.

(2) A new number or distinguishing mark may be assigned to the motor vehicle if new ordinary plates are issued for it.

(3) Ordinary plates issued under this section must be displayed on the motor vehicle unless personalised plates or trade plates are displayed in accordance with this Part or regulations made under this Part.

(4) A person to whom registration plates are issued under this section must, at the discretion of the Registrar, surrender any existing registration plates for that motor vehicle to the Registrar.

Compare: 1986 No 6 s 8(1)–(3)

Section 257: inserted, on 1 May 2011, by section 32(9) of the Land Transport Amendment Act 2009 (2009 No 17).

258 Supplementary plates

(1) A registered person may apply to the Registrar for supplementary plates in accordance with any regulations made under this Part.

(2) Supplementary plates must be issued and displayed in accordance with any such regulations.

Section 258: inserted, on 1 May 2011, by section 32(10) of the Land Transport Amendment Act 2009 (2009 No 17).

259 Contract to dispose of rights to personalised plates

(1) The Registrar may, after consulting with the Minister, enter into a contract to authorise a person to sell or otherwise dispose of the exclusive right to 1 or more letters or numbers, or a combination of both, allocated in accordance with regulations made under this Part for use on personalised plates.

(2) Nothing in subsection (1) limits the number of contracts that may be in force under this section at any given time (whether in respect of the same or different letters or numbers or combinations of both).

(3) A contract that was entered into under section 9 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 and is in force immediately before commencement of this section is deemed to have been entered into under and in accordance with this section.

(4) A contract entered into (or deemed to have been entered into) under this section may be terminated by either party on giving reasonable notice to the other party, despite anything to the contrary in the contract or elsewhere.

(5) If no contract is in force under this section in respect of particular letters or numbers or combinations of both, the Registrar is the person entitled to sell or dispose of the exclusive right to those letters or numbers or combinations of both for use on personalised plates.

Compare: 1986 No 6 s 9(2), (5)

Section 259: inserted, on 1 May 2011, by section 32(11) of the Land Transport Amendment Act 2009 (2009 No 17).

260 Acquisition and disposal of personalised plates

(1) A person who wishes to purchase or otherwise acquire personalised plates, or the exclusive right specified in section 259, may—

(a) apply to the authorised person referred to in section 259—

(i) to purchase the exclusive right specified in section 259; or

(ii) to convert the existing registration plates of a motor vehicle to personalised plates bearing the same combination of letters and numbers as the existing plates; or

(b) purchase that exclusive right on the open market, whether or not the personalised plates have been manufactured.

(2) A person who purchases or otherwise acquires personalised plates, or the exclusive right specified in section 259, may—

(a) sell or otherwise dispose of them to any other person; or

(b) transfer them between motor vehicles owned by that person; or

(c) surrender them for ordinary plates.

(3) Despite anything in subsections (1) and (2), a person transferring, selling, disposing of, acquiring, or surrendering personalised plates must transfer, sell, dispose of, acquire, or surrender the plates in accordance with any regulations made under this Part.

(4) Personalised plates must be issued in accordance with any regulations made under this Part.

Compare: 1986 No 6 ss 9A, 9B, 9C

Section 260: inserted, on 1 May 2011, by section 32(11) of the Land Transport Amendment Act 2009 (2009 No 17).

261 Eligibility for trade plates

The Minister may, by notice in the *Gazette*,—

(a) declare the persons or classes of persons who are eligible to apply for and receive trade plates; and

(b) prescribe the purpose for which trade plates may be used; and

(c) remove the eligibility of persons or classes of persons to apply for and receive or to use trade plates.

Section 261: inserted, on 1 May 2011, by section 32(12) of the Land Transport Amendment Act 2009 (2009 No 17).

262 Application for trade plates

(1) A person who is, or who is within a class of persons, eligible to receive trade plates may apply to the Registrar for trade plates.

(2) An application must be—

(a) made in accordance with any regulations made under this Part; and

(b) accompanied by—

(i) the prescribed fee; and

(ii) the accident insurance levy.

(3) Trade plates must be issued and used in accordance with any regulations made under this Part.

Compare: 1986 No 6 s 30(2), (3)

Section 262: inserted, on 1 May 2011, by section 32(12) of the Land Transport Amendment Act 2009 (2009 No 17).

263 Transitional provision for existing registration plates

Registration plates issued under the Transport (Vehicle and Driver Registration and Licensing) Act 1986 or any corresponding Act are to be treated as registration plates issued under this Part.

Section 263: inserted, on 1 May 2011, by section 32(12) of the Land Transport Amendment Act 2009 (2009 No 17).

General provisions relating to registration and licensing

Heading: inserted, on 1 May 2011, by section 32(13) of the Land Transport Amendment Act 2009 (2009 No 17).

264 Replacement of certificate of registration, licence, or registration plates

(1) If the certificate of registration, licence, or registration plates for a motor vehicle have been lost, stolen, damaged, or destroyed, the registered person may, in accordance with any regulations made under this Part, apply for a

replacement or duplicate of the certificate of registration, licence, or registration plates.

(2) The Registrar may, if satisfied that subsection (1) applies and that the application is complete, issue (in accordance with any regulations made under this Part) a replacement or duplicate of the certificate of registration, licence, or registration plates.

(3) In the case of registration plates,—

(a) the replacement or duplicate must have the same letters, numbers, distinguishing marks or combination of letters, numbers or distinguishing marks as were assigned to the plates that were lost, stolen, damaged, or destroyed; but

(b) nothing in this section requires the Registrar to issue an exact replica of those plates (for example, in terms of colour, format, font, or size).

Section 264: inserted, on 1 May 2011, by section 32(13) of the Land Transport Amendment Act 2009 (2009 No 17).

265 Surrender and seizure of registration plates and facsimile plates

(1) The Registrar may order the surrender of—

(a) any registration plates if the Registrar is satisfied that the plates—

(i) are affixed to a motor vehicle other than the motor vehicle to which they may be lawfully affixed; or

(ii) being ordinary plates, are not affixed to a motor vehicle; or

(iii) have been issued in error or are being used (or are likely to be used) unlawfully; or

(b) personalised plates if the Registrar has received a complaint about the plates and considers they are likely to cause offence or confusion; or

(c) facsimile plates.

(2) An enforcement officer may seize any registration plates if the enforcement officer is satisfied that the plates—

(a) are affixed to a motor vehicle other than the motor vehicle to which they may be lawfully affixed; or

(b) being ordinary plates, are not affixed to a motor vehicle; or

(c) have been issued in error or are being used (or are likely to be used) unlawfully; or

(d) have been ordered by the Registrar to be surrendered under subsection (1) or in accordance with any regulations.

(3) An enforcement officer may seize and destroy any facsimile plates.

(4) For the purposes of subsections (1)(c) and (3), **facsimile plate** means any thing that is not a registration plate but is made to appear as if it is a registration plate.

Compare: 1986 No 6 ss 8(4), 9D(3)

Section 265: inserted, on 1 May 2011, by section 32(13) of the Land Transport Amendment Act 2009 (2009 No 17).

266 Registrar may prohibit or decline to issue plates

The Registrar may, in accordance with regulations made under this Part,—

(a) prohibit the use of certain numbers, letters, or combinations of numbers or letters on personalised plates:

(b) decline to issue supplementary plates:

(c) decline to issue trade plates.

Section 266: inserted, on 1 May 2011, by section 32(13) of the Land Transport Amendment Act 2009 (2009 No 17).

267 Appeal to District Court

(1) A person may appeal to the District Court against a specified decision made under this Part by the Registrar or an enforcement officer if the person—

(a) is a person in respect of whom the decision was made; and

(b) is dissatisfied with the decision.

(2) The Court may confirm, reverse, or modify the specified decision appealed against.

(3) Every specified decision appealed against under this section continues in force pending the determination of the appeal, and no person is excused from complying with this Part on the ground that an appeal is pending.

(4) For the purposes of this section, a **specified decision** means a decision to—

(a) seize and impound a motor vehicle under section 249:

(b) refuse to issue a supplementary plate or a trade plate in accordance with regulations made under this Part:

(c) require the surrender of ordinary plates, personalised plates, supplementary plates, or trade plates in accordance with section 265 or any regulations made under this Part:

(d) seize plates under section 265(2).

Section 267: inserted, on 1 May 2011, by section 32(14) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 267(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Offences and penalties

Heading: inserted, on 1 May 2011, by section 32(15) of the Land Transport Amendment Act 2009 (2009 No 17).

268 Infringement offences

An enforcement authority may, in relation to infringement offences against regulations made under this Part, exercise the powers specified in sections 138 to 141.

Section 268: inserted, on 1 May 2011, by section 32(15) of the Land Transport Amendment Act 2009 (2009 No 17).

Regulations

Heading: added, on 29 June 2009, by section 32(16) of the Land Transport Amendment Act 2009 (2009 No 17).

269 Regulations

(1) The Governor-General may, by Order in Council, make regulations—

(a) providing for—

(i) the licensing and registration of motor vehicles, including (but not limited to)—

(A) the requirements for eligibility:

(B) cancellation:

(C) correction of errors or inaccuracies:

(D) cases where particulars need not be recorded on the register:

(ii) the provision (at the request of the Registrar or otherwise) of relevant information, documents, or evidence, including (but not limited to)—

(A) a statutory declaration by the person to be registered in respect of a motor vehicle that the person is the owner of the motor vehicle:

(B) evidence of a person's identity (such as a driver licence):

(C) the certificate of registration for a motor vehicle:

(D) a statutory declaration by an appropriate person explaining the circumstances in which a certificate, licence, or plate was lost, stolen, damaged, or destroyed:

(E) a statutory declaration by the person applying for supplementary plates that states the intended use of the supplementary plates:

(F) evidence, from a person authorised by the Registrar, that a vehicle subject to a registration application belongs to a

particular class of vehicle and that it complies with the standards applicable to that class:

(iii) the manufacture, issuing, cancellation, refusal to issue, or surrender of registration plates:

(iiia) the manufacture or production (including electronic production), issuing, cancellation, refusal to issue, or surrender of licences:

(iv) the refusal to allocate numbers, letters, or combinations of numbers or letters for use on personalised plates:

(b) exempting, or authorising the Registrar to exempt, a motor vehicle or person, or a specified category or class of motor vehicles or persons, from—

(i) any specified requirements of this Part or of regulations made under this Part:

(ii) any prescribed fees:

(c) imposing, or authorising the Registrar to impose, conditions in respect of—

(i) the use of licences or registration plates:

(ii) the operation of a registered motor vehicle on a road:

(iii) any matter provided for in regulations made under this Part:

(d) making provision, or authorising the Registrar to make provision, for applications or notifications permitted or required by this Part (for example, about their form and content or the manner of their delivery):

(e) prescribing the registration requirements and particulars that the seller and acquirer of a motor vehicle must meet and supply, and the functions of the Registrar if there is a change in the ownership of a registered motor vehicle:

(f) permitting, or authorising the Registrar to permit, a change of registered person in a case where more than 1 person owns a motor vehicle and the joint owners wish to change which of them is the registered person:

(g) prescribing, or authorising the Registrar to prescribe, the form of certificates of registration or other forms required for the purposes of this Part:

(h) prescribing, or authorising the Registrar to prescribe, in relation to registration plates,—

(i) the form, colour, and material of registration plates; and

(ii) the size, shape, and character of the numbers, letters, messages, symbols, distinguishing marks, or slogans to be shown on registration plates; and

(iii) the means to make registration plates easily visible; and

(iv) the number of registration plates to be displayed and the position and manner in which they are to be displayed; and

(v) the eligibility requirements for registration plates; and

(vi) the duration of registration plates:

(ha) prescribing, or authorising the Registrar to prescribe, in relation to licences,—

(i) the form (including electronic form), colour, and material and design of licences; and

(ii) the size, shape, and character of the numbers, letters, messages, symbols, distinguishing marks, or slogans to be shown on licences; and

(iii) the means to make licences easily visible or electronically accessible; and

(iv) the number of licences to be displayed and the position and manner (which may include electronic manner) in which licences are to be displayed; and

(v) the eligibility requirements for licences and licence labels; and

(vi) the duration of licences:

(i) specifying the circumstances and conditions in which personalised plates may be sold or otherwise transferred:

(j) authorising the Registrar to enter the particulars of a change of ownership of a motor vehicle under section 247 or of personalised plates or of trade plates on the register, even if a party has failed to comply with the requirements of section 247 or any regulations made under this Part, and prescribing the circumstances in which such particulars may be entered:

(k) specifying offences for the purposes of this Part:

(l) specifying infringement offences for the purposes of this Part:

(m) setting out defences to any offences specified under paragraph (k) or (l):

(n) setting out the maximum penalty for each offence specified under paragraph (k), which,—

(i) in the case of an individual, may be a fine not exceeding $10,000; and

(ii) in the case of a body corporate, may be a fine not exceeding $50,000:

(o) setting the infringement fee for each offence specified under paragraph (l), which,—

(i) in the case of an individual, may not exceed $2,000; and

(ii) in the case of a body corporate, may not exceed $10,000:

(p) prescribing fees or charges payable in respect of—

(i) any application made, or other matter undertaken, under this Part:

(ii) any transfer of personalised plates:

(q) prescribing fees or charges to cover the costs of—

(i) providing information from, or administrative services related to, the register:

(ii) producing and issuing licences and registration plates:

(iii) replacement certificates, licences, or registration plates:

(r) identifying those fees and charges that are land transport revenue for the purposes of the Land Transport Management Act 2003:

(s) providing for unpaid fees and charges to be recoverable as a debt due to the Crown:

(sa) setting the number of demerit points to be recorded in respect of an offence that concerns the driving of a motor vehicle:

(t) providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Part and for its due administration.

(2) Without limiting the generality of subsection (1), regulations may—

(a) define a class of motor vehicles by reference to—

(i) the actual or intended motor vehicle usage:

(ii) ownership by a specified class of owner or by persons or classes of persons approved for the purpose by the Registrar:

(iii) loss of possession or control, whether because of theft or another specified reason:

(b) provide that if a registered person applies for an exemption from the requirement in section 242(2) later than 60 days after the expiry of the latest licence issued for the relevant motor vehicle, the person is liable to pay the proportion of the annual licence fee for that motor vehicle for the period—

(i) commencing on the day after the date of expiry of the former licence; and

(ii) ending on the close of the day immediately before the date when the application for an exemption is lodged:

(c) authorise the Registrar to grant an exemption from any requirements or prescribed fees referred to in subsection (1)(b) if the Registrar is satisfied that for any reason the motor vehicle to which the application relates will not be operated on a road while the exemption has effect:

(d) provide that exemptions referred to in subsection (1)(b) have effect, in each case, for the period that the Registrar thinks fit, unless any limitations are imposed by the regulations made under this Part:

(e) provide that exemptions from the requirements in section 242(1) or (2) have no effect while a motor vehicle is being operated on a road, even if the exemption is conferred by or under the regulations made under this Part:

(f) provide for the renewal or revocation of exemptions referred to in subsection (1)(b) that are granted by the Registrar:

(g) prescribe specific types of numbers, letters, or distinguishing marks for specified classes of motor vehicles, or for motor vehicles operated by persons holding specified office or by persons, governments, or organisations with a specified status, immunity, or privilege:

(h) prescribe higher fees, if the costs warrant, for the production and issuing of any kind of licence or registration plate.

(3) Section 168 applies to regulations made under subsection (1)(p) or (q) of this section as it applies to regulations made under section 167(1)(j).

(4) Without limiting the generality of subsection (3), the following are exempt from any fee or charge payable under this Part for the supply of information from the register of motor vehicles:

(a) the New Zealand Police:

(b) a statutory entity (within the meaning of the Crown Entities Act 2004):

(c) a public service agency as defined in section 5 of the Public Service Act 2020.

Compare: 1986 No 6 s 35A

Section 269: added, on 29 June 2009, by section 32(16) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 269(1)(a)(iii): replaced, on 11 August 2017, by section 101(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 269(1)(a)(iiia): inserted, on 11 August 2017, by section 101(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 269(1)(h): replaced, on 11 August 2017, by section 101(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 269(1)(ha): inserted, on 11 August 2017, by section 101(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 269(1)(sa): inserted, on 1 December 2009, by section 36 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 269(4)(c): replaced, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

269A Additional fee for certain RUC vehicles

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, prescribe an additional fee payable in respect of—

(a) all RUC vehicles (within the meaning of the Road User Charges Act 2012) that are operated on road and that are exempt from paying road user charges under section 38 or 38A of that Act; or

(b) 1 or more classes of RUC vehicles that are operated on road and that are exempt from paying road user charges under section 38 or 38A of that Act.

(2) The additional fee—

(a) is to be treated as land transport revenue for the purposes of the Land Transport Management Act 2003; and

(b) is to be set having regard to—

(i) the extent of the use of the vehicles on road; and

(ii) the likely costs that the vehicles generate when used on road; and

(c) is payable in addition to the fee payable in respect of an application for the licence for a motor vehicle or for the issue of trade plates (as the case may be).

(3) An additional fee prescribed under subsection (1) may be set at different levels for different classes of vehicles (whether licensed or operating under trade plates).

Section 269A: inserted, on 23 April 2014, by section 4 of the Land Transport Amendment Act 2014 (2014 No 22).

270 Fees and charges identified as land transport revenue

(1) This section applies to regulations made by Order in Council under section 269 or 269A that prescribe fees or charges that are identified or to be treated as land transport revenue for the purposes of the Land Transport Management Act 2003 (**relevant regulations**).

(2) The explanatory note of relevant regulations must indicate that—

(a) they are a confirmable instrument under section 47B of the Legislation Act 2012; and

(b) they are revoked at a time stated in the note, unless earlier confirmed by an Act of Parliament; and

(c) the stated time is the applicable deadline under section 47C(1)(a) or (b) of that Act.

(3) *[Repealed]*

(4) If relevant regulations are revoked by section 47C(1)(a) or (b) of the Legislation Act 2012, the fees or charges replaced or altered by those regulations are, from the revocation of those regulations and until the fees or charges are again replaced or altered, the same as they were immediately before those regulations came into force.

(5) The reference in subsection (4) to fees or charges replaced or altered by relevant regulations includes fees or charges—

(a) prescribed (or having effect as if prescribed) under section 167 or 168B in respect of the same or substantially the same matter; and

(b) in force immediately before the commencement of this section.

(6) If relevant regulations are revoked by section 47C(1)(a) or (b) of the Legislation Act 2012, any fees and charges collected by virtue of those regulations in excess of the fees and charges otherwise payable must, except in so far as any other provision is made by an Act of Parliament, be refunded.

(7) Relevant regulations that the House of Representatives resolves should be revoked or varied are revoked or varied in accordance with the terms of the resolution, and any fees and charges collected under the relevant regulations in excess of the fees and charges otherwise payable are, so far as that resolution provides, to be refunded.

(8) *[Repealed]*

Section 270: added, on 29 June 2009, by section 32(16) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 270(1): amended, on 23 April 2014, by section 5(a) of the Land Transport Amendment Act 2014 (2014 No 22).

Section 270(1): amended, on 23 April 2014, by section 5(b) of the Land Transport Amendment Act 2014 (2014 No 22).

Section 270(2): replaced, on 1 January 2016, by section 14 of the Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120).

Section 270(3): repealed, on 1 January 2016, by section 14 of the Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120).

Section 270(4): amended, on 1 January 2016, by section 14 of the Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120).

Section 270(6): amended, on 1 January 2016, by section 14 of the Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120).

Section 270(8): repealed, on 1 January 2016, by section 14 of the Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120).

Appointment

Heading: added, on 29 June 2009, by section 32(17) of the Land Transport Amendment Act 2009 (2009 No 17).

271 Appointment of Registrar

Nothing in this Part prevents the Minister from appointing the Agency to be the Registrar of Motor Vehicles if the Minister thinks it appropriate to do so.

Section 271: added, on 29 June 2009, by section 32(17) of the Land Transport Amendment Act 2009 (2009 No 17).

Delegations and authorisations

Heading: added, on 29 June 2009, by section 32(17) of the Land Transport Amendment Act 2009 (2009 No 17).

272 Delegations

(1) The Registrar may, either generally or particularly, delegate to specified persons any of the Registrar's functions or powers under this Part.

(2) However, subsection (1) does not permit the Registrar to delegate a function or power to a person or a class of persons not employed in the State services (within the meaning of the Public Service Act 2020), except with the written consent of the Minister.

(3) If the Registrar delegates functions or powers to a person under this section, that person—

(a) may, with the prior approval of the Minister, delegate to another person approved functions or powers; and

(b) is, in the case of a person not employed in the State services, subject to—

(i) the Official Information Act 1982; and

(ii) the Ombudsmen Act 1975.

(4) A person to whom functions or powers are delegated under this section may perform those functions and exercise those powers in the same manner and with the same effect as if they had been conferred or imposed upon the person directly and not by delegation.

(5) The Registrar may—

(a) delegate a function or power under this section to a specified person or class of persons or to the holder or holders of a specified office or class of office for the time being; and

(b) impose general or special directions or conditions.

(6) A delegation may be given for a specific or indefinite period, but in either case is revocable at will.

(7) A delegation of a function or power does not prevent the performance of that function or the exercise of that power by the Registrar.

(8) A delegation given under this section—

(a) continues in force according to its tenor until it is revoked, even if the Registrar who gave the delegation ceases to be Registrar; and

(b) continues to have effect as if it were made by the person appointed as Registrar.

(9) A person acting or purporting to act under a delegation under this section must, when reasonably requested, produce evidence of the person's authority to do so.

(10) In this section, **person** includes a body corporate, but does not include an unincorporated body of persons.

Compare: 1986 No 6 s 51A

Section 272: added, on 29 June 2009, by section 32(17) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 272(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

273 Authorisations by Registrar

(1) The Registrar may—

(a) authorise any persons, or their agents or employees, to issue licences, certificates of registration, and registration plates for motor vehicles under this Part (including replacements as appropriate); and

(b) specify how the authority must be exercised; and

(c) appoint, and specify the functions and duties of, agents for notifying a change of ownership of a motor vehicle.

(2) A person who is authorised under subsection (1) and is not employed in the State services is subject to—

(a) the Official Information Act 1982; and

(b) the Ombudsmen Act 1975.

Compare: 1986 No 6 ss 8(6), 13(6), 34(2)

Section 273: added, on 29 June 2009, by section 32(17) of the Land Transport Amendment Act 2009 (2009 No 17).

Fees and charges

Heading: inserted, on 1 May 2011, by section 32(18) of the Land Transport Amendment Act 2009 (2009 No 17).

274 Land transport revenue to be paid into national land transport fund

All fees and charges (excluding applicable refunds and goods and services tax) identified in regulations made under this Part as land transport revenue for the purposes of the Land Transport Management Act 2003 must be paid into a Crown Bank Account and treated as land transport revenue.

Compare: 1986 No 6 s 36

Section 274: inserted, on 1 May 2011, by section 32(18) of the Land Transport Amendment Act 2009 (2009 No 17).

275 Other prescribed fees received under this Part

(1) This section applies to prescribed fees that are received under this Part and that are not referred to in section 274.

(2) Prescribed fees to which this section applies must be paid to the relevant prescribed recipient.

(3) However, if there is no prescribed recipient to whom any prescribed fees to which this section applies must be paid, those prescribed fees must be paid into a Crown Bank Account.

(4) For the purposes of this section, **prescribed recipient** means the person who is specified in regulations made under this Part as the person to whom any fees or charges, or both, are payable.

Compare: 1986 No 6 s 36AA

Section 275: inserted, on 1 May 2011, by section 32(18) of the Land Transport Amendment Act 2009 (2009 No 17).

Schedule 1
Transitional, savings, and related provisions

s 2A

Schedule 1: inserted, on 11 August 2017, by section 109(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Part 1
Provisions relating to Land Transport Amendment Act 2017

1 Interpretation

In this Part, **amendment Act** means the Land Transport Amendment Act 2017.

Alcohol interlock sentences

Heading: inserted, on 1 July 2018, by section 109(2) of the Land Transport Amendment Act 2017 (2017 No 34).

2 Pre-existing alcohol interlock orders, licences, and applications for alcohol interlock licences unaffected by subpart 1 of Part 1 of amendment Act

Except as provided in clauses 3 and 4, subpart 1 of Part 1 of the amendment Act does not affect an alcohol interlock order made under section 65A(2) before that subpart came into force, and does not affect—

(a) the existing licensed status of a person who was issued with an alcohol interlock licence before that subpart came into force; or

(b) any application for an alcohol interlock licence made before that subpart came into force, and the application must be processed as if that subpart had not come into force; or

(c) the period of disqualification required by section 65A(2)(a); or

(d) the requirement in section 65A(4) that a person who is subject to an order under section 65A(2) and who does not apply for an interlock licence is to be treated as a person with a licence of no effect.

Schedule 1 clause 2: inserted, on 1 July 2018, by section 109(2) of the Land Transport Amendment Act 2017 (2017 No 34).

3 Pre-existing alcohol interlock order

A person subject to an alcohol interlock order made under section 65A(2) before subpart 1 of Part 1 of the amendment Act came into force may apply for the order to be cancelled under section 100B as if the order were an alcohol interlock sentence ordered under that subpart.

Schedule 1 clause 3: inserted, on 1 July 2018, by section 109(2) of the Land Transport Amendment Act 2017 (2017 No 34).

4 Effect of subsequent offence on pre-existing alcohol interlock licence

(1) This clause applies to a person who has an alcohol interlock licence that was issued before subpart 1 of Part 1 of the amendment Act came into force and who commits a subsequent offence after that subpart came into force.

(2) Sections 65AJ and 65AK apply to the person as if the person had an alcohol interlock licence issued under section 65AC.

Schedule 1 clause 4: inserted, on 1 July 2018, by section 109(2) of the Land Transport Amendment Act 2017 (2017 No 34).

5 Existing zero alcohol licences and applications for zero alcohol licences unaffected by subpart 1 of Part 1 of amendment Act

Subpart 1 of Part 1 of the amendment Act does not affect a zero alcohol licence order that was made under section 65B(2) before that subpart came into force, and does not affect—

(a) the existing licensed status of a person who was issued with a zero alcohol licence before that subpart came into force; or

(b) any application for a zero alcohol licence made before that subpart came into force, and the application must be processed as if that subpart had not come into force.

Schedule 1 clause 5: inserted, on 1 July 2018, by section 109(2) of the Land Transport Amendment Act 2017 (2017 No 34).

Heavy vehicles

6 Existing notices given under section 16A to have continuing effect

(1) Notices given under section 16A before subpart 4 of Part 1 of the amendment Act comes into force continue to have effect as if that subpart had not come into force.

(2) Subclause (1) applies until the close of the day that is 12 months after subpart 4 of Part 1 of the amendment Act comes into force.

Small passenger services

Heading: inserted, on 1 October 2017, by section 109(3) of the Land Transport Amendment Act 2017 (2017 No 34).

7 Transitional arrangement for small passenger service operator

(1) Before the close of the 28th day after the commencement of this clause,—

(a) section 30J(d) does not apply to a small passenger service operator who is facilitating a small passenger service; and

(b) section 30U(1)(c) does not apply to a small passenger service operator.

(2) A small passenger service operator who does not comply with section 30J(d) at the commencement of this clause must, before the close of the 28th day after the commencement of this clause, have a small passenger service licence.

(3) A small passenger service operator whose licence may be suspended under section 30U(1)(c) must, before the close of the 28th day after the commencement of this clause,—

(a) ensure that—

(i) a person with control of the service in New Zealand lives in New Zealand; or

(ii) the operator has a representative who lives in New Zealand; and

(b) in the manner required by the Agency, notify the Agency—

(i) that the operator meets the requirements of paragraph (a); and

(ii) of any address information required under the rules in relation to that person or representative.

Schedule 1 clause 7: inserted, on 1 October 2017, by section 109(3) of the Land Transport Amendment Act 2017 (2017 No 34).

8 Transitional arrangement for driver using vehicle in small passenger service

(1) Before the close of the 28th day after the commencement of this clause, sections 30P(c) and 79AB(1)(c) do not apply to a driver using a vehicle in a small passenger service who has been facilitated to connect with passengers by a facilitator.

(2) Before the close of the 28th day after the commencement of this clause, a driver using a vehicle in a small passenger service must—

(a) have a small passenger service licence; or

(b) drive on behalf of the holder of a small passenger service licence; or

(c) have been facilitated to connect with passengers by a facilitator who holds a small passenger service licence.

Schedule 1 clause 8: inserted, on 1 October 2017, by section 109(3) of the Land Transport Amendment Act 2017 (2017 No 34).

9 Transitional arrangement for taxi stands and transit lanes

Taxi stands, shuttle stands, and transit lanes that may be used by any type of small passenger service vehicle before the commencement of this clause may be used by all small passenger service vehicles until the relevant road controlling authority changes the rules about the vehicles that may use the stands or lanes.

Schedule 1 clause 9: inserted, on 1 October 2017, by section 109(3) of the Land Transport Amendment Act 2017 (2017 No 34).

10 Existing passenger service licences and applications unaffected by subpart 5 of Part 1 of amendment Act

(1) A person who has an existing passenger service licence when subpart 5 of Part 1 of the amendment Act comes into force is deemed to have—

(a) a small passenger service licence (as defined in section 2 as amended by subpart 5 of Part 1 of the amendment Act); and

(b) a large passenger service licence (as defined in section 2 as amended by subpart 5 of Part 1 of the amendment Act).

(2) Except as required by clauses 7 and 8, subpart 5 of Part 1 of the amendment Act does not affect—

(a) the existing licensed status of a person who was granted a passenger service licence before that subpart came into force; or

(b) any application for a passenger service licence made before that subpart came into force, and the application must be processed as if that subpart had not come into force.

Schedule 1 clause 10: inserted, on 1 October 2017, by section 109(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Schedule 1
Provisions concerning Land Transport Safety Authority of New Zealand

[Repealed]

s 185(3)

Schedule 1: repealed, on 1 December 2004, by section 11(2) of the Land Transport Amendment Act 2004 (2004 No 96).

Schedule 2
Enactments repealed

s 214

Part 1
Provisions of Transport Act 1962 repealed on 1 March 1999

Amendment(s) incorporated in the Act(s).

Part 2
Provisions of Transport (Vehicle and Driver Registration and Licensing) Act 1986 repealed on 1 March 1999

Amendment(s) incorporated in the Act(s).

Part 3
Land Transport Acts repealed on 1 March 1999

Land Transport Act 1993 (1993 No 88)

Land Transport Amendment Act 1995 (1995 No 43)

Part 4
Land Transport enactments repealed on date or dates appointed by Order in Council

Provisions of Transport Act 1962

1 *Amendment(s) incorporated in the Act(s)*.

2 Sections 52A and 53 (which relate to exemptions from speed limits).

3 *Amendment(s) incorporated in the Act(s)*.

4 Section 70AA (which relates to heavy traffic restrictions).

5 *Amendment(s) incorporated in the Act(s)*.

6 Section 74A (which relates to the Minister's functions concerning road safety).

7 Section 78 (which relates to experimental traffic control signs).

8 Section 78A (which relates to piloting fees).

9 *Amendment(s) incorporated in the Act(s)*.

10 Section 199B(7) (which relates to the transfer of functions by the chief executive of the Ministry).

11 Schedule 2 (which relates to infringement offences and fees).

12 Schedule 2A (which relates to offences enforceable by parking wardens).

Provisions of Transport (Vehicle and Driver Registration and Licensing) Act 1986

13 *Amendment(s) incorporated in the Act(s)*.

Land Transport Amendment Act 1997

14 Land Transport Amendment Act 1997 (1997 No 4) (which relates to the transfer of staff).

Part 5
Enactments repealed on date or dates appointed by Order in Council

[Repealed]

Schedule 2 Part 5: repealed, on 10 May 2011, by section 97 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Schedule 3
Enactments amended

s 215(1)

Accident Rehabilitation and Compensation Insurance Act 1992 (1992 No 13)
Amendment(s) incorporated in the Act(s).

Airport Authorities Act 1966 (1966 No 51) (RS Vol 17, p 1)
Amendment(s) incorporated in the Act(s).

Animals Protection Act 1960 (1960 No 30) (RS Vol 6, p 1)
Amendment(s) incorporated in the Act(s).

Building Act 1991 (1991 No 150)
Amendment(s) incorporated in the Act(s).

Children, Young Persons, and Their Families Act 1989 (1989 No 24)
Amendment(s) incorporated in the Act(s).

Civil Defence Act 1983 (1983 No 46)
Amendment(s) incorporated in the Act(s).

Conservation Act 1987 (1987 No 65) (RS Vol 36, p 1)
Amendment(s) incorporated in the Act(s).

Criminal Justice Act 1985 (1985 No 120)
Amendment(s) incorporated in the Act(s).

Education Act 1964 (1964 No 135) (RS Vol 34, p 355)
Amendment(s) incorporated in the Act(s).

Electricity Act 1992 (1992 No 122)
Amendment(s) incorporated in the Act(s).

Estate and Gift Duties Act 1968 (1968 No 35) (RS Vol 28, p 341)
Amendment(s) incorporated in the Act(s).

Gaming and Lotteries Act 1977 (1977 No 84) (RS Vol 33, p 17)
Amendment(s) incorporated in the Act(s).

Gas Act 1992 (1992 No 124)
Amendment(s) incorporated in the Act(s).

Hazardous Substances and New Organisms Act 1996 (1996 No 30)
Amendment(s) incorporated in the Act(s).

Health Act 1956 (1956 No 65) (RS Vol 31, p 467)
Amendment(s) incorporated in the Act(s).

Income Tax Act 1994 (1994 No 164)
Amendment(s) incorporated in the Act(s).

Juries Act 1981 (1981 No 23)
Amendment(s) incorporated in the Act(s).

Litter Act 1979 (1979 No 41)
Amendment(s) incorporated in the Act(s).

Local Government Act 1974 (1974 No 66) (RS Vol 25, p 1)
Amendment(s) incorporated in the Act(s).

Machinery Act 1950 (1950 No 52) (RS Vol 18, p 409)
Amendment(s) incorporated in the Act(s).

Motor Vehicle Dealers Act 1975 (1975 No 127) (RS Vol 5, p 749)
Amendment(s) incorporated in the Act(s).

Motor Vehicle Securities Act 1989 (1989 No 14)
Amendment(s) incorporated in the Act(s).

National Parks Act 1980 (1980 No 66) (RS Vol 36, p 517)
Amendment(s) incorporated in the Act(s).

New Zealand Railways Corporation Act 1981 (1981 No 119)
Amendment(s) incorporated in the Act(s).

New Zealand Walkways Act 1990 (1990 No 32) (RS Vol 36, p 583)
Amendment(s) incorporated in the Act(s).

Petroleum Demand Restraint Act 1981 (1981 No 12)
Amendment(s) incorporated in the Act(s).

Privacy Act 1993 (1993 No 28)
Amendment(s) incorporated in the Act(s).

Public Works Act 1981 (1981 No 35)
Amendment(s) incorporated in the Act(s).

Reserves Act 1977 (1977 No 66) (RS Vol 36, p 603)
Amendment(s) incorporated in the Act(s).

Resource Management Act 1991 (1991 No 69) (RS Vol 32, p 131)
Amendment(s) incorporated in the Act(s).

Road User Charges Act 1977 (1977 No 124) (RS Vol 21, p 759)
Amendment(s) incorporated in the Act(s).

Summary Proceedings Act 1957 (1957 No 87) (RS Vol 9, p 583)
Amendment(s) incorporated in the Act(s).

Transit New Zealand Act 1989 (1989 No 75)
Amendment(s) incorporated in the Act(s).

Transport Accident Investigation Commission Act 1990 (1990 No 99)
Amendment(s) incorporated in the Act(s).

Transport Act 1962 (1962 No 135) (RS Vol 16, p 659)
Amendment(s) incorporated in the Act(s).

Transport Amendment Act 1997 (1997 No 3)
Amendment(s) incorporated in the Act(s).

Transport Services Licensing Act 1989 (1989 No 74)
Amendment(s) incorporated in the Act(s).

Transport (Vehicle and Driver Registration and Licensing) Act 1986 (1986 No 6)
Amendment(s) incorporated in the Act(s).

Trans-Tasman Mutual Recognition Act 1997 (1997 No 60)
Amendment(s) incorporated in the Act(s).

Schedule 4
New Parts 1, 2, 5, 7, 8, 9, and 10 substituted in Schedule 2 of Transport Act 1962

s 215(2)

Amendment(s) incorporated in the Act(s).

Land Transport (Enforcement Powers) Amendment Act 2009

Public Act	2009 No 36
Date of assent	27 October 2009
Commencement	see section 2

1 Title

This Act is the Land Transport (Enforcement Powers) Amendment Act 2009.

2 Commencement

(1) Sections 9, 10, 17, 20, 21, and 40(2) come into force on a date appointed by the Governor-General by Order in Council.

(2) Sections 4(2) and (3), 5, 13 to 16, 34, and 39(2) come into force on 1 November 2009.

(3) The rest of this Act comes into force on 1 December 2009.

Section 2(1): amended, on 10 May 2011, by section 100(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Part 2
Transitional provision and consequential amendments

37 Transitional provision in relation to Transport (Vehicle and Driver Registration and Licensing) Act 1986

In the period commencing on the commencement of this section and ending immediately before the commencement of section 32(2) of the Land Transport Amendment Act 2009, any reference to a registered person in sections 96(2A), 98(1), and 98A(2) of the Land Transport Act 1998 (as inserted or substituted by this Act) must be read as a reference to a registered owner within the meaning of the Transport (Vehicle and Driver Registration and Licensing) Act 1986.

Reprints notes

1 General

This is a reprint of the Land Transport Act 1998 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 Legal status

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 Editorial and format changes

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also http://www.pco.parliament.govt.nz/editorial-conventions/.

4 Amendments incorporated in this reprint

Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48): Part 2

Public Service Act 2020 (2020 No 40): section 135

Land Transport (Rail) Legislation Act 2020 (2020 No 33): sections 18, 19

Privacy Act 2020 (2020 No 31): section 217

Land Transport (Wheel Clamping) Amendment Act 2019 (2019 No 70)

Legislation (Repeals and Amendments) Act 2019 (2019 No 59): section 4

Local Government Act 2002 Amendment Act 2019 (2019 No 54): section 38

Courts Matters Act 2018 (2018 No 50): Part 4 subpart 9

Land Transport Management (Regional Fuel Tax) Amendment Act 2018 (2018 No 15): section 8

Land Transport (Facilitated Cost-sharing Arrangement Maximum Reimbursement) Notice 2017 (LI 2017/274): clause 3

Enhancing Identity Verification and Border Processes Legislation Act 2017 (2017 No 42): Part 2 subpart 7

Land Transport Amendment Act 2017 (2017 No 34)

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31): section 149

Energy Innovation (Electric Vehicles and Other Matters) Amendment Act 2017 (2017 No 27): Part 3

Fire and Emergency New Zealand Act 2017 (2017 No 17): section 197

Intelligence and Security Act 2017 (2017 No 10): sections 281, 282

Statutes Amendment Act 2016 (2016 No 104): Part 16

Land Transport Amendment Act 2016 (2016 No 77)

District Court Act 2016 (2016 No 49): section 261

Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120): section 14

Standards and Accreditation Act 2015 (2015 No 91): section 45(1)

Land Transport (Speed Limits Validation and Other Matters) Act 2015 (2015 No 64): sections 11, 12

Land Transport Amendment Act 2015 (2015 No 17)

Land Transport Amendment Act (No 2) 2014 (2014 No 57)

Land Transport Amendment Act 2014 (2014 No 22)

Land Transport Management Amendment Act 2013 (2013 No 35): section 72

Legislation Act 2012 (2012 No 119): section 77(3)

Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012 (2012 No 89): section 103

Search and Surveillance Act 2012 (2012 No 24): section 268

Road User Charges Act 2012 (2012 No 1): section 94

Criminal Procedure Act 2011 (2011 No 81): sections 393, 413

Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54): section 12

Health Practitioners Competence Assurance (Designation of Anaesthetic Technology Services as Health Profession) Order 2011 (SR 2011/227): clause 8(2)

Land Transport Amendment Act 2011 (2011 No 31)

Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13)

Research, Science, and Technology Act 2010 (2010 No 131): section 18

Accident Compensation Amendment Act 2010 (2010 No 1): section 5(1)(b)

Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36)

Land Transport Amendment Act 2009 (2009 No 17)

Public Transport Management Act 2008 (2008 No 87): section 63(2)

Policing Act 2008 (2008 No 72): sections 116(a)(ii), (vii), (b), (d), 124, 130(1)

Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1), Schedule 2 clause 40(2)

Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41): section 18

Land Transport Amendment Act 2007 (2007 No 66)

Sentencing Amendment Act 2007 (2007 No 27): section 58

Evidence Act 2006 (2006 No 69): section 216

Land Transport Amendment Act (No 2) 2006 (2006 No 30)

Summary Proceedings Amendment Act 2006 (2006 No 13): section 35

Land Transport Amendment Act 2006 (2006 No 2)

Land Transport Amendment Act 2005 (2005 No 77)

Railways Act 2005 (2005 No 37): section 103(3)

Land Transport (Commencement of Repeals) Order 2004 (SR 2004/452)

Crown Entities Act 2004 (2004 No 115): section 200

Land Transport Amendment Act 2004 (2004 No 96)

Land Transport Management Act 2003 (2003 No 118): section 90

Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(1)

State Sector Amendment Act 2003 (2003 No 41): section 14(1)

Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11)

Local Government Act 2002 (2002 No 84): section 262

Sentencing Act 2002 (2002 No 9): section 186

Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104)

New Zealand Public Health and Disability Act 2000 (2000 No 91): section 111(1)

Land Transport (Commencement of Repeals) Order (No 2) 1999 (SR 1999/97)

Land Transport (Commencement of Provisions) Order 1999 (SR 1999/96)

Land Transport (Commencement of Repeals) Order 1999 (SR 1999/28)

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