

Reprint
as at 29 June 2009

Land Transport Act 1998

Public Act 1998 No 110
Date of assent 8 December 1998

Contents

	Page
Title	17
1 Short Title and commencement	17
Part 1	
Preliminary provisions	
2 Interpretation	18
3 Act to bind the Crown	46

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

This Act is administered in the Ministry of Transport.

Part 2
**Primary responsibilities of participants in land
transport system**

General responsibilities

4	General requirements for participants in land transport system	47
5	Drivers to be licensed	48
6	Vehicles to be safe and operated in compliance with rules	49
7	Drivers not to be reckless or dangerous	49
8	Drivers not to be careless or inconsiderate	50
9	Loads transported by vehicles to be secured	50

*Responsibilities of road users under ordinary and
emergency rules*

10	Road users and others to comply with ordinary rules and emergency rules	50
----	---	----

Responsibilities concerning use of alcohol or drugs

11	Drivers not to exceed specified alcohol limits	51
12	Persons not to drive while under influence of alcohol or drugs	51

*Responsibilities of drivers and other road users
concerning enforcement officers*

13	Drivers and other road users to comply with directions of enforcement officers, etc	52
----	---	----

Part 3
Additional responsibilities concerning road transport

14	False or misleading information not to be given	53
15	Persons not to impersonate enforcement officers	53
16	Heavy motor vehicles not to be overloaded	53
17	Distance recorders not to be altered	53
18	Doctors and optometrists to give Agency medical reports of persons unfit to drive	54
19	Licences of certain persons subject to Mental Health (Compulsory Assessment and Treatment) Act 1992 to be suspended	55
20	Traffic surveys not to be conducted unless approved by Agency	56
21	Enforcement officers to ameliorate hazards	57
22	Driver's duties where accident occurs	57

22A	Persons not to engage in unauthorised street or drag racing, or other related prohibited activities on roads	59
-----	--	----

Traction engine safety

22B	Operators of traction engines to hold appropriate current qualification	60
22C	Traction engine to be safe and operated in compliance with regulations and rules	60

Part 4

Driver licensing

23	Issue of driver licences	61
24	Agency may issue temporary driver licences	61
25	Minimum age for driver licensing	62
26	Drivers may be tested and examined	62
27	Suspension and revocation of licences	62
28	Photographic driver licence	63
28A	Transitional provisions for photographic driver licences	64
29	Certain driver licences have no effect	64
29A	Persons convicted of specified serious offences prohibited from holding passenger endorsement	65
29B	Passenger endorsement may be reinstated in certain cases	67
30	Driver licences are property of Agency and are to be surrendered in certain circumstances	69

Part 4A

Transport services licensing

Subpart 1—Primary responsibilities of holders of transport service licences

30A	Requirements for vehicles	71
30B	Provision of identification information in Braille	71

Subpart 2—Fit and proper person test

Assessment criteria

30C	General safety criteria	72
30D	Additional criteria for small passenger service vehicles and vehicle recovery service	73
30E	Additional criteria for large passenger service vehicles	74
30F	Additional criteria for goods service	74

Information requirements

30G	Agency may require information for fit and proper person assessment	75
-----	---	----

30H	Agency's duties concerning prejudicial information	75
30I	Non-disclosure by Agency of information for safety reasons	76
	Subpart 3—Licensing of transport services	
30J	Transport service operators may not carry on certain transport services unless licensed to do so	77
30K	Application for transport service licence	77
30L	Grant of licence	78
30M	Conditions of transport service licences	78
30N	Transfer, assignment, or lease of transport service licence prohibited	79
30O	Term of transport service licence	79
30P	Agency may grant applications for approved taxi organisations	80
30Q	Circumstances in which Agency must grant applications for approved taxi organisations	81
30R	Agency may revoke approval	82
	Subpart 4—Revocation of transport service licences	
30S	When Agency may revoke transport service licence	83
30T	Procedure Agency must follow before revoking transport service licence	83
30U	Suspension of transport service licence	84
	Subpart 5—Adverse decisions	
30V	Interpretation	84
30W	Agency to notify proposal to make adverse decision	86
30X	Procedure for consideration of information	87
30Y	Agency's determination	88
	Part 4B	
	Work time and logbooks	
30Z	Application of Part	88
30ZA	Agency may grant exemptions or approve alternative fatigue management schemes	89
	Subpart 1—Work time	
30ZB	Application of subpart	90
30ZC	Limits on work time	90
30ZD	Records must be kept	91
	Subpart 2—Logbooks	
30ZE	Application of subpart	92

30ZF	Drivers must maintain logbooks	93
30ZG	Agency may approve or revoke alternative means of recording matters	93
30ZH	Duties regarding logbooks	93

Subpart 3—Evidence in proceedings

30ZI	Evidence in proceedings for offences against subpart 1 or subpart 2	94
------	---	----

Part 5

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

Offences relating to driver licensing

31	Contravention of sections 5(1)(a), 5(1)(b), 5(4), 30(2), 30(3), or 30(4A)	95
32	Contravention of section 5(1)(c)	96
33	Contravention of section 5(2) or (3)	98
33A	Offence to operate as driving instructor without authorisation	98

Offences relating to driving (other than offences involving alcohol)

34	Contravention of section 6	99
35	Contravention of section 7, or section 22 where no injury or death involved	99
36	Contravention of section 7 or section 22 involving injury or death	100
36A	Contravention of section 22A	100
36B	Contravention of section 22B or section 22C	101
37	Contravention of section 8	102
38	Contravention of section 8 causing injury or death	102
39	Aggravated careless use of vehicle causing injury or death	103

Offences relating to rules

40	Contravention of ordinary rules	103
41	Contravention of emergency rules	104

Loading offences

42	Failure to secure load	104
43	Overloading offences	104
43A	Courts may impose appropriate fines for infringement offences that are not overloading offences	105

Other offences

44	Contravention of section 14	105
45	Contravention of section 17	106
46	Contravention of section 20	106
47	Contravention of section 22(2), (3), (4), or (5)	106
48	Contravention of section 92 (4)	107
49	Contravention of section 97(5) or (6)	107
50	Contravention of section 117(2)	107
51	Contravention of section 198(4)	108
52	Contravening notices, requirements, etc, given or imposed by enforcement officers	108
53	Obstruction of enforcement officer or dangerous goods enforcement officer	109
54	Personation of enforcement officer	109
55	Tampering with vehicle surveillance equipment	110

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

56	Contravention of specified breath or blood-alcohol limit	110
57	Contravention of specified breath or blood-alcohol limit by person younger than 20	111
58	Contravention of section 12	112
59	Failure or refusal to remain at specified place or to accompany enforcement officer	113
60	Failure or refusal to permit blood specimen to be taken	114
61	Person in charge of motor vehicle causing injury or death	115
62	Causing injury or death in circumstances to which section 61 does not apply	117
63	Further penalty in certain cases where person driving vehicle used in transport service	117

Defences

64	Defences	117
----	----------	-----

Repeat offences

65	Mandatory penalties for repeat offences involving use of alcohol or drugs	119
----	--	-----

Name suppression

66	Names of drivers convicted of alcohol or drug-related offences may not be suppressed	121
----	---	-----

	<i>Blood test fee</i>	
67	Blood test fee	121
	<i>Enforcement procedures for offences involving intoxication</i>	
68	Who must undergo breath screening test	121
69	Who must undergo evidential breath test	122
70	Person may be required to undergo further evidential breath test if initial test fails to produce result	124
70A	Right to elect blood test	124
71	Meaning of apparently younger than 20	125
72	Who must give blood specimen at places other than hospital or surgery	125
73	Who must give blood specimen in hospital or surgery	127
74	Procedure for dealing with blood specimens	129
	<i>Evidential provisions</i>	
75	Certificates in blood-alcohol proceedings	131
75A	Certificates of compliance for evidential breath-testing devices	134
76	Presumptions relating to blood specimens	135
77	Presumptions relating to alcohol-testing	136
78	Presumptions as to age of driver	138
79	Circumstances in which certificate not admissible in proceedings	138
	Part 6A	
	Offences relating to transport services and penalties	
79A	Offence to carry on transport service without licence	140
79B	Provision of incorrect information	141
79C	Failure to present vehicle for inspection	142
79D	Contravention of section 30K	142
79E	Liability of persons who use unlicensed transport service	142
79F	Contravention of section 30M	143
79G	Contravention of section 87G	143
79H	Contravention of section 128A	144
79I	Contravention of section 128B	144
79J	Liability of employers and principal	144
79K	Liability of directors of bodies corporate	145
79L	Court may require convicted transport service licence holder to sit examination	145
79M	Penalties for failure to pay passenger service fares	145

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	146
79O	Failure to comply with prescribed work time restrictions or rest time requirements	147
79P	Defences to work time offences	148

Subpart 2—Logbooks

79Q	Failure to discharge duties regarding logbooks	149
79R	Offences and proceedings concerning logbooks	149
79S	Defences to logbook offences	150

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	152
79U	Offence to cause or require driver to breach maximum gross weight limits	152

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

Disqualification

80	General penalty of disqualification may be imposed if offence involves road safety	153
81	Provisions relating to mandatory disqualification	153
82	Effect of disqualification	154
83	Holder to undergo approved tests or courses if disqualified for more than 1 year	154
84	New licence or endorsement to be issued if disqualified driver qualifies for specified vehicle classes	155
85	When disqualification starts	156
86	Term of disqualification if person already disqualified	156
87	Particulars of court orders relating to disqualification to be sent to Agency and offender	157

*Disqualification of transport service driver and other
persons*

87A	Disqualification of transport service driver	157
-----	--	-----

87B	Disqualification of holder of transport service licence from holding transport service licence	158
87C	Procedure for disqualifying person under section 87A or section 87B	158
	<i>Suspension of transport service driver and other persons</i>	
87D	Immediate suspension of transport service driver and other persons in interests of public safety	159
87E	Procedure for suspending a person under section 87D	160
87F	Term of suspension	160
	<i>Effect of disqualification or suspension of transport service driver and other persons</i>	
87G	Effect of disqualification or suspension of transport service driver and other persons	161
	<i>Demerit points system</i>	
88	Demerit points to be recorded by Agency	161
89	Notice of demerit points	162
90	Suspension of licence or disqualification from driving under demerit points system	163
91	Cancellation and reinstatement of demerit points	164
	<i>Other penalties</i>	
92	Compulsory attendance at driving improvement course or dangerous goods course	165
93	Court may order compulsory driving test	165
94	Substitution of community-based sentences	167
	<i>Mandatory suspension of driver licence</i>	
95	Mandatory 28-day suspension of driver licence in certain circumstances	168
	<i>Impoundment of vehicles</i>	
96	Vehicle seized and impounded for 28 days in certain circumstances	171
96A	Impoundment of vehicle used in transport service	176
97	Storage of impounded vehicles	178
98	Release of vehicle after 28 days	179

Part 8

Mitigation of penalties and rights of appeal

Removal of disqualifications

99	Court may reduce disqualification	180
----	-----------------------------------	-----

99A	Agency may approve programmes	183
100	Agency to remove certain disqualifications	183
	<i>Removal of licence suspension and return of impounded vehicles</i>	
101	Appeal to Agency against mandatory suspension of driver licence	184
102	Appeal to Police against impoundment of vehicle	185
	<i>Grant of limited licence</i>	
103	Persons who may apply to court for limited licence	187
104	Issue of limited licence to be delayed or prohibited in certain cases	189
105	Court may make order authorising grant of limited licence	190
	<i>Rights of appeal</i>	
106	General right of appeal to District Court	192
107	Appeals against court orders relating to disqualification or grant of limited licence, and deferral of disqualification	193
108	Appeal against Agency's refusal to remove disqualification	194
109	Appeal against refusal of Agency to remove suspension of driver licence	195
110	Appeal against refusal of Police to direct release of impounded vehicle	195
111	Procedure	196
111A	Appeal to High Court on question of law	196
111B	Further appeal to Court of Appeal	197
	<i>Demerit points</i>	
112	Effect of appeal on demerit points	197

Part 9

Enforcement of responsibilities

General enforcement powers

113	Enforcement officers may enforce transport legislation	198
113A	Power to inspect records	200
114	Power to require driver to stop and give name and address, etc	201
115	Enforcement officers may give directions prohibiting driving of vehicles	202
116	Enforcement of directions	204

117	Moved vehicle not to be damaged and to be returned to person entitled to possession	205
118	Owner or hirer or licence holder to give information as to identity of driver or passenger	205
	<i>Powers of entry, arrest, immobilisation, and impoundment</i>	
119	Powers of entry	206
120	Arrest of persons for alcohol or drug-related offences, or assault on enforcement officer	209
121	Enforcement officer may immobilise vehicle, etc, if driver incapable of proper control of vehicle	209
122	Enforcement officer may seize and impound vehicle for up to 12 hours in emergency	210
123	Enforcement officer may seize and impound vehicle for up to 7 days where serious accident or hit and run offence or for failure to stop	211
	<i>Enforcement powers for offences involving certain vehicles</i>	
124	Inspection of vehicles required to have evidence of vehicle inspection and certificate of loading	212
125	Stopping, inspection, and weighing of heavy vehicles and certain transport service vehicles	212
126	Off-loading of overweight vehicle	213
127	Protection against claims resulting from action under section 125 or section 126	215
128	Enforcement officer to order heavy vehicle to stop until load secured	215
128A	Enforcement officer's powers in respect of non-complying small passenger service vehicles	216
128B	Enforcement officer's powers in respect of non-complying vehicle recovery service vehicles	216
	<i>Dangerous goods</i>	
129	Vehicles may be inspected and directed to remain stopped for contravening dangerous goods rules	216
130	Power to inspect railway lines	217
131	Power to inspect premises used for loading and unloading of dangerous goods	218
132	Inspection powers concerning dangerous goods	220

Part 10**Proceedings enforcing responsibilities**

133	Owner liability for moving vehicle offences	220
134	Strict liability for offences involving insecure loads and loads falling from vehicles	222

Commencement of proceedings

135	Offences punishable summarily	223
136	Time for instituting proceedings	224

Certain matters not defences

137	Compliance with speed limit and certain other matters not to be defences	225
-----	--	-----

Infringement offences

138	Infringement offences	225
139	Issue of infringement notice	225
140	Reminder notices	227
141	Provisions relating to infringement fees	228

Evidence

142	Evidence of driver history relating to infringement fees	229
143	Evidence of driver licence	229
144	Evidence in certain proceedings	230
145	Evidence of approved vehicle surveillance equipment	231
145A	Evidence and proof	231
146	Evidence of testing and accuracy of speed-measuring devices, etc	232
147	Evidence of accuracy of weighing devices and sites	234
148	Presumptions relating to axle weights and dangerous goods	235
149	Admissibility of certain statements by drivers of certain vehicles	237
150	Evidence of certain documents	237
151	Evidence of rules	238

Part 11**Land transport subordinate legislation**

152	Power of Minister to make ordinary rules	238
153	Rules concerning road user behaviour	239
154	Rules concerning driver licensing	239
155	Rules concerning vehicles	240
156	Rules concerning dangerous goods	242

157	Rules concerning roads	242
158	Rules concerning licensing, standard-setting, etc	243
159	Rules concerning land transport documents	247
160	Other provisions concerning ordinary rules	248
161	Procedure concerning ordinary rules	250

Emergency rules

162	Agency may make emergency rules	250
163	Procedure for making emergency rules	251

General provisions concerning making of rules

164	Matters to be taken into account in making rules	252
165	Incorporation by reference	253
166	Agency may grant exemptions	254

Regulations

167	Regulations	255
168	Regulations relating to fees and charges for land transport	258
168A	Agency may declare that vehicle is mobility device or is not motor vehicle	260
168B	Order in Council for certain land transport revenue	261

Part 12

The Crown and land transport

169	Objectives of Minister	262
169A	Functions of Minister	262

Part 13

Land transport strategies

[Repealed]

National land transport strategy

[Repealed]

170	National land transport strategy <i>[Repealed]</i>	263
171	Procedure for completing national land transport strategy <i>[Repealed]</i>	263
172	Currency of national land transport strategy <i>[Repealed]</i>	263
173	Amendment or revocation of national land transport strategy <i>[Repealed]</i>	264
174	Effect of national land transport strategy <i>[Repealed]</i>	264

Regional land transport strategies

[Repealed]

175	Regional land transport strategies <i>[Repealed]</i>	264
176	Currency of regional land transport strategies <i>[Repealed]</i>	264

177	Copies of regional land transport strategy to be made available to certain persons <i>[Repealed]</i>	264
178	Regional land transport committees <i>[Repealed]</i>	264
179	Consultation requirements for preparation of regional land transport strategies <i>[Repealed]</i>	265
180	Regional councils to consider contracting out functions under this Act <i>[Repealed]</i>	265
181	Effect of regional land transport strategies <i>[Repealed]</i>	265
182	Annual reports on regional land transport strategy <i>[Repealed]</i>	265
183	Certain territorial authorities to prepare land transport strategy <i>[Repealed]</i>	265

Part 14

Administrative provisions

184	Land Transport Safety Authority of New Zealand continued <i>[Repealed]</i>	265
185	Authority to be Crown entity <i>[Repealed]</i>	266
186	Director of Land Transport <i>[Repealed]</i>	266
187	Acting Director <i>[Repealed]</i>	266
188	Use of words Land Transport Safety Authority <i>[Repealed]</i>	266

Role of Land Transport Safety Authority and Director

189	Principal objective of Authority <i>[Repealed]</i>	266
190	Functions of Authority <i>[Repealed]</i>	266
191	Authority to comply with policy directions <i>[Repealed]</i>	267
192	Performance agreement <i>[Repealed]</i>	267
193	Minister may determine content of agreement or amendment <i>[Repealed]</i>	267
194	Amendment of agreement <i>[Repealed]</i>	267
195	Service charter <i>[Repealed]</i>	267

Powers and additional functions of Authority and Director

196	Authority to have powers of natural person <i>[Repealed]</i>	268
197	Functions and powers of Director <i>[Repealed]</i>	268
198	Inspections and audits	268
199	Agency to maintain register of driver licences	268
199A	Register of transport service licences	271
200	Restrictions on access to photographic images of driver licence holders	273

	<i>Use of outside agencies in performance of functions</i>	
201	Authority to consider delegating or contracting out of functions and powers <i>[Repealed]</i>	275
202	Authority may arrange for services to be provided by outside agencies <i>[Repealed]</i>	275
	<i>Delegations</i>	
203	Authority may delegate functions or powers to employees <i>[Repealed]</i>	275
204	Director may delegate functions or powers to employees of Authority <i>[Repealed]</i>	275
205	Director may delegate functions or powers to persons outside Authority <i>[Repealed]</i>	275
206	General provisions concerning delegations under sections 204 and 205 <i>[Repealed]</i>	275
207	Delegation of Minister's functions or powers to Agency	276
	Part 15	
	Miscellaneous provisions	
208	Appointment of enforcement officers and dangerous goods enforcement officers	277
209	Taking of blood specimens for statistical or research purposes	278
210	Service of notices	279
211	Commissioner to provide traffic accident reports	280
211A	Payment of fees	281
212	Agency to pay sum to Assessment Centres	281
213	Customs control over imported vehicles	281
213A	Public right of way at level crossings	281
	Part 16	
	Repeals, amendments to other enactments, and transitional and savings provisions	
214	Repeals	282
215	Amendments to other enactments	282
216	Transitional regulations	282
217	Expiry of section 216 <i>[Repealed]</i>	283
218	Regulations and other enactments having effect under this Act	283
219	Expiry of section 218 <i>[Repealed]</i>	285
220	Rules having effect under this Act	285
221	Appointments	285
222	Saving of certain land transport documents	286

223	Transfer provisions for certain employees of Land Transport Safety Agency	286
224	Saving of certain notices issued by enforcement officers	288
225	Savings relating to court orders, proceedings, etc	288
226	Saving of notices suspending driver licences	289
227	Saving of demerit points	289
228	Saving of certain applications under Transport Act 1962	290
229	Savings relating to rules and land transport strategies	290
230	Savings relating to functions of Agency	290
231	Savings relating to blood specimens taken under Transport Act 1962	291
232	Savings relating to blood specimens taken under this Act and posted in accordance with Transport Act 1962	292

Part 17

Motor vehicle registration and licensing

Preliminary provisions

233	Interpretation matters applying to this Part	293
241	Authorised access to name and address only	296

Regulations

269	Regulations	297
270	Fees and charges identified as land transport revenue	302

Appointment

271	Appointment of Registrar	304
-----	--------------------------	-----

Delegations and authorisations

272	Delegations	304
273	Authorisations by Registrar	305

Schedule 1

Provisions concerning Land Transport Safety

Authority of New Zealand

[Repealed]

Schedule 2

Enactments repealed

Schedule 3

Enactments amended

343

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

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**

BE IT ENACTED by the Parliament of New Zealand as follows:

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 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 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 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 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

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 taxi organisation means a taxi organisation approved or deemed to be approved by the Agency under this Act, the regulations, or the rules

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

Assessment Centre means an establishment 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 1 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 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 test means the taking of a blood specimen for analysis

Blood test fee means the blood test fee prescribed by the Minister of Police, by notice in the *Gazette*, under section 67

Board*[Repealed]*

Board: this definition was repealed, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118). *See* sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

[Repealed]

Board and Transfund*[Repealed]*

Board and Transfund: this definition was inserted, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118). *See* sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

Board and Transfund: this definition was repealed, as from 1 December 2004, by section 3(1) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

[Repealed]

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 compliance: this definition was inserted, as from 29 December 2001, by section 4(1) Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

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

commercial public transport service has the same meaning as in section 4 of the Public Transport Management Act 2008

Commissioner means the Commissioner of Police

Conclusive evidential breath-testing device*[Repealed]*

Conclusive evidential breath-testing device: this definition was repealed, as from 29 December 2001, by section 4(2) Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

[Repealed]

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

Court means a District Court

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

Doctor's surgery means a medical practitioner's surgery or any other place where a medical examination or medical care or treatment is carried out or given

Doctor's surgery: this definition was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word "registered". See sections 178 to 227 of that Act as to the transitional provisions.

Drink means alcoholic drink

Driver, in relation to a vehicle, includes the rider of the motor cycle 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

enforcement authority, in relation to an infringement offence, means—

- (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:
- (c) *[Repealed]*
- (d) a local authority, in the case of an infringement offence—
 - (i) that relates to the use of a special vehicle lane; and
 - (ii) 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 sworn member of the Police:
- (b) A non-sworn member of the Police 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:

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*

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 volunteer fire brigade, a defence fire brigade, and an industrial fire brigade (as those terms are defined in section 2 of the Fire Service Act 1975); and
- (b) An airport fire brigade; and
- (c) The employed firefighters or other members of any fire brigade referred to in this definition:

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 laden weight is 6 000 kg or more; and
- (b) includes the letting on hire of a motor vehicle whose gross laden weight 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 laden weight, in relation to a motor vehicle, means—

- (a) The greatest of the following weights:
 - (i) A weight specified (subsequent to the latest modification specified, if any) as the gross laden weight of the vehicle by the manufacturer of the vehicle;
 - (ii) A weight specified as the gross laden weight of the vehicle, or of a vehicle of that kind, by or under the regulations or the rules;
 - (iii) The weight of the vehicle, together with the load that the vehicle is for the time being carrying, including equipment and accessories;
- (b) If evidence is adduced in respect of any but not all of the 3 weights referred to in paragraph (a), the greater of the weights, or (as the case may be) the only weight, in respect of which evidence is adduced;
- (c) If evidence is not adduced in respect of any of the weights referred to in paragraph (a), the total of the

unladen weight of the vehicle and the weight of the maximum load that the vehicle may safely carry:

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

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 laden weight exceeding 3500 kg

Hospital means a licensed hospital as defined in section 2 of the Hospitals Act 1957

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:
- (b) An overloading offence:
- (ba) an offence against this Act concerning logbooks that is committed by a transport service driver:
- (c) An infringement offence specified in Schedule 2 of the Transport Act 1962:
- (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):

Invalid carriage*[Repealed]*

Invalid carriage: this definition was repealed, as from 22 June 2005, by section 4(2) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

[Repealed]

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 documents means licences, permits, approvals, authorisations, exemptions, certificates, and similar documents issued under the Transport Act 1962, the Road User Charges Act 1977, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Government Road-ing Powers Act 1989, or this Act

Land Transport Register includes—

- (a) Registers kept under this Act, the Railways Act 2005, ;
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 1 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986:

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

light rail vehicle: this definition was inserted, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

Light rental service vehicle means a rental service vehicle having a gross laden weight of not more than 3500 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

Local authority: this definition was substituted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

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 officer means—

- (a) a person acting in a hospital and who, in the normal course of the person's duties, takes blood specimens; or
- (b) a nurse; or
- (c) a medical laboratory technologist

medical officer: this definition was substituted, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). *See* sections 178 to 227 of that Act as to the transitional provisions.

medical laboratory technologist means a health practitioner who is, or is deemed to be, registered with the Medical Laboratory Science Board 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 laboratory technologist: this definition was inserted, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). *See* sections 178 to 227 of that Act as to the transitional provisions.

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

medical practitioner: this definition was inserted, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). *See* sections 178 to 227 of that Act as to the transitional provisions.

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

medical practitioner: this definition was inserted, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). *See* sections 178 to 227 of that Act as to the transitional provisions.

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: this definition was substituted, as from 1 December 2004, by section 3(1) and (2) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

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

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)
 - (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

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
- (c) Any offence against regulations made under this Act or the Transport (Vehicle and Driver Registration and Licensing) Act 1986, or against the Transport Act 1962 or any regulations or bylaws made under that Act, 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:

Moving vehicle offence: paragraph (c) of this definition was amended, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003

No 118) by inserting the expression “; or”. *See* sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

Moving vehicle offence: paragraph (d) of this definition was inserted, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118). *See* sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

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

nurse: this definition was inserted, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). *See* sections 178 to 227 of that Act as to the transitional provisions.

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

optometrist means a health practitioner who is, or is deemed to be, registered with the Optometrists and Dispensing Opticians Board continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of optometry.

optometrist: this definition was inserted, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). *See* sections 178 to 227 of that Act as to the transitional provisions.

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

Outputs means the goods and services that are produced by the Agency

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

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

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*

Performance agreement*[Repealed]*

Performance agreement: this definition was repealed, as from 1 December 2004, by section 3(1) Land Transport Amendment Act 2004 (2004 No 96). See section 12 of that Act for the transitional provisions relating to rules.

[Repealed]

Positive evidential breath test means an evidential breath test that indicates that the proportion of alcohol in the breath of the person who underwent the test,—

- (a) In any case, exceeds 400 micrograms of alcohol per litre of breath; or
- (b) In the case of a person who is apparently younger than 20, exceeds 150 micrograms of alcohol per litre of breath;—

and **positive**, in relation to an evidential breath test, has a corresponding meaning

Premises, in sections 130 and 131, includes a vehicle, rail vehicle, carriage, box, or receptacle; but does not include a dwelling or Maori reservation constituted by or under the Maori Affairs Act 1953 or Part 17 of Te Ture Whenua Maori Act 1993

Premises: this definition was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by inserting the words “rail vehicle,” after the word “vehicle,”. See sections 105 to 111 of that Act as to the transitional provisions.

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:

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 Summary Proceedings Act 1957; and includes the issue of an infringement notice under section 139

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

rail operator: this definition was inserted, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

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

rail participant: this definition was inserted, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

Rail service operator*[Repealed]*

Rail service operator: this definition was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

[Repealed]

Rail service vehicle*[Repealed]*

Rail service vehicle: this definition was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

[Repealed]

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

rail vehicle: this definition was inserted, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

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

Regional council: this definition was substituted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

Register of Motor Vehicles means a register kept under section 18 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986

Registered, in relation to a vehicle, means registered under the Transport (Vehicle and Driver Registration and Licensing) Act 1986

Registered medical practitioner*[Repealed]*

Registered medical practitioner: this definition was repealed, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). *See* sections 178 to 227 of that Act as to the transitional provisions.

[Repealed]

Registered optometrist*[Repealed]*

Registered optometrist: this definition was repealed, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). *See* sections 178 to 227 of that Act as to the transitional provisions.

[Repealed]

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 laden weight 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

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);
- (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 Foundation for Research, Science, and Technology Act 1990

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

Service charter*[Repealed]*

Service charter: this definition was repealed, as from 1 December 2004, by section 3(1) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

[Repealed]

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

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.

special vehicle lane: this definition was inserted, as from 28 June 2006, by section 4(2) Land Transport Amendment Act (No 2) 2006 (2006 No 30).

Speed limit means a speed limit set by or under this Act, the Transport Act 1962, the Local Government Act 1974, the Government Roadway Powers Act 1989, or the rules

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

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

taxi means a motor vehicle that is—

- (a) a small passenger service vehicle; and
- (b) fitted with a sign on its roof displaying the word “taxi” and any other signs required by the regulations or the rules; and
- (c) in use or available for use for hire or reward for the carriage of passengers other than on defined routes

taxi service means a passenger service carried on by means of a taxi or taxis

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

Territorial authority: this definition was substituted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

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

toll: this definition was inserted, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118). *See* sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

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

toll offence: this definition was inserted, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118). *See* sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

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

Transit New Zealand*[Repealed]*

Transit New Zealand: this definition was repealed, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118). *See* sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

*[Repealed]***transport service**—

- (a) means any goods service, passenger service, rental service, or vehicle recovery service; but
- (b) does not include—
 - (i) a rail service within the meaning of section 2(1) of the Transport Services Licensing Act 1989; 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 passenger service licence;
- (c) a rental service licence;
- (d) a vehicle recovery service licence

transport service operator means a person who carries on a transport service, whether or not that person employs personnel to assist in doing so on its behalf; but does not include those personnel

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 service vehicle within the meaning of section 2(1) of the Transport Services Licensing Act 1989; 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 to 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

unlicensed: this definition was inserted, as from 22 June 2005, by section 4(4) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

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)
 - (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: paragraph (c)(iv) of this definition was repealed, as from 22 June 2005, by section 4(11) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Vehicle: paragraph (viii) of this definition was amended, as from 22 June 2005, by section 4(12) Land Transport Amendment Act 2005 (2005 No 77) by substituting “a” for “An invalid”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Vehicle: paragraph (c)(x) of this definition was inserted, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

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** means all time spent performing work-related duties, including, but not limited to,—
- (a) driving vehicles to which subpart 1 of Part 4B applies:
 - (b) loading and unloading:
 - (c) maintenance and cleaning of vehicles (other than unpaid cleaning outside working hours):
 - (d) administration or recording:
 - (e) any paid employment (other than paid leave or paid breaks of at least 30 minutes duration), whether or not related to transport activities.
- (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 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 regulation for the purposes of the Acts and Regulations Publication Act 1989 and may be amended from time to time, or revoked, by the responsible Minister in the same manner.
 - (3) A 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.

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

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

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) **commercial public transport service**: inserted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

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) **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).

Enforcement authority: this definition was substituted, as from 28 June 2006, by section 4(1) Land Transport Amendment Act (No 2) 2006 (2006 No 30). *See* sections 2(1) and 6(1)(a) of that Act as to the repeal of paras (c) and (d) of this definition on 1 July 2009. Section 6(2) of that Act provides that the repeal does not affect any proceedings commenced by a local authority or Transit, or any infringement fees collected (or to be collected) by a local authority, before that date.

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

Infringement offence: paragraph (ca) of this definition was inserted, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118). *See* sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

Section 2(1) **land transport documents**: amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

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

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).

Land Transport Register: paragraph (a) of this definition was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by inserting the words “, the Railways Act 2005,” after the words “this Act”. *See* sections 105 to 111 of that Act as to the transitional provisions.

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

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

Member: this definition was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words “under section 184 of this Act”.

mobility device: this definition was inserted, as from 22 June 2005, by section 4(4) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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).

Motor vehicle: paragraph (c)(ii) of this definition was repealed, as from 22 June 2005, by section 4(9) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Motor vehicle: paragraph (c)(vi) of this definition was amended, as from 22 June 2005, by section 4(10) Land Transport Amendment Act 2005 (2005 No 77) by adding the word “; or”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

Motor vehicle: paragraphs (c)(vii) and (viii) of this definition were inserted, as from 22 June 2005, by section 4(10) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

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

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

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

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

Speed limit: this definition was amended, as from 19 December 2001, by section 4(3) Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104) by substituting the words “this Act, the Transport Act 1962, the Local Government Act 1974, the Transit New Zealand Act 1989, or the rules” for the words “the Transport Act 1962 or the rules”.

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

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

traction engine: this definition was inserted, as from 22 June 2005, by section 4(4) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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

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

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

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

Subsection (2) was amended, as from 29 December 2001, by section 4(4) Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104) by inserting, after the words “for any purpose specified in subsection (1)”, the words “or in section 75A(5)”.

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

Subsection (3) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by inserting the words “, other than a rail participant,” after the words “A participant”. See sections 105 to 111 of that Act as to the transitional provisions.

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 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(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.

Compare: 1986 No 6 s 5

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

Subsection (1) was substituted, as from 22 June 2005, by section 6(1) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (2) was amended, as from 22 June 2005, by section 6(2) Land Transport Amendment Act 2005 (2005 No 77) by omitting the words “on a road” in both places where they occur. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 was substituted, as from 22 June 2005, by section 7 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 was amended, as from 22 June 2005, by section 8 Land Transport Amendment Act 2005 (2005 No 77) by inserting the words “, and any person loading that vehicle,” after the words “on a road”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 400 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 80 milligrams of alcohol per 100 millilitres of blood; or
- (c) If the person is younger than 20,—
 - (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, exceeds 150 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 subsequently taken from the person under section 72 or section 73, exceeds 30 milligrams of alcohol per 100 millilitres of blood.

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

Section 11 was amended, as from 22 June 2005, by section 9 Land Transport Amendment Act 2005 (2005 No 77) by omitting the words “on a road”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

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 was amended, as from 22 June 2005, by section 10 Land Transport Amendment Act 2005 (2005 No 77) by omitting the words “on a road”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

*Responsibilities of drivers and other road users
concerning enforcement officers*

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

- (1) A person must comply with sections 68, 69, 70, 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, 72, and 73.
- (3) A person must comply with all lawful requirements and requests made by a medical 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

Subsection (3) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered”. See sections 178 to 227 of that Act as to the transitional provisions.

Subsection (4)(a) was amended, as from 2 May 2003, by section 4 Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11) by inserting the words “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)” after the words “for the vehicle”.

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 enforcement 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

A person operating a heavy motor vehicle or combination of vehicles may not operate the vehicle or vehicles in breach of the prescribed maximum gross weight limits for motor vehicles or prescribed maximum weight limits for axles or groups of axles of motor vehicles.

Compare: 1962 No 135 s 69B

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 Doctors and optometrists to give Agency medical reports of persons unfit to drive

- (1) This section applies if a medical practitioner or optometrist, 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 medical practitioner or optometrist 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 medical practitioner or optometrist 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) Nothing in section 32 or section 33 of the Evidence Amendment Act (No 2) 1980 applies to a notice given under this section.

Compare: 1986 No 6 s 45A

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

Subsections (1) to (3) were amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered” wherever it occurred. *See* sections 178 to 227 of that Act as to the transitional provisions.

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

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

Section 19 was amended, as from 1 December 2004, by section 10 Land Transport Amendment Act 2004 (2004 No 96) by omitting the word "Safety" wherever it occurs. See section 12 of that Act for the transitional provisions relating to rules.

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).

Subsection (8) was inserted, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

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.
- (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 was inserted, as from 2 May 2003, by section 5 Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Traction engine safety

This heading was inserted, as from 16 January 2006, by section 11 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.

Sections 22B and 22C were inserted, as from 16 January 2006, by section 11 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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.

Sections 22B and 22C were inserted, as from 16 January 2006, by section 11 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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).

Subsection (3) was inserted, as from 16 January 2006, by section 12 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 24(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

25 Minimum age for driver licensing

A person who is younger than 15 may not hold or obtain a driver licence.

Compare: 1986 No 6 s 40(2)

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 was substituted, as from 16 January 2006, by section 13 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 must store the photographic image used for each licence until the licence expires.

Subsection (1)(g) was amended, as from 16 January 2006, by section 14(1) Land Transport Amendment Act 2005 (2005 No 77) by inserting the word "original" before the word "date". See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (4) was amended, as from 16 January 2006, by section 14(2) Land Transport Amendment Act 2005 (2005 No 77) by adding the words " , subject to subsections (4A), (4B), and (4C)". See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsections (4A) to (4C) were inserted, as from 16 January 2006, by section 14(3) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 28(5): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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 was inserted, as from 16 January 2006, by section 15 Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

29 Certain driver licences have no effect

- (1) A driver licence has no effect if—

- (a) The person who obtained the licence is not qualified to hold it or is disqualified from holding it, or already holds a driver licence of the same class as the other licence; or
 - (b) The licence is for the time being suspended, or has been revoked, 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.

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).

Sections 29A and 29B were inserted, as from 16 January 2006, by section 16 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

The heading was amended, as from 21 March 2006, by section 4(1) Land Transport Amendment Act 2006 (2006 No 2) by omitting the words “or applying for” ..

Subsection (1) was amended, as from 21 March 2006, by section 4(2) Land Transport Amendment Act 2006 (2006 No 2) by omitting the words “or apply for” .

Subsection (3) was substituted, as from 21 March 2006, by section 4(3) 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).

Subsection (4) was inserted, as from 21 March 2006, by section 4(3) 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).

Sections 29A and 29B were inserted, as from 16 January 2006, by section 16 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 29B was substituted, as from 21 March 2006, by section 5(1) 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 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 member of the Police 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), or (4A)(b) or (c) 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 member of the police.
- (5) When either—
 - (a) The disqualification or suspension expires or is removed; or
 - (b) A court authorises the issue of a limited licence,—the Agency must, subject to section 83 and as soon as practicable after being satisfied that the holder is eligible to hold

such a licence, return the licence to the holder or issue a new licence.

Section 30 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

The heading was amended, as from 22 June 2005, by section 17(1) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “surrendered in certain circumstances” for the words “returned if suspended, revoked, etc”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 30(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (1) was amended, as from 22 June 2005, by section 17(2) Land Transport Amendment Act 2005 (2005 No 77) by substituting the expression “(4A)” for the expression “(4)”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 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 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).

Subsection (4A) was inserted, as from 22 June 2005, by section 17(3) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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

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 heading: 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 connection with 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 connection with 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 vehicle that is used in the service.
- (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.

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

Section 30A(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30B Provision of identification information in Braille

The holder of a transport service licence under which a taxi is operated and the driver of that taxi must, in accordance with any regulations or rules, ensure that the following identification information is provided in Braille:

- (a) the name of the approved taxi organisation; and
- (b) the unique fleet number assigned to the taxi; and

- (c) the approved taxi organisation's telephone number for complaints.

Section 30B: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Subpart 2—Fit and proper person test

Subpart 2 heading: 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, 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 vehicles 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 passenger service involving the use of small passenger service vehicles, 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: 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 vehicles

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 passenger service involving the use of large passenger service vehicles, 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: 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 as-

sessing 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 1993, 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 27(1)(d) 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).

Subpart 3—Licensing of transport services

Subpart 3 heading: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

30J Transport service operators may not carry on certain transport services unless licensed to do so

A transport service operator may not carry on any of the following transport services unless licensed to do so:

- (a) goods service:
- (b) passenger service:
- (c) rental service:
- (d) vehicle recovery service.

Section 30J: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

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 or involvement in the operation of the transport service is a fit and proper person to have such control or involvement; and
 - (c) the applicant or any person who is to have control of the service is the holder of the appropriate certificate (if any) required by the regulations or the rules; and
 - (d) all relevant requirements of this Act, the regulations, and the rules have been complied with.
- (2) In determining whether or not a person is a fit and proper person to operate, control, or have an involvement in, a 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): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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 transport service licences

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 ap-

- plicant'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: 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 Armed Forces; or
 - (b) the Fire Services Commission; 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)(d): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30P Agency may grant applications for approved taxi organisations

- (1) The Agency may grant an application by a person or an organisation to be an approved taxi organisation.
- (2) An application by a person or organisation to be an approved taxi organisation must be made in accordance with the regulations or the rules.
- (3) An approved taxi organisation must comply with the requirements relating to an approved taxi organisation specified in the regulations or the rules.
- (4) A holder of a passenger service licence may not operate a taxi service under that licence unless the licence holder is a member of an approved taxi organisation.

Compare: 1989 No 74 ss 20, 21(1)

Section 30P: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30P heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30P(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30Q Circumstances in which Agency must grant applications for approved taxi organisations

- (1) Despite section 30P(1), the Agency must grant an application if the Agency is satisfied that—
 - (a) the applicant is—
 - (i) a person who holds, or has made an application for, a passenger service licence; or
 - (ii) an organisation that represents operators of taxi services; and
 - (b) any person who will have, or is likely to have, control of the proposed taxi organisation is a fit and proper person, within the meaning of subpart 2, to have control of the proposed taxi organisation; and
 - (c) any person who will have, or is likely to have, control of the proposed taxi organisation holds the appropriate certificate (if any) required by the regulations or the rules; and
 - (d) the operating rules, rosters, and other internal operating procedures of the proposed taxi organisation are likely to provide adequate control over the proposed taxi organisation's members and their drivers; and
 - (e) the proposed taxi organisation's members and their drivers have the ability to meet the relevant requirements of the regulations and the rules; and
 - (f) the proposed taxi organisation is likely to be able to meet the relevant requirements of the regulations and the rules; and
 - (g) the signage of the proposed taxi organisation is sufficiently distinguishable from the signage of any other approved taxi organisation operating in the same area.
- (2) Approval of an application includes approval of the proposed operating rules for the proposed taxi organisation.
- (3) Subpart 5 applies to a decision not to grant an application.

Compare: 1989 No 74 s 21(3), (3A), (4)

Section 30Q: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30Q heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30Q(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

30R Agency may revoke approval

- (1) The Agency may revoke any approval granted under section 30P(1) or section 30Q(1) if—
- (a) the person or organisation has been convicted 3 times or more of an offence against this Act or the regulations; or
 - (b) the person or organisation no longer meets the criteria to be an approved taxi organisation; or
 - (c) the Agency is satisfied that the person or organisation, or any person in control of the organisation,—
 - (i) is not a fit and proper person, within the meaning of subpart 2, to have control of an approved taxi organisation; or
 - (ii) is not a fit and proper person to have control of an approved taxi organisation because the drivers within that approved taxi organisation have failed to maintain, in accordance with the regulations or the rules,—
 - (A) an adequate area knowledge; or
 - (B) an appropriate ability to communicate in the English language; or
 - (iii) is unable to maintain adequate control over the activities of its members or their drivers in accordance with—
 - (A) the organisation's operating rules; and
 - (B) any relevant regulations or rules made under this Act.
- (2) Subpart 5 applies to a decision to revoke an approval.

Compare: 1989 No 74 s 23

Section 30R: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30R heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30R(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30R(1)(c): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subpart 4—Revocation of transport service licences

Subpart 4 heading: 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 having control of the service, or any person who has an involvement in the operation of the service, is not a fit and proper person to have control of, or be involved in, the operation of the service.
- (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).

30T Procedure Agency must follow before revoking transport service licence

If the proposed revocation of a licence under this section 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) and (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(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

- (1) If 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, the Agency may suspend the licence until the holder of the licence or the person who has control of the service is the holder of such a certificate.
- (2) Subject to subsection (1), any such suspension shall cease immediately upon the holder of the licence or any person having control of the service obtaining the appropriate certificate and notifying the Agency accordingly.
- (3) Subpart 5 applies to a decision to suspend a transport service licence.

Compare: 1989 No 74 s 18(4) and (5)

Section 30U: inserted, on 1 October 2007, by section 18 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 30U(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 30U(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subpart 5—Adverse decisions

Subpart 5 heading: 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—

- (i) a transport service licence under section 30L; or
 - (ii) approval as an approved taxi organisation under section 30Q(1); or
- (c) to grant a licence on conditions under section 30M; or
- (d) to revoke—
 - (i) a transport service licence under section 30S; or
 - (ii) approval of an approved taxi organisation under section 30R(1); or
- (e) to suspend—
 - (i) a transport service licence under section 30U; or
 - (ii) a transport service driver or other person under section 87D; 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 or is or will be involved, 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**: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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 respect of any rail service vehicle.

Section 30Z: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

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 all 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(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 heading: 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) 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 that 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.
- (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.

Section 30ZB: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

30ZC Limits on work time

- (1) No driver may work for a period of time that—
 - (a) exceeds the work time restrictions specified in this section, the rules, or any variation granted under section 30ZA; or

- (b) fails to 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) No driver may, in any cumulative work period, exceed 70 hours of work time.
- (4) This section does not apply to a driver of an ambulance service, a fire brigade, or a rural fire party who is proceeding to or returning from an incident attended in response to a priority call specified in the rules.

Compare: 1962 No 135 s 70B(1), (2)

Section 30ZC: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

30ZD Records must be kept

- (1) A person who employs a person to drive a vehicle referred to in section 30ZB, and any self-employed driver who drives a vehicle referred to in section 30ZB, must keep—
 - “(a) time records, wage records, and other related employment records for 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 time records, fuel records and receipts, accommodation records and receipts, wage records, and other related employment records 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).

Subpart 2—Logbooks

Subpart 2 heading: 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.

Section 30ZE: inserted, on 1 October 2007, by section 19 of the Land Transport Amendment Act 2005 (2005 No 77).

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, deliver a copy of each completed logbook record to the driver's employer within 14 days after completing that record, and the employer must retain the copy of each logbook record for a period of 12 months from the date of the record.
- (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, wage records, and other related employment records 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(2)(a): amended, on 1 October 2007, by section 6 of the Land Transport Amendment Act 2007 (2007 No 66).

Subpart 3—Evidence in proceedings

Subpart 3 heading: 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 logbook, 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 sections 5(1)(a), 5(1)(b), 5(4), 30(2), 30(3), or 30(4A)

- (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 return his or her driver licence to the Agency, a person appointed by the Agency, or a member of the police when required to do so by subsection (2) or subsection (3) or subsection (4A) of section 30.
- (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)

The heading was amended, as from 22 June 2005, by section 20(1) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “30(3), or 30(4A)” for the words “or 30(3)”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1)(a) was substituted, as from 22 June 2005, by section 20(2) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 31(1)(d): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (1)(d) was amended, as from 22 June 2005, by section 20(4) Land Transport Amendment Act 2005 (2005 No 77) by inserting the words “, a person appointed by the Director, or a member of the police” after the word “Director”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1)(d) was amended, as from 22 June 2005, by section 20(3) Land Transport Amendment Act 2005 (2005 No 77) by inserting the words “or subsection (4A)” after the words “subsection (3)”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 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 prescribed for a driver licence or endorsement; 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.
- (4) If a person commits a third or subsequent offence against subsection (1) (whether or not of the same kind of offence as the previous offences), the person commits an indictable offence and on conviction—
 - (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.
- (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.

Compare: 1962 No 135 ss 30AA(2B), (4), 35(1), (1A)

Section 32(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (2)(a) was amended, as from 16 January 2006, by section 21(1) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “an approved driving improvement course under section 92(1) or a programme approved by the Director under section 99A” for the words “a traffic improvement

school”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (2)(b) was amended, as from 16 January 2006, by section 21(2) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “course or programme” for the word “school”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (2)(b)(i) and (ii) were substituted, as from 16 January 2006, by section 21(3) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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.
- (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.
- (3) The imposition of a mandatory disqualification under this section is subject to section 81.

Compare: 1962 No 135 ss 30AA(3)(a), 34, 50

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 was inserted, as from 22 June 2005, by section 22 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

*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, regs 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.
- (3) The imposition of a mandatory disqualification under this section is subject to section 81.

Compare: 1962 No 135 ss 30AA(3)(d), 57, 65(5)

36 Contravention of section 7 or section 22 involving injury or death

- (1) A person commits an indictable 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 or the death of 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 or death of 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.
- (3) The imposition of a mandatory disqualification under this section is subject to section 81.

Compare: 1962 No 135 ss 30AA(1), (2A)(b), (d), 55(1), 65(4)

Subsection (1) was substituted, as from 22 June 2005, by section 23 Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

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 commits an indictable offence if the person commits an offence against subsection (1)(a) or (c), and by that act or omission causes an injury to or the death of another person.
- (3) A person who commits an offence against subsection (1)(a) or (c) that is an indictable offence is liable to the penalties set out in section 36(2), and section 36(2) and (3) apply as if the offence were an offence against section 36(1)(a) (such as operating a motor vehicle recklessly on a road, and by that act or omission causing an injury to or the death of another person).
- (4) A person who commits an offence against subsection (1)(a) or (c) that is not an indictable offence is liable to the penalties set out in section 35(2), and section 35(2) 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 to a fine not exceeding \$3,000.

Section 36A was inserted, as from 2 May 2003, by section 6 Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

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 was inserted, as from 16 January 2006, by section 24 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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.

- (3) The imposition of a mandatory disqualification under this section is subject to section 81.

Compare: 1962 No 135 ss 30AA(3)(b), 56(1)

Subsection (1A) was inserted, as from 22 June 2005, by section 25(1) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (2) was amended, as from 22 June 2005, by section 25(2) Land Transport Amendment Act 2005 (2005 No 77) by inserting the words “or subsection (1A)” after the expression “subsection (1)”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

39 Aggravated careless use of vehicle causing injury or death

- (1) A person commits an indictable 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.

- (3) The imposition of a mandatory disqualification under this section is subject to section 81.

Compare: 1962 No 135 ss 30AA(2), (2A), 56(1A)

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)

Subsection (1) was amended, as from 22 June 2005, by section 26 Land Transport Amendment Act 2005 (2005 No 77) by inserting the words “, and any person loading that vehicle,” after the words “on a road”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

43 Overloading offences

- (1) A person operating a heavy motor vehicle or combination of vehicles commits an infringement offence if the person operates the vehicle or combination of vehicles in breach of the applicable prescribed maximum gross weight limits for motor

vehicles or prescribed maximum weight limits for axles or groups of axles of motor vehicles.

- (2) Separate offences are committed in respect of every axle, every group of axles, and the total number of axles of a heavy motor vehicle or combination of vehicles, if the weight on that axle or axles exceeds the relevant prescribed maximum gross weight limit or prescribed maximum weight limit.
- (3) If a person commits an infringement offence against this section, the person must pay the penalty prescribed by the regulations or (if no such penalty is prescribed) the appropriate penalty specified in or under the Transport Act 1962.

Compare: 1962 No 135 s 69B

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 was inserted, as from 22 June 2005, by section 27 Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

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 was substituted, as from 22 June 2005, by section 28 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

48 Contravention of section 92 (4)

- (1) A person commits an offence if the person, without reasonable excuse, fails to attend or pay the fee for a driving improvement course or dangerous goods course in accordance with section 92(4), or neither attends nor pays the fee.
- (2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding \$2,000.

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, and 123; 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, and 123 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 October 2007, by section 29(1) of the Land Transport Amendment Act 2005 (2005 No 77).

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) is the driver of a vehicle that is stopped and fails to remain stopped in accordance with section 114(2A); or
 - (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; 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.

Compare: 1962 No 135 ss 30AA(5), (7), 70A(2)(b)

Subsection (1)(aa) was inserted, as from 22 June 2005, by section 30(1) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1)(a) was amended, as from 2 May 2003, by section 7(a) Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11) by inserting the words “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)” after the words “for the vehicle”.

Subsection (1)(a) was amended, as from 16 January 2006, by section 30(2) Land Transport Amendment Act 2005 (2005 No 77) by adding the words “or, if section 115(2A) applies, the enforcement officer has been notified in writing that the vehicle complies with the regulations and the rules”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1)(b) was amended, as from 2 May 2003, by section 7(b) Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11) by inserting the words “or under section 96(1D)” after the words “subsection (5) of that section”.

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)

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.
- (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.
- (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.
- (4) If a person commits a third or subsequent offence against subsection (1) or subsection (2) or any of sections 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), the person commits an indictable offence and on conviction—
 - (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) Subsection (4)(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 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.

Compare: 1962 No 135 ss 30AB(2), 58(1)(a), (c)

Subsection (4) was amended, as from 16 January 2006, by section 31(1) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “any of sections 58(1), 60(1), or 61(1) or (2)” for the words “section 58(1) or section 60(1)”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (4)(b) was amended, as from 16 January 2006, by section 31(2) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “more than 1 year” for the words “1 year or more”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (4A) was inserted, as from 16 January 2006, by section 31(3) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

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.

- (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.
- (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 imposition of a mandatory disqualification under this section is subject to section 81.

Compare: 1962 No 135 ss 30AB(2A), 58(1)(f), (g)

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 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.
- (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.
- (3) If a person commits a third or subsequent offence against subsection (1) or any of sections 56(1), 56(2), 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), the person commits an indictable offence and on conviction—

- (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) Subsection (3)(b) does not apply if an order is made under section 65.
- (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.

Compare: 1962 No 135 s 58(1)(e)

Subsection (3) was amended, as from 16 January 2006, by section 32(1) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “60(1), and 61(1) and (2)” for the words “and 60(1)”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (3)(b) was amended, as from 16 January 2006, by section 32(2) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “more than 1 year” for the words “1 year or more”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (3A) was inserted, as from 16 January 2006, by section 32(3) Land Transport Amendment Act 2005 (2005 No 77).

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; or
 - (c) Having accompanied an enforcement officer to a place under a requirement under section 69 or section 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 under this Act; or

- (ii) Fails or refuses to accompany an enforcement officer to another place under either of those sections; or
 - (d) Having undergone an evidential breath test under a requirement under section 69, 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)

60 Failure or refusal to permit blood specimen to be taken

- (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 medical practitioner or medical officer; or
 - (c) Is a person from whom a medical 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.
- (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.
- (3) If a person commits a third or subsequent offence against subsection (1) or any of sections 56(1), 56(2), 58(1), and 61(1) and (2) (whether or not that offence is of the same kind as the per-

son's first or second offence against any of those provisions), the person commits an indictable offence and on conviction—

- (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) Subsection (3)(b) does not apply if an order is made under section 65.
- (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.

Compare: 1962 No 135 ss 30A(2), 58E

Subsection (1)(b) and (c) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered”. See sections 178 to 227 of that Act as to the transitional provisions.

Subsection (3) was amended, as from 16 January 2006, by section 33(1) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “58(1), and 61(1) and (2)” for the words “and 58(1)”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (3)(b) was amended, as from 16 January 2006, by section 32(3) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “more than 1 year” for the words “1 year or more”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (3A) was inserted, as from 16 January 2006, by section 33(3) Land Transport Amendment Act 2005 (2005 No 77).

61 Person in charge of motor vehicle causing injury or death

- (1) A person commits an indictable 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 indictable offence if the person is in charge of a motor vehicle and causes bodily injury to or the death of a person while the person in charge is 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.
- (3) If a person is convicted of an offence against subsection (1) or subsection (2),—
 - (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).
- (3A) If a person is convicted of a third or subsequent offence against this section or section 56(1) or (2), 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.
- (4) The imposition of a mandatory disqualification under this section is subject to section 81.

Compare: 1962 No 135 ss 30AB(1), (1A), 55(2)

Subsections (1) and (2) were amended, as from 16 January 2006, by section 34(1) Land Transport Amendment Act 2005 (2005 No 77) by omitting the words “on a road”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (3)(b) was substituted, as from 16 January 2006, by section 34(2) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsections (3A) and (3B) were inserted, as from 16 January 2006, by section 34(3) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

62 Causing injury or death in circumstances to which section 61 does not apply

- (1) A person commits an indictable offence if the person causes bodily injury to or the death of a person by carelessly driving a motor vehicle while driving the vehicle while under the influence of drink or a drug, or both, but not so as to commit an offence against section 61.
- (2) If a person commits 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.
- (3) The imposition of a mandatory disqualification under this section is subject to section 81.

Compare: 1962 No 135 ss 30AA(2), (2A), 56(1A)(b)

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 relates to community-based sentences).

Compare: 1962 No 135 s 30AD

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 medical

- practitioner, that the taking of a blood specimen from the defendant would have been prejudicial to the defendant's health.
- (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 the proportion of alcohol in the person's breath did not exceed—
 - (i) 150 micrograms of alcohol per litre of breath, in the case of a person apparently younger than 20; or
 - (ii) 400 micrograms of alcohol per litre of breath, in any other case; or
 - (b) Any evidence given in respect of the results of a blood test indicates that the proportion of alcohol in the person's blood did not exceed—
 - (i) 30 milligrams of alcohol per 100 millilitres of blood, in the case of a person apparently younger than 20; or
 - (ii) 80 milligrams of alcohol per 100 millilitres of blood, in any other case.
- (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)

Subsection (1) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered”. See sections 178 to 227 of that Act as to the transitional provisions.

Subsection (2) was amended, as from 29 December 2001, by section 5(1) Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104) by substituting the expression “sections 68 to 75” for the expression “68 to 75A and 77”.

Subsection (3A) was inserted, as from 22 June 2005, by section 35 Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (4)(a) was amended, as from 29 December 2001, by section 5(2) Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104) by inserting, after the words “the breath screening test”, the words “or evidential breath test”.

Repeat offences

65 Mandatory penalties for repeat offences involving use of alcohol or drugs

- (1) This section applies to offences against any of sections 56 to 62.
- (2) If—
 - (a) A court convicts a person of an offence to which this section applies; and
 - (b) 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,—

the court must (unless prevented by subsection (3)) make an order requiring the 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.

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

Subsection (4) was substituted, as from 16 January 2006, by section 36 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 65(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Name suppression

66 Names of drivers convicted of alcohol or drug-related offences may not be suppressed

Unless for special reasons the court thinks fit to order otherwise, the power of prohibiting the publication of the names of accused persons or of reports or accounts of their arrest, trial, conviction, or sentence conferred on a court by section 138 or section 140 of the Criminal Justice Act 1985, or by any other enactment, is not exercisable in the case of a person who is convicted of an offence against any of sections 56 to 62.

Compare: 1962 No 135 s 61

Blood test fee

67 Blood test fee

- (1) A person who, having undergone a blood test, is convicted of an offence against any of sections 56(2), 57(2), 58, 61(1)(b), 61(2), and 62 is liable to pay the blood test fee that applied on the day on which the offence was committed; and the blood test fee is deemed to be a fine imposed on the conviction of the person for the offence.
- (2) The Minister of Police may from time to time, by notice in the *Gazette*, prescribe a blood test fee for the purposes of this section.

Compare: 1962 No 135 s 30A(4)

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 doctor's surgery 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

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) The person has undergone a breath screening test under section 68 and it appears to the officer that the test indicates that the proportion of alcohol in the person's breath exceeds 400 micrograms of alcohol per litre of breath; or
 - (b) It appears to the officer that the person is younger than 20 and that a breath screening test undergone by the per-

- son under section 68 indicates that there is some alcohol in the person's breath; or
- (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).
- (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 doctor's surgery as a result of an accident involving a motor vehicle to undergo an evidential breath test.
- Compare: 1962 No 135 s 58B

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) If the result of a person's evidential breath test appears to be positive, the 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.
- (2) This section is for the avoidance of doubt.

Section 70A was inserted, as from 29 December 2001, by section 6 Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

71 Meaning of apparently younger than 20

- (1) For the purposes of section 69(1)(b), 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)

72 Who must give blood specimen at places other than hospital or surgery

- (1) A person must permit a medical 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 medical 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 medical practitioner for the purposes of this paragraph.
- (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 medical 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 medical 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 medical practitioner or medical officer if the officer requires the person to do so.
- (4) If a blood specimen taken under this section is insufficient to be divided into 2 parts in accordance with section 74(1),—
- (a) The person from whom the specimen was taken must permit a medical practitioner or medical officer to take a further blood specimen immediately after being requested to do so by the medical 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 medical practitioner or medical officer to permit a blood specimen to be taken under this section.

Compare: 1962 No 135 s 58C

Section 72 was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered” wherever it occurred. *See* sections 178 to 227 of that Act as to the transitional provisions.

Subsection (1)(b) was amended, as from 29 December 2001, by section 7 Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104), by omitting the words “(other than a test carried out by means of a conclusive evidential breath-testing device that indicates that the proportion of alcohol in the person’s breath exceeds 600 micrograms of alcohol per litre of breath)”.

73 Who must give blood specimen in hospital or surgery

- (1) A person who is under examination, care, or treatment in a hospital or doctor’s surgery must permit a blood specimen to be taken from the person by—
 - (a) The medical practitioner who is in immediate charge of the examination, care, or treatment of the person; or
 - (b) Another medical practitioner or a medical officer.
- (2) If a person under examination, care, or treatment in a hospital or doctor’s surgery is unconscious, a blood specimen may be taken from the person under this section by—
 - (a) The medical practitioner who is in immediate charge of the examination, care, or treatment of the person; or
 - (b) Another medical practitioner or a medical officer.
- (3) The medical practitioner who is in immediate charge of the examination, care, or treatment of the person in a hospital or doctor’s surgery—
 - (a) May cause a blood specimen to be taken by another medical practitioner or a medical officer; and
 - (b) Must either take a blood specimen or cause a blood specimen to be taken by another medical 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 to be divided into 2 parts in accordance with section 74(1), the medical practitioner who is in immediate charge of the examination, care, or treatment of the person may take or cause to be taken by another medical 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)(b), a blood specimen may be taken under any provision of this section only if the medical practitioner—
 - (a) Has reasonable grounds to suspect that the person is in the hospital or doctor's surgery as a result of an accident 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 medical 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 analyst, 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

Subsections (1) to (5) were amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered” wherever it occurred. *See* sections 178 to 227 of that Act as to the transitional provisions.

Subsection (5) was amended, as from 22 June 2005, by section 37(a) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “Despite subsection (3)(b), a” for the word “A” in the first place that it appears. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (5) was amended, as from 22 June 2005, by section 37(b) Land Transport Amendment Act 2005 (2005 No 77) by omitting the words “(other than subsection (3)(b))”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (7) was amended, as from 1 January 2001, by section 111(1) New Zealand Public Health and Disability Act 2000 (2000 No 91) by substituting the words “the Crown, a district health board” for the words “Health Funding Authority, a hospital and health service”.

74 Procedure for dealing with blood specimens

- (1) A blood specimen taken under section 72 or section 73 must be divided into 2 parts, and—
- (a) Each part must be placed in a separate bottle and the bottle must then be sealed; and
 - (b) Each part is a blood specimen for the purposes of this Act.
- (2) One or more preservative substances and anti-coagulant substances may be added to a blood specimen by placing them in the bottle, whether before or after the specimen is taken and placed in the bottle.
- (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, both parts of the blood specimen to an approved analyst for the analysis of 1 of those parts and the custody of the other.
- (4) In the case of a blood specimen taken under section 73, the medical 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 post, both parts of the blood specimen to an approved analyst for the analysis of 1 of those parts and the custody of the other; and
 - (b) Give the Commissioner a written notification—
 - (i) Identifying the approved analyst to whom the parts of the blood specimen were (or are 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 analyst to whom the blood specimen taken from the person was delivered or posted under subsection (3) or subsection (4); and
 - (ii) That analyst must send by registered post, personal delivery, or delivery by courier 1 part of that blood specimen 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 analyst.
- (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 19 or section 150 of the Summary Proceedings Act 1957 in respect of any such offence, the date on which the defendant is so arrested; or
 - (iii) In any case to which subparagraph (i) or subparagraph (ii) 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 part of the blood specimen is to be sent and the address of the private analyst.
- (8) A blood specimen sent to an approved analyst 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

Subsection (4) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered” in both places it occurred. *See* sections 178 to 227 of that Act as to the transitional provisions.

Section 74(7)(a)(ii): amended, on 29 June 2009, by section 18 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).

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 medical practitioner or medical officer and certifying that—

- (a) A specimen of venous blood was taken by the practitioner or medical officer in accordance with normal medical procedures from a person named in the certificate; and
 - (b) The specimen was divided by the practitioner or medical officer into 2 parts, or the specimen was insufficient for division and the practitioner or medical officer took a further specimen; and
 - (c) The practitioner or medical officer placed and sealed in a separate bottle each part or specimen (as the case may be); and
 - (d) Each such separate bottle 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 separate bottle to an enforcement officer named in the certificate.
- (3) This section also applies to a certificate purporting to be signed by a medical practitioner and certifying that—
 - (a) The person named in the certificate was in a hospital or doctor's surgery; and
 - (b) The practitioner, being a medical 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 medical practitioner or any medical officer from the person under section 73; and
 - (c) At the time the blood specimen was taken from the person, the practitioner had reasonable grounds to suspect that the person was in the hospital or doctor's surgery as a result of an accident 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 medical 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 post, personal delivery, or delivery by courier, on a specified date, both parts of the specimen (or both specimens) to a specified approved analyst in accordance with section 74; and
 - (c) That the practitioner or medical officer notified the Commissioner in writing of the approved analyst to whom the parts of the specimen (or the specimens) were 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 bottle 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, 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 part of a blood specimen was posted to a specified private analyst by registered post, personal deliv-

ery, 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

Subsections (2) to (4) were amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered” wherever it occurred. *See* sections 178 to 227 of that Act as to the transitional provisions.

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 or defended hearing 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 was inserted, as from 29 December 2001, by section 8 Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104). See section 16 of that Act for savings and transitional provisions relating to certificates of compliance.

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 bottle in which a blood specimen (or part of a blood specimen) was placed was received by a medical practitioner or medical officer in a sealed blood specimen collecting kit, the bottle 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

Subsection (1)(c) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word "registered". See sections 178 to 227 of that Act as to the transitional provisions.

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 alcohol 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 subsection (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, that the test was positive and

that, if the person does not request a blood test within 10 minutes,—

- (i) In the case of a positive test that indicates that the proportion of alcohol in the person's breath exceeds 400 micrograms of alcohol per litre of breath, the test could of itself be conclusive evidence to lead to that person's conviction for an offence against this Act; or
 - (ii) In the case of a positive test that indicates that the proportion of alcohol in the person's breath exceeds 150 but does not exceed 400 micrograms of alcohol per litre of breath, the test could of itself, unless the person is 20 or older, be conclusive evidence to lead to that person's conviction for an offence against this Act; 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).
- (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)
- (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)

Subsection (3)(a) was amended, as from 29 December 2001, by section 9(1)(a) Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104) by substituting the words “without delay” for the word “immediately”.

Subsection (3)(a) was further amended, as from 29 December 2001, by section 9(1)(b) Land Transport (Road Safety Enforcement) Amendment Act 2001

(2001 No 104) by substituting the word “conclusive” for the word “sufficient” in both places that it appeared.

Subsection (5) was repealed, as from 29 December 2001, by section 9(2) 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 medical 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 registered medical 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 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 1 part of the blood specimen to be sent to a private analyst; and
 - (b) That part of 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 proportion of alcohol, a drug, or both, in a blood specimen, or to the sending of 1 part 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 part of the specimen, or the person who gave the part of 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 was younger than 20 at the time of the commission of the offence,

- not more than 30 milligrams of alcohol per 100 millilitres of blood; or
- (ii) In any other case, not more than 80 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).
- (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

Subsection (1) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered”. See sections 178 to 227 of that Act as to the transitional provisions.

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 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 summary conviction to a fine not exceeding \$25,000 and the court may, if it thinks appropriate, order any or every 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(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).

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 summary 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 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 he or she fails to present his or her transport service 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): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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.

- (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).

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 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).

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 passenger service fares

- (1) A person who fails to pay a passenger service or public transport service fare that he or she is liable to pay commits an infringement offence.

- (2) The maximum penalty, on summary conviction for an offence against subsection (1), is a fine not exceeding \$500.
- (3) For the purposes of this section, **public transport service** has the same meaning as in section 4 of the Public Transport Management Act 2008.

Section 79M: inserted, on 1 October 2007, by section 38 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 79M(1): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 79M(3): added, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

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 heading: 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 a vehicle that—
 - (i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); and
 - (ii) is used in the relevant transport service; and
 - (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).

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 a vehicle that—
 - (A) requires a class 2, 3, 4, or 5 licence (as specified in the rules); and
 - (B) is used in the relevant transport service; and
 - (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 a vehicle that—
 - (i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); and
 - (ii) is used in the relevant transport service; and
 - (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 a vehicle that—

- (i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); and
- (ii) is used in the relevant transport service; and
- (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)(ii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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.

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).

Subpart 2—Logbooks

Subpart 2 heading: 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 a vehicle that—
 - (i) requires a class 2, 3, 4, or 5 licence as specified in the rules); and
 - (ii) is used in the relevant transport service; and
 - (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).

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 a vehicle that—
 - (i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); and
 - (ii) is used in the relevant transport service; and
 - (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).

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 log-book 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 was inserted, as from 22 June 2005, by section 41 Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

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 Provisions relating to mandatory disqualification

- (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 relates to community-based sentences).

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).

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)

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 or endorse the existing 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)

The heading to section 83 was amended, as from 16 January 2006, by section 43(1) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “approved tests or courses” for the words “prescribed tests”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1)(a) was substituted, as from 16 January 2006, by section 43(2) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (1A) was inserted, as from 16 January 2006, by section 43(3) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 or endorsement to be issued if disqualified driver qualifies for specified vehicle classes

- (1) This section applies if—
 - (a) section 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—
 - (a) 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; or

- (b) endorse that person's existing licence 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 was substituted, as from 16 January 2006, by section 44 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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

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.
- (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

87 Particulars of court orders relating to disqualification to be sent to Agency and offender

- (1) If a court makes an order disqualifying a person from holding or obtaining a driver licence or an order under section 99 (removing a disqualification) or an order under section 105 (authorising the issue of a limited licence), the Registrar of the court must notify the Agency, and the offender in writing, of the particulars of the order.
- (2) 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 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 87(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

*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 dis-

qualify 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 or involved in 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 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, 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 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 a person under section 87D

Subpart 5 of Part 4A applies to a decision to suspend a person under section 87D.

Compare: 1989 No 74 s 16(2)

Section 87E: inserted, on 1 October 2007, by section 45 of the Land Transport Amendment Act 2005 (2005 No 77).

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 1 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), if an infringement fee is paid to the enforcement authority at the address for payment specified in the infringement notice before or within 28 days after service of a reminder notice for that offence or within 5 days after the expiry of that 28-day period, the following provisions apply to an infringement offence:
 - (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 summary 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.

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).

Subsection (5) was substituted, as from 16 January 2006, by section 46 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 total of 100 or more demerit points have effect against a person, the Agency must, by notice in writing given to that person, either—
 - (a) suspend that person's current driver licence for 3 months; or
 - (b) if the person does not hold a current driver licence on the date of the giving of the notice, disqualify the person from holding or obtaining a driver licence for 3 months.
- (2) If the Agency has been unsuccessful in giving notice to a person under subsection (1), an enforcement officer may, by notice in writing given to that person, either—
 - (a) suspend that person's current driver licence for 3 months; or

- (b) if the person does not hold a current driver licence on the date of the giving of the notice, disqualify the person from holding or obtaining a driver licence for 3 months.
- (3) A suspension or disqualification under subsection (1) or subsection (2) starts on the date the notice is given to the person.
- (4) A person whose driver licence has been suspended under subsection (1) or subsection (2) may not hold or obtain a driver licence while the suspension is in force.

Section 90 was substituted, as from 19 December 2005, by section 47 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions. *See* clause 2 Land Transport Amendment Act Commencement Order 2005 (SR 2005/336).

Section 90(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 90(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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).

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 subsection (2) to attend a course must attend the course and must, 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.

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).

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 prescribed for a driver licence or endorse-

- ment 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 prescribed 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 prescribed 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 prescribed tests and examinations.
 - (6) If a person passes the prescribed 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(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(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
 - (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

Subsection (1)(c) was amended, as from 30 June 2002, by section 186 Sentencing Act 2002 (2002 No 9) by substituting “Part 2 of the Sentencing Act 2002” for “Part 3 of the Criminal Justice Act 1985”. See sections 148 to 160 of that Act for the transitional and savings provisions. See clause 2 Sentencing Act Commencement Order 2002 (SR 2002/176)

Subsection (3)(b) was amended, as from 30 June 2002, by section 186 Sentencing Act 2002 (2002 No 9) by substituting “Sentencing Act 2002” for “Criminal Justice Act 1985”. See sections 148 to 160 of that Act for the transitional and savings provisions. See clause 2 Sentencing Act Commencement Order 2002 (SR 2002/176).

Subsection (3A) was inserted, as from 16 January 2006, by section 48(1) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 94(3A): amended, on 1 October 2007, by section 58 of the Sentencing Amendment Act 2007 (2007 No 27).

Subsection (4) was substituted, as from 16 January 2006, by section 48(2) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

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), 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; and
- (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 his or her driver licence is suspended for 28 days; and
 - (c) Require the person to immediately surrender his or her driver licence 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 member of the Police 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.

Subsection (1)(a) was substituted, as from 16 January 2006, by section 49(1) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1)(c) was substituted, as from 16 January 2006, by section 49(2) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1A) was inserted, as from 29 December 2001, by section 10(1) Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Subsection (1A) was amended, as from 16 January 2006, by section 49(3) Land Transport Amendment Act 2005 (2005 No 77) by substituting the expression “650” for the expression “800”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1A)(b) was amended, as from 16 January 2006, by section 49(4) Land Transport Amendment Act 2005 (2005 No 77) by substituting the expression “130” for the expression “160”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (8) was inserted, as from 29 December 2001, by section 10(2) Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104).

Subsection (8)(a) was amended, as from 16 January 2006, by section 49(5) Land Transport Amendment Act 2005 (2005 No 77) by substituting the expression “130” for the expression “160”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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
 - (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 been convicted of 2 or more previous offences against any of sections 56(1) or (2), 58(1), 60(1), or 61(1) or (2) within the last 4 years.
- (1A) 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—
- (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).
- (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, un-

less 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 name and 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 registered owner of the vehicle a copy of the notice, if the registered owner is present at the time of the seizure, or as soon as practicable send a copy to

- the registered owner by ordinary post to the registered owner'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.
- (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; and goods present in a motor vehicle at the time of the seizure and impoundment must be released subsequently to 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 finally that proceedings will not be taken against the person who drove the vehicle in circumstances referred to in subsection (1) or operated the vehicle in circumstances referred to in subsection (1A), or such proceedings have been taken and the person is acquitted; and
 - (b) The vehicle has not already been released.
 - (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.
- (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).

The heading to section 96 was amended, as from 2 May 2003, by section 8(1) Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11) by omitting the words “to be”.

Subsection (1)(c) was amended, as from 16 January 2006, by section 50(1) Land Transport Amendment Act 2005 (2005 No 77) by adding the word “; or”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1)(d) was inserted, as from 16 January 2006, by section 50(1) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsections (1A) to (1D) were inserted, as from 2 May 2003, by section 8(2) Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Subsection (1E) was inserted, as from 16 January 2006, by section 50(2) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (2)(a)(iia) was inserted, as from 2 May 2003 by section 8(3) Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Subsection (6)(a) was amended, as from 2 May 2003, by section 8(4) Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11) by inserting the words “or operated the vehicle in circumstances referred to in subsection (1A),” after the expression “subsection (1)”.

Subsection (6A) was inserted, as from 16 January 2006, by section 50(3) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (8)(a) was amended, as from 16 January 2006, by section 50(4) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “an approved course or programme” for the words “a traffic improvement school”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (8)(b) was amended, as from 16 January 2006, by section 50(5) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “course or programme” for the word “school”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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).

Subsection (9) was inserted, as from 2 May 2003, by section 8(5) 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 name and address of the driver; and

- (ii) the name and 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 registered owner of the vehicle a copy of the notice, if the registered owner is present at the time of the seizure, or as soon as practicable send a copy to the registered owner by ordinary post to the registered owner's last known place of residence or business or postal address, or address as recorded on the Motor Vehicle Register; 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.
- (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; and goods present in a motor vehicle at the time of the seizure and impoundment must be released subsequently to 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 Director 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 already been released.
- (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).

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.
- (3) The fees and charges referred to in subsection (2) are recoverable from the owner of the vehicle by the vehicle recovery service operator or storage provider.
- (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 direction under this Act to release the vehicle to the owner or a person authorised for the purpose by the owner.

- (7) The Commissioner, 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.

98 Release of vehicle after 28 days

- (1) On or after the close of the 28-day impoundment period, the registered owner of the vehicle, or a person authorised for the purpose by the registered owner, is entitled to remove the vehicle from storage by—
- (a) Showing the storage provider proof of identity and either proof of ownership of the vehicle or the owner's copy of the notice of acknowledgement of seizure and impoundment; 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 subsection (1) is 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 may, with the officer's approval, dispose of the vehicle on such terms and conditions as the officer thinks fit.
- (5) On obtaining approval under subsection (4), the storage provider becomes the owner of the vehicle for all purposes.
- Subsection (4)(a) was amended, as from 16 January 2006, by section 52 Land Transport Amendment Act 2005 (2005 No 77) by substituting the expression “10 days” for the expression “28 days”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

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):
 - (v) section 39(1):
 - (vi) section 56(1) or (2):
 - (vii) section 58(1):
 - (viii) section 60(1):
 - (ix) section 61(1) or (2):
 - (x) section 62(1); 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 medical 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 sup-

- ported 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 a 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 order made under section 65 disqualifying the person from holding or obtaining a driver licence.

Compare: 1962 No 135 s 39

The heading to section 99 was amended, as from 16 January 2006, by section 53(1) Land Transport Amendment Act 2005 (2005 No 77) by substituting the word “reduce” for the word “remove”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1) was substituted, as from 16 January 2006, by section 53(2) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1A) was inserted, as from 16 January 2006, by section 53(2) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (2)(a) was amended, as from 16 January 2006, by section 53(3) Land Transport Amendment Act 2005 (2005 No 77) by substituting the word “reduce” for the word “remove”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (3)(a) was substituted, as from 16 January 2006, by section 53(4) Land Transport Amendment Act 2005 (2005 No 77).

Subsection (3)(b) was amended, as from 16 January 2006, by section 53(5) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “approved programme” for the word “course”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (3)(c) was amended, as from 16 January 2006, by section 53(6) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “an

approved programme” for the words “a course”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (3)(d) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered”. *See* sections 178 to 227 of that Act as to the transitional provisions.

Subsection (5) was amended, as from 16 January 2006, by section 53(7) Land Transport Amendment Act 2005 (2005 No 77) by omitting the words “exercising jurisdiction in the court by which the order was made”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 was inserted, as from 16 January 2006, by section 54 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 medical 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; and

(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.

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 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (1)(a)(i) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered”. See sections 178 to 227 of that Act as to the transitional provisions.

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).

Subsection (1)(b) was repealed, as from 16 January 2006, by section 55(1) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 100(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (3) was amended, as from 16 January 2006, by section 55(2) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “1 year and 1 day” for the words “2 years”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

*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) 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) (whichever applies); or
 - (g) if section 96(1A) applies, the owner took all reasonable steps to prevent the operator of the vehicle from contravening section 22A(1) or (3) (whichever applies); 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.
- (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).

Subsection (1)(e) was amended, as from 2 May 2003, by section 9(1) Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11) by adding the word “; or”.

Subsection (1)(f) and (g) were inserted, as from 2 May 2003, by section 9(1) Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

Section 102(1)(g): amended, on 1 October 2007, by section 56(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Section 102(1)(h): added, on 1 October 2007, by section 56(3) of the Land Transport Amendment Act 2005 (2005 No 77).

Subsection (3) was substituted, as from 2 May 2003, by section 9(2) 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, 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).

Compare: 1962 No 135 s 38(1) to (1B)

Subsection (2)(d)(iii) was amended, as from 22 June 2005, by section 57 Land Transport Amendment Act 2005 (2005 No 77) by adding the word “; or”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (2)(d)(iv) was inserted, as from 22 June 2005, by section 57 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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, 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 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)

Subsection (3) was substituted, as from 22 June 2005, by section 58 Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

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
 - (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 a 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) If the court makes an order under this section, the Agency must, despite anything in this Act to the contrary but otherwise subject to the provisions of this Act, issue to the person entitled to it a limited licence in accordance with the terms of the order.
- (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 must be 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.
- (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 licence to the court by which he or she is convicted or to an enforcement officer or at an office of the Agency.

- (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) to (9)

Section 105(6): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 105(8): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (9) was inserted, as from 22 June 2005, by section 59 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 a 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 a District Court against the decision concerned is conferred by some other section of this Act.

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).

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 a District Court from holding or obtaining a driver licence may appeal to the High Court against a decision of a 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, a District Court may, on an application by a person who has appealed to the High Court under subsection (1) or section 107 or section 115 of the Summary Proceedings Act 1957, 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) Part 4 of the Summary Proceedings Act 1957 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 subsections (3) to (5) of section 379A of the Crimes Act 1961 apply 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 a 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

Subsections (1) and (2) were substituted, as from 22 June 2005, by section 60 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsections (2A) and (2B) were inserted, as from 22 June 2005, by section 60 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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

- (1) If an order has been made under section 65 and the person in respect of whom the order was made—
 - (a) Has unsuccessfully applied to the Agency for an order under section 100; and
 - (b) Considers that the Agency should have made an order under that section,—that person may appeal to a District Court against the refusal of the Agency to make that order.
- (2) In determining the appeal, the court may—
 - (a) Direct the Agency to make an order under section 100; or
 - (b) Dismiss the appeal.

Section 108 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 108(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 108(1)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 108(1)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 108(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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 a 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 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 a District Court against the decision under that section.
- (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.

Subsection (2) was amended, as from 2 May 2003, by section 10(1) Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11) by inserting the word “applicable” before the words “grounds set out”.

Subsection (3) was substituted, as from 2 May 2003, by section 10(2) Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003 (2003 No 11).

111 Procedure

- (1) Every appeal under this Act to a 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, a 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 Courts Act 1947 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(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 er-

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).

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 Transport Act 1962, the Local Government Act 1974, the Local Government Act 2002, the Road User Charges Act 1977, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Public Transport Management Act 2008, the Government Roothing 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 name and address and date of birth, or such of those particulars as the enforce-

- ment 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 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).

Subsection (1)(a) was amended, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84) by inserting the words “the Local Government Act 2002,” after the words “Local Government Act 1974,”. *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

Subsection (1)(a) was amended, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118) by inserting the words “the Land Transport Management Act 2003,” after the words “the Railway Safety and Corridor Management Act 1992,”. *See* sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

Subsection (1)(a) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by substituting the expression “Railways Act 2005” for the expression “Railway Safety and Corridor Management Act 1992”. *See* sections 105 to 111 of that Act as to the transitional provisions.

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) 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).

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 name and address and date of birth, 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

Subsection (2A) was inserted, as from 22 June 2005, by section 64 Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

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 Agency 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 Agency 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 Agency 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.
- (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 Agency 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 Agency in the same manner.

Compare: 1962 No 135 s 68B(2A)

Subsections (1) and (2) were substituted, as from 16 January 2006, by section 65 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 115(1)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 115(1)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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).

Subsection (2A) was inserted, as from 16 January 2006, by section 65 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 115(3)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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

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 113 or section 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)

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 Owner or hirer or licence holder 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 has been used to flee a Police pursuit, an enforcement officer may request the owner 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 must give the officer that information immediately.
- (5) Subsection (4) does not apply if the owner 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: amended, on 1 October 2007, by section 66(1) of the Land Transport Amendment Act 2005 (2005 No 77).

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(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).
- (3) An enforcement officer may without warrant enter, by force if necessary, a building or place where a vehicle to which section 96 or section 96A or section 123 applies is being stored or kept, and seize and impound the vehicle, if—
 - (a) An enforcement officer has been freshly pursuing the vehicle; or
 - (b) It is likely that a person was about to remove, conceal, destroy, or dispose of the vehicle; or
 - (c) An enforcement officer suspects on reasonable grounds that the vehicle was about to be used in the commission of a crime; or
 - (d) 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 any thing referred to in paragraph (b) or subparagraph (c).
- (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) of this section.

- (5) An enforcement officer may apply on oath to a District Court Judge 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 Judge 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) It is the duty of every enforcement officer exercising a power conferred by subsection (2) or subsection (3) or under subsection (5)—
 - (a) To identify himself or herself as an enforcement officer to the pursued person and to the occupant of the premises entered; and
 - (b) To tell the pursued person and the occupant of the premises entered that the power of entry is being exercised under this section; and
 - (c) If the enforcement officer is not in uniform, to produce to the pursued person and the occupant of the premises entered on initial entry, and, if requested, at any subsequent time, evidence that he or she is an enforcement officer.
- (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(3): amended, on 1 October 2007, by section 67(1) of the Land Transport Amendment Act 2005 (2005 No 77).

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 1 October 2007, by section 67(3) of the Land Transport Amendment Act 2005 (2005 No 77).

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.
- (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 sworn member of the Police who exercises any power of arrest conferred by this section must, as soon as practicable, deliver the arrested person into the custody of a sworn member of the Police.
- (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 s 62, 62A, 62B

121 Enforcement officer may immobilise vehicle, etc, if driver incapable of proper control of vehicle

- (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 is, because of his or her physical or mental condition (however arising), incapable of having proper control of the vehicle; 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 result of an evidential breath test undergone by the person indicates that the proportion of alcohol in the person's breath exceeds 400 micrograms of alcohol per litre of breath, 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(1)(a)(ii): amended, on 1 October 2007, by section 68 of the Land Transport Amendment Act 2005 (2005 No 77).

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 where serious accident or hit and run offence or for failure to stop

- (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) The driver has failed to stop in contravention of a signal or request made under section 114(1) or (2).
- (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 commissioned officer of Police may from time to time, after giving notice in writing to the registered owner 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.

*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 1977 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 20 km, if the officer has good cause to suspect that the driver has detoured from the normal route for the purpose of avoiding being required to have the weight of the vehicle or on any axle of the vehicle measured.
- (4) The driver of a heavy motor vehicle or goods service vehicle must, whenever directed by a sign displaying the words “ALL TRUCKS 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.

126 Off-loading of overweight 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 weight 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 weight of the vehicle, or the weight on a wheel, axle, or group of axles of the motor vehicle, exceeds by 10% or more—
 - (i) A prescribed weight restriction applicable to that motor vehicle; or
 - (ii) A weight 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 weight and the weight on every wheel, every axle, and every group of axles of the motor vehicle to not more than—
 - (i) The maximum prescribed weight applicable to that motor vehicle; and
 - (ii) A weight 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 weight of a heavy motor vehicle approaching a bridge for which a weight restriction has been prescribed is measured by or at the direction of an enforcement officer; and
 - (b) The gross weight of the motor vehicle, or the weight on any wheel, axle, or group of axles of the motor vehicle, exceeds by 10% or more any weight 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 weight and the weight 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)

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 member of the Police,—

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)

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 section 30B or 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).

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).

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.
- (3) Nothing in this section limits or affects the privilege against self incrimination.

Compare: 1962 No 135 s 70I

Subsection (1) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by omitting the words “(other than a rail service vehicle)”. See sections 105 to 111 of that Act as to the transitional provisions.

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

The heading was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by omitting the words "rail service vehicles and". See sections 105 to 111 of that Act as to the transitional provisions.

Subsections (1)(a) and (2) were amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by substituting the words "rail vehicle" for the words "rail service vehicle" wherever they appear. See sections 105 to 111 of that Act as to the transitional provisions.

Subsection (2)(b) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by substituting the words "rail operator" for the words "rail service operator". See sections 105 to 111 of that Act as to the transitional provisions.

Subsection (3)(a) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by substituting the words "rail vehicle" for the word "train". See sections 105 to 111 of that Act as to the transitional provisions.

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

Subsection (1)(a)(i) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by inserting the words “or a rail operator loads

or unloads a rail vehicle” after the words “unloads the vehicle”. *See* sections 105 to 111 of that Act as to the transitional provisions.

Subsection (1)(a)(ii) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by inserting the words “or a rail vehicle” after the words “transport service vehicle” in both places where they appear. *See* sections 105 to 111 of that Act as to the transitional provisions.

Subsection (2) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by inserting the words “or rail vehicle” after the word “vehicle”. *See* sections 105 to 111 of that Act as to the transitional provisions.

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 130(5) or section 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

Part 10

Proceedings enforcing responsibilities

133 Owner liability for moving vehicle offences

- (1) Proceedings for a moving vehicle offence may be taken against any 1 or more of the following persons:
 - (a) The person who allegedly committed the offence:
 - (b) A person who, at the time of the alleged offence, was registered as the owner, or 1 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:

- (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), it is to be conclusively 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 accordingly
 - (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 if another person has, by virtue of an order under 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 the name and address of the driver or such other particulars within the person's knowledge as may lead to the identification of the driver; 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, 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.

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).

Subsection (4)(a) was amended, as from 22 June 2005, by section 70 Land Transport Amendment Act 2005 (2005 No 77) by substituting the expression "2009" for the expression "2005". See sections 96 to 100 of that Act as to the transitional and savings provisions.

Commencement of proceedings

135 Offences punishable summarily

- (1) Offences against this Act are punishable on summary conviction except where this Act otherwise provides.
- (1A) Every information for an offence against Part 6A or Part 6B must be laid by the Agency or an enforcement officer.
- (1B) In the absence of proof to the contrary it is presumed that every information for an offence against Part 6A or Part 6B has been laid by a person authorised to do so under subsection (1A).
- (2) A District Court presided over by 2 or more Justices of the Peace or 1 or more Community Magistrates has jurisdiction in

respect of any summary offence under Part 5 or Part 6, or under any regulations made under this Act (other than regulations relating to heavy motor vehicles), that is not punishable by imprisonment.

Compare: 1962 No 135 s 194

Section 135(1A): inserted, on 1 October 2007, by section 71 of the Land Transport Amendment Act 2005 (2005 No 77).

Section 135(1A): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 135(1B): inserted, on 1 October 2007, by section 71 of the Land Transport Amendment Act 2005 (2005 No 77).

136 Time for instituting proceedings

- (1) In proceedings for an offence punishable on summary conviction against this Act, the court may dismiss the information 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 14 of the Summary Proceedings Act 1957 does not apply to a prosecution for—
 - (a) An offence against section 32 involving driving while disqualified or contrary to the conditions of a licence or limited licence; 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
 - (iii) the issue of installation certificates and inspection certificates for alternative fuel systems.

Compare: 1962 No 135 s 195

Section 136(3)(b): substituted, on 1 October 2007, by section 72 of the Land Transport Amendment Act 2005 (2005 No 77).

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, that person may either—
 - (a) Be proceeded against summarily for the alleged offence, unless it is an overloading offence; or
 - (b) Be served with an infringement notice as provided in section 139.
- (2) Despite anything in section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to lay an information is not necessary where the enforcement authority proceeds with an infringement offence summarily.

Compare: 1993 No 88 s 31

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

- (c) By sending it, or a copy of it, by post addressed to him or her at his or her 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) For the purposes of the Summary Proceedings Act 1957,—
 - (a) An infringement notice attached to a vehicle under paragraph (a) of subsection (2) is to be treated as having been served when it is attached to the vehicle:
 - (b) An infringement notice sent to a person by post under paragraph (c) or paragraph (d) of that subsection is to be treated as having been served on the person when it would have been delivered in the ordinary course of post.
- (4) Every infringement notice must be in the prescribed form and must inform the person to whom it is issued that:
 - (a) No proceedings in respect of the infringement offence will be taken if the infringement fee (including any towage fees) is paid, within 28 days after the date of issue of the notice, to the enforcement authority at the address shown in the notice; and
 - (b) The person should write to the enforcement authority if the person wishes to—
 - (i) Raise a matter concerning the circumstances of the offence for consideration by the enforcement authority; or
 - (ii) Deny liability for the offence and request a court hearing; or
 - (iii) Admit liability for the offence, but make written submissions to the court; and
 - (c) If the person does nothing, a reminder notice explaining fully how to defend the charge and containing a statement of the person's rights will be issued to the person; and
 - (d) In the case of a moving vehicle offence, the owner of the vehicle is responsible for moving vehicle offences com-

mitted with the vehicle unless 1 of the relevant statutory defences can be established.

- (5) Different forms of infringement notices may be prescribed for different kinds of infringement offences.

Compare: 1993 No 88 s 32

140 Reminder notices

- (1) A reminder notice must be in the form prescribed by regulations made under this Act, and must contain—
- (a) Such details of the alleged infringement offence as 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 offence to which demerit points apply, a statement that demerit points apply to the alleged offence; and
 - (d) 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
 - (e) The amount of the infringement fee specified in respect of that offence; and
 - (f) The address of the place at which the infringement fee may be paid; and
 - (g) The time within which the infringement fee may be paid; and
 - (h) A summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and
 - (i) In the case of an alleged infringement offence that is a moving vehicle offence, a summary of the provisions of section 133; and
 - (j) A statement of the right of the person served with the notice to request a hearing; and
 - (k) 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

- (l) Such other particulars as are prescribed.
- (2) Different forms of reminder notices may be prescribed for different kinds of infringement offences.

Subsection (1) was amended, as from 9 October 2006, by section 35 Summary Proceedings Amendment Act 2006 (2006 No 13) by substituting the words “must be in the form prescribed by regulations made under this Act, and” for the words “may be in a form prescribed by regulations made under this Act or by regulations made under the Summary Proceedings Act 1957, but, if the form is prescribed under this Act, the reminder notice”.

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 or the Transport Act 1962.
- (2) If an infringement fee is paid to an enforcement authority other than the Police, the enforcement authority must give the Commissioner such particulars of the infringement and of the payment as the Commissioner requires.
- (3) All infringement fees received under this Act by an enforcement authority or recovered under the Summary Proceedings Act 1957 must be paid into the Crown Bank Account, except that the enforcement authority may retain such portion of the fees so received as the Minister of Finance from time to time approves as being the expenses incidental to their collection.
- (3A) However, an enforcement authority that is the Agency or a local authority may also 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 are fees received in respect of an infringement offence in relation to the use of a special vehicle lane.
- (4) For the purposes of subsection (3), the Minister of Finance may approve the retention of different portions of different infringement fees.

Subsection (3A) was inserted, as from 28 June 2006, by section 5 Land Transport Amendment Act (No 2) 2006 (2006 No 30). *See* sections 2(1) and 6(1)(b) of that Act as to the repeal of subsection (3A) on 1 July 2009. Section 6(2) of that Act provides that the repeal does not affect any proceedings commenced by a local authority or Transit, or any infringement fees collected (or to be collected) by a local authority, before that date.

Section 141(3A): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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 member of the Police 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 member—
 - (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 Department for Courts 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 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 142(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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 sworn or non-sworn member of the Police 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 member or 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 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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, 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 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

Subsection (1) was amended, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118) by inserting the words "the fact that a toll has not been paid in respect of the vehicle," after the words "traffic control device,". See sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

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 any officer of the Agency authorised for that purpose by the Agency; 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 authorised for that purpose by the Agency 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 authorised by the Agency 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 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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 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 1977, the production of a certificate (or a document purporting to be a copy of the certificate) purporting to be signed by a sworn or non-sworn member of the Police 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 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (1) was amended, as from 19 December 2001, by section 11 Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104) by substituting the words “a speeding offence against any bylaws or enactment, any other offence against this Act, or an offence against the Road User Charges Act 1977” for the words “an offence against this Act”. See section 15 of that Act for savings provisions relating to certificates of accuracy.

Subsection (1) was amended, as from 22 June 2005, by section 74 Land Transport Amendment Act 2005 (2005 No 77) by substituting the word “proof” for the word “evidence”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

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 1977, the production of a certificate (or a document purporting to be a copy of a certificate) purporting to be signed by a sworn or non-sworn member of the Police 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 sworn or non-sworn member of the Police; 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) A notice given by the Science Minister or the Minister in the *Gazette* for the purposes of subsection (2) may be in like manner amended or revoked at any time.
- (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 1977, 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.

Compare: 1962 No 135 s 197

Subsection (1) and (7) were amended, as from 19 December 2001, by section 12 Land Transport (Road Safety Enforcement) Amendment Act 2001 (2001 No 104) by substituting the words by inserting after the words “an offence against this Act”, the words “or an offence against the Road User Charges Act 1977”. See section 15 of that Act for savings provisions relating to certificates of accuracy.

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).

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)

Subsection (3) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by inserting the words “or rail vehicle” after the word “vehicle” wherever it appears. See sections 105 to 111 of that Act as to the transitional provisions.

Subsection (4) was inserted, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

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 document purporting to be issued by an employee of the Agency authorised by the Agency for the purpose, and 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.

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

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 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(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:
- (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 was substituted, as from 1 December 2004, by section 4 Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

Section 152(g): substituted, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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 dimen-

- sions, 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 the Transport (Vehicle and Driver Registration and Licensing) Act 1986,—
 - (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)

Paragraph (ea) was inserted, as from 16 January 2006, by section 75 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 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)(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 re-

lated 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) The fixing and advertising of 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 categories of safety performance for transport service operators and approved taxi organisations and provide the means for assessing (and re-assessing) and publishing levels of safety performance in relation to those categories:
 - (viii) empower the Agency to approve tests, courses, and course providers for the purpose of issuing certificates of knowledge of law and practice or area knowledge certificates 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 an area knowledge certificate 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) specify the requirements for approved taxi organisations, including (but not limited to) those required by persons in control of the approved taxi organisation:
 - (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 a District Court or apply (with such modifications as may

be specified in the rules) a procedure for appeals to a District Court under any other enactment.

Compare: 1993 No 88 s 6

Paragraph (a)(ix) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by inserting the words “(other than the rail transport system)” after the words “land transport system” wherever they appear. *See* sections 105 to 111 of that Act as to the transitional provisions.

Paragraph (b)(vi)(A) was amended, as from 22 June 2005, by section 76(1) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “work time and rest time” for the words “on-duty time, the off-duty periods, and rest periods”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Paragraph (b)(vii) to (xx) was inserted, as from 22 June 2005, by section 76(2) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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

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

Subsection (1)(i) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by inserting the words “(other than the rail transport system)” after the words “land transport system” wherever they appear. See sections 105 to 111 of that Act as to the transitional provisions.

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).

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.
- (6) An ordinary rule is a regulation for the purposes of the Regulations (Disallowance) Act 1989, but is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.
- (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 section 28 of the State Sector Act 1988, 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).

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 in the *Gazette*, and in the daily newspapers published in Auckland, Hamilton, Wellington, Christchurch, and Dunedin, respectively, 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) Every ordinary 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.
- (4) Every ordinary rule comes into force 28 days after the date of its notification in the *Gazette*, or on such later day as may be specified in the rule or under section 163(3).

Compare: 1993 No 88 ss 8, 10

Section 161(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

*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 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) Every emergency rule is a regulation for the purposes of the Regulations (Disallowance) Act 1989, but is not a regulation or an instrument for the purposes of the Acts and Regulations Publication Act 1989.

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 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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 be taken into account in making rules

- (1) The ordinary rules made by the Minister and the emergency rules made by the Agency may not be inconsistent with New Zealand's international obligations concerning land transport safety.
- (2) In making a rule, the Minister or the Agency (as the case may be) must have regard to, and give such weight as the Agency 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:
 - (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:
- (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(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 164(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (2)(d) and (e) was substituted, as from 1 December 2004, by section 5 Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

Subsection (2)(ea) was inserted, as from 1 December 2004, by section 5 Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

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 may be incorporated by reference into a rule made by the Minister or the Agency:
 - (a) Standards, requirements, or recommended practices of another State or an international organisation:
 - (b) Standards, requirements, or rules of the New Zealand Standards Association, or a body or organisation outside New Zealand that has functions corresponding to the functions of the New Zealand Standards Council:
 - (c) Any other written material or document that, in the opinion of the Minister, is too large or impractical to be printed as part of the rule.
- (2) Material incorporated in a rule by reference under subsection (1) forms part of the rule for all purposes, and, if any of that material is amended or replaced by the person or organisation originating the material, the amendment or new version forms part of the rule unless the rules otherwise provide.

- (3) A rule may incorporate by reference different versions of any material referred to in subsection (1) and may specify the purposes for or extent to which each version applies.
- (4) The Agency must make available for inspection free of charge, at the head office of the Agency, copies of all material incorporated in a rule by reference under subsection (1) and copies of all amendments deemed to be part of a rule.
- (5) No material incorporated in a rule by reference under subsection (1), or an amendment to such material, has effect until it is made available for inspection in accordance with subsection (4).

Compare: 1993 No 88 s 12

Section 165(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 165(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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.

- (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).

Subsection (1) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by inserting the words "rail vehicle," after the word "vehicle,". See sections 105 to 111 of that Act as to the transitional provisions.

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

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) In the case of an infringement offence involving road user charges, may not exceed \$15,000; or
 - (iv) in the case of an overloading offence, may not exceed \$10,000:
- (f) Setting the penalty for each overloading 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 regulations made under this Act or the Transport (Vehicle and Driver Registration and Licensing) Act 1986, or against the Transport Act 1962 or any regulations or bylaws made under that Act, are moving vehicle offences for the purposes of this Act:
- (j) Specifying the matters for which fees or charges are to be paid under this Act or any other enactment concerning land transport:
- (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:
 - (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(1), 56(2), 58(1), 60(1), 61(1), 61(2), and 62(1) (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 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

Subsection (1)(e)(iii) was amended, as from 22 June 2005, by section 78(1) Land Transport Amendment Act 2005 (2005 No 77) by adding the word “; or”. See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1)(e)(iv) was inserted, as from 22 June 2005, by section 78(1) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (1)(fa) was inserted, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118). See sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

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).

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 Transport Act 1962, the Road User Charges Act 1977, Part 1 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Railways Act

- 2005, the Government Roothing 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 commercial public transport services under the Public Transport Management Act 2008.
- (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:
 - (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.
- (5) *[Repealed]*
- (6) Nothing in this section affects or limits the power under the Road User Charges Act 1977 to set rates of road user charges.
- 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).
- Subsection (1)(a) was amended, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118) by inserting the words “the Land Transport Management Act 2003,” after the words “the Transit New Zealand Act 1989,”. See sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.
- Subsection (1)(a) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by inserting the expression “the Railways Act 2005,” after the expression “Transport Services Licensing Act 1989,”. See sections 105 to 111 of that Act as to the transitional provisions.
- 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(2): amended, on 1 October 2007, by section 79(2) of the Land Transport Amendment Act 2005 (2005 No 77).
- Subsection (5) was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

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 regulation for the purposes of the Regulations (Disallowance) Act 1989, but is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

Section 168A was inserted, as from 22 June 2005, by section 80 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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).

168B Order in Council for certain land transport revenue

- (1) The Governor-General may, by Order in Council, prescribe, or provide for the fixing of, fees and charges for the purposes of Part 1 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 that are identified in the Order in Council as land transport revenue for the purposes of the Land Transport Management Act 2003.
- (2) An Order in Council made under subsection (1) must,—
- (a) if made on or before 30 June in any year, expire on the close of 31 December of that year except so far as it is expressly confirmed by Act of Parliament passed during that year; and

- (b) if made on or after 1 July in any year, expire on the close of 31 December in the following year except so far as it is expressly confirmed by Act of Parliament passed before the end of that following year.
- (3) If an Order in Council expires by virtue of subsection (2)(a) or (b), any fees and charges collected under that Order in Council 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.
- (4) An Order in Council made under subsection (1) that the House of Representatives resolves should be revoked or varied is revoked or varied in accordance with the terms of the resolution, and any fees and charges collected under the Order in Council in excess of the fees and charges otherwise payable are, so far as that resolution provides, to be refunded.
- (5) The repeal of any Act of Parliament passed for the purpose of expressly validating or confirming an Order in Council under subsection (2) does not, unless there is any express provision to the contrary, affect the validity or confirmation of the Order in Council.

Section 168B: inserted, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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 was substituted, as from 1 December 2004, by section 6 Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

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 was inserted, as from 1 December 2004, by section 6 Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

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 was repealed, as from 1 December 2004, by section 11(1)(d) Land Transport Amendment Act 2004 (2004 No 96). See section 12 of that Act for the transitional provisions relating to rules.

185 Authority to be Crown entity*[Repealed]*

Section 185 was repealed, as from 1 December 2004, by section 11(1)(d) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

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 was repealed, as from 1 December 2004, by section 11(1)(e) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

*Role of Land Transport Safety Authority and
Director*

This heading was repealed, as from 1 December 2004, by section 11(1)(f) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

189 Principal objective of Authority*[Repealed]*

Section 189 was repealed, as from 1 December 2004, by section 11(1)(f) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

190 Functions of Authority*[Repealed]*

Subsection (1)(h) was amended, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118) by substituting the words “Land Transport Management Act 2003” for the words “Transit New Zealand Act 1989”. *See* sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

Sections 190 to 195 were repealed, as from 1 December 2004, by section 11(1)(g) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

191 Authority to comply with policy directions

[Repealed]

Sections 190 to 195 were repealed, as from 1 December 2004, by section 11(1)(g) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

192 Performance agreement

[Repealed]

Sections 190 to 195 were repealed, as from 1 December 2004, by section 11(1)(g) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

193 Minister may determine content of agreement or amendment

[Repealed]

Sections 190 to 195 were repealed, as from 1 December 2004, by section 11(1)(g) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

194 Amendment of agreement

[Repealed]

Sections 190 to 195 were repealed, as from 1 December 2004, by section 11(1)(g) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

195 Service charter

[Repealed]

Sections 190 to 195 were repealed, as from 1 December 2004, by section 11(1)(g) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

*Powers and additional functions of Authority
and Director*

This heading was repealed, as from 1 December 2004, by section 11(1)(h) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

196 Authority to have powers of natural person*[Repealed]*

Section 196 was repealed, as from 1 December 2004, by section 11(1)(h) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

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, 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):
 - (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 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:
 - (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 specifically forbidden to drive a motor vehicle or is disqualified from holding or obtaining a driver licence.
- (4) A person who applies to the Agency, pays the prescribed fee (if any), and obtains the consent of the holder of the driver licence concerned, is entitled to information about that driver licence that is referred to in subsection (2)(b).
- (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 (n) 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.

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 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (2)(c) was substituted, as from 16 January 2006, by section 82(1) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 199(2)(l): amended, on 1 October 2007, by section 82(2) of the Land Transport Amendment Act 2005 (2005 No 77).

Subsection (2)(m) was amended, as from 30 June 2002, by section 186 Sentencing Act 2002 (2002 No 9) by inserting the words “or section 124 of the Sentencing Act 2002” after the words “Criminal Justice Act 1985”. *See* sections 148 to 160 of that Act for the transitional and savings provisions. *See* clause 2 Sentencing Act Commencement Order 2002 (SR 2002/176).

Section 199(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (5) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered”. *See* sections 178 to 227 of that Act as to the transitional provisions.

Section 199(6): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (6)(b) was amended, as from 16 January 2006, by section 82(3) Land Transport Amendment Act 2005 (2005 No 77) by substituting the word “application” for the word “certificate”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Subsection (7) was amended, as from 16 January 2006, by section 82(4) Land Transport Amendment Act 2005 (2005 No 77) by substituting the expression “(4)” for the expression “(3)”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 199(7)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (8) was amended, as from 16 January 2006, by section 82(5) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words “(4) to (6)” for the words “(3) to (5)”. *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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) The register of transport service licences must also show the following information for an approved taxi organisation:
- (a) the full name of the approved taxi organisation; and
 - (b) the business address of the approved taxi organisation; and
 - (c) the telephone number by which the services of the approved taxi organisation may be booked; and
 - (d) the full names of the responsible officers of the approved taxi organisation; and
 - (e) the date of approval; and
 - (f) the status of the approval; and
 - (g) the safety rating (if any) of the approved taxi organisation.
- (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—

- (i) specified in subsection (2)(a) and (g) to (1); and
- (ii) in the case of an approved taxi organisation, specified in subsection (3)(a) to (c) and (e) to (g).

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

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) Except as provided in this section, no person, other than a person acting in the course of the person's official duties as an employee of the Agency, may access any photographic image stored under section 28(5).
- (2) A member of the Police may, for the purpose of enforcing any enactment referred to in section 113(1), access any photographic image stored under section 28(5) on production to the Agency of—
 - (a) Written consent to such access given by the individual to whom the image relates; or
 - (b) An appropriate warrant issued under section 198 of the Summary Proceedings Act 1957.
- (2A) 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.
- (3) A person who has lawful access to a photographic image stored under section 28(5) may use that image only in the course, and for the purposes, of the person's official duties.
- (4) For the purposes of this section, **next of kin** includes a spouse, a civil union partner, and a de facto partner.

Section 200(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (1) was amended, as from 16 January 2006, by section 84(1) Land Transport Amendment Act 2005 (2005 No 77) by substituting the words "this section" for the expression "subsection (2)". See sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 200(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (2A) was inserted, as from 16 January 2006, by section 84(2) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

Section 200(2A)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 200(2A)(a)(i): amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 200(2A)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (4) was inserted, as from 16 January 2006, by section 84(3) Land Transport Amendment Act 2005 (2005 No 77). See sections 96 to 100 of that Act as to the transitional and savings provisions.

Use of outside agencies in performance of functions

This heading was repealed, as from 1 December 2004, by section 11(1)(i) Land Transport Amendment Act 2004 (2004 No 96). See section 12 of that Act for the transitional provisions relating to rules.

201 Authority to consider delegating or contracting out of functions and powers

[Repealed]

Section 201 was repealed, as from 1 December 2004, by section 11(1)(i) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

202 Authority may arrange for services to be provided by outside agencies

[Repealed]

Sections 202 and 203 were repealed, as from 1 December 2004, by section 11(1)(j) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

Delegations

203 Authority may delegate functions or powers to employees

[Repealed]

Sections 202 and 203 were repealed, as from 1 December 2004, by section 11(1)(j) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

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 sworn member of the Police to be—
 - (a) an enforcement officer for the purposes of—
 - (i) this Act:
 - (ii) Part 2 of the Land Transport Management Act 2003:
 - (iii) the Public Transport Management Act 2008; or
 - (b) A dangerous goods enforcement officer.
- (2) The Commissioner may, by warrant, appoint any sworn member of the Police 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:
 - (ii) the Public Transport Management Act 2008; 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)(a): substituted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Subsection (1)(a) was amended, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118) by inserting the words “or Part 2 of the Land Transport Management Act 2003” after the words “this Act”. *See* sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

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): substituted, on 1 October 2007, by section 85 of the Land Transport Amendment Act 2005 (2005 No 77).

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).

209 Taking of blood specimens for statistical or research purposes

- (1) Despite anything in any Act or rule of law, a medical 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.
- (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

Subsection (1) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting “registered”. See sections 178 to 227 of that Act as to the transitional provisions.

Subsection (2) was amended, as from 1 August 2007, by section 216 Evidence Act 2006 (2006 No 69) by omitting “(as defined in section 2 of the Evidence Act 1908)”. See clause 2(2) Evidence Act 2006 Commencement Order 2007 (SR 2007/190).

Subsection (4) was inserted, as from 1 August 2007, by section 216 Evidence Act 2006 (2006 No 69). See clause 2(2) Evidence Act 2006 Commencement Order 2007 (SR 2007/190).

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

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 1993 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 1993 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 35 of the Privacy Act 1993, 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(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 was inserted, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

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) The enactments specified in Part 5 of Schedule 2 are repealed on a date to be appointed by the Governor-General by Order in Council.

Section 214(3): amended, on 29 June 2009, by section 27 of the Land Transport Amendment Act 2009 (2009 No 17).

Subsection (3) was amended, as from 22 June 2005, by section 87 Land Transport Amendment Act 2005 (2005 No 77) by substituting the expression “2009” for the expression “2005”.

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).

Paragraph (d) was inserted, as from 22 June 2005, by section 88 Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

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 relevant 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 (other than rates of road user charges), which regulation is made under the Transport Act 1962, the Road User Charges Act 1977, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Transport Services Licensing Act 1989, or the Government Roding 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(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

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).

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 Land Transport Safety 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 Roding 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 Roding 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 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).

Subsection (1)(a)(ii) was amended, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118) by inserting the words “or Part 2 of the Land Transport Management Act 2003”. *See* sections 108 and 109 of that Act as to the savings provisions relating to regional land transport strategies.

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.

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 commencement 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.
- (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 Injury Prevention, Rehabilitation, and 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

moped—

- (a) means a motor vehicle (other than a power-assisted pedal cycle) that has—
 - (i) 2 wheels; and
 - (ii) a maximum speed not exceeding 50 kilometres per hour; and
 - (iii) either—
 - (A) an engine cylinder capacity not exceeding 50 cc; or
 - (B) a power source other than a piston engine; and
- (b) includes a motor vehicle running on 3 wheels if the vehicle—
 - (i) was registered before paragraph (a) came into force; and
 - (ii) falls within the definition of moped in section 2(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986

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

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).

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).

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 licences and registration plates:
- (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,—
 - (i) the form, colour, and material of licences and registration plates; and
 - (ii) the size, shape, and character of the numbers, letters, messages, symbols, distinguishing marks, or slogans to be shown on licences and registration plates; and
 - (iii) the means to make licences and registration plates easily visible; and

- (iv) the number of licences and registration plates to be displayed and the position and manner in which they are to be displayed; and
- (v) the eligibility requirements for licences, licence labels, and registration plates; and
- (vi) the duration of licences and registration plates:
- (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:
 - (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 department specified in Schedule 1 of the State Sector Act 1988.

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).

270 Fees and charges identified as land transport revenue

- (1) This section applies to regulations made by Order in Council under section 269 that prescribe fees or charges that are iden-

tified as land transport revenue for the purposes of the Land Transport Management Act 2003 (**relevant regulations**).

- (2) If relevant regulations are made on or before 30 June in any year, they expire on the close of 31 December of that year except so far as they are expressly confirmed by Act of Parliament passed during that year.
- (3) If relevant regulations are made on or after 1 July in any year, they expire on the close of 31 December in the following year except so far as they are expressly confirmed by Act of Parliament passed before the end of that following year.
- (4) If relevant regulations expire by virtue of subsection (2) or (3), the fees or charges replaced or altered by those regulations are, from the expiry 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 expire by virtue of subsection (2) or (3), 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) The repeal of any Act of Parliament passed for the purpose of expressly validating or confirming relevant regulations under subsection (2) or (3) does not, unless there is any express provision to the contrary, affect the validity or confirmation of the relevant regulations in question.

Section 270: added, on 29 June 2009, by section 32(16) of the Land Transport Amendment Act 2009 (2009 No 17).

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 State Sector Act 1988), 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).

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).

Schedule 1 Section 185(3)
Provisions concerning Land Transport
Safety Authority of New Zealand
[Repealed]

Clause 33 was substituted, as from 2 October 2000, by section 240 Employment Relations Act 2000 (2000 No 24).

Schedule 1 was repealed, as from 1 December 2004, by section 11(2) Land Transport Amendment Act 2004 (2004 No 96). *See* section 12 of that Act for the transitional provisions relating to rules.

Schedule 2 Section 214
Enactments repealed

Part 1
Provisions of Transport Act 1962 repealed
on 1 March 1999

Part 1 (which relates to transport inquiries).

Section 6 (which relates to the appointment of traffic officers).

Sections 30AA to 41 (which relate to offences involving the use of alcohol or drugs).

Sections 41B and 42 (which relate to moving vehicle offences).

Sections 44 to 51 (which relate to the demerit points system).

Sections 54, 55, 56, and 57 (which relate to driving offences such as reckless driving).

Sections 57A to 58J (which relate to driving offences involving the use of alcohol or drugs, and to the administration of breath tests and blood tests).

Part 1—*continued*

Sections 59 to 63 (which relate to driving offences and enforcement powers).

Section 65 (which relates to duties of persons involved in accidents).

Section 66 (which relates to the requirement of motor vehicle users to stop and give their name, address, etc)

Section 66A (which relates to powers of entry for the purposes of offences involving the use of alcohol and drugs).

Sections 68 and 68A (which relate to attendance at traffic improvement schools and compulsory driving tests).

Section 68B (which relates to powers of enforcement officers).

Section 68C (which relates to compliance with traffic directions).

Section 68D (which relates to the jurisdiction of traffic officers).

Section 69A (which relates to the powers of enforcement officers in relation to heavy vehicles).

Section 69B (which relates to overloading offences).

Section 69C (which relates to overloading of Crown vehicles).

Section 70 (which relates to offences involving insecure loads).

Section 70A (which relates to insecure loads).

Section 70H(2A) and (2B) (which relate to hazardous substance courses).

Section 71A (which relates to hovercraft).

Sections 76B and 76C (which relate to the notification of road hazards and the conduct of traffic surveys).

Sections 81 and 82 (which relate to road accidents).

Section 192A (which relates to the impersonation of enforcement officers).

Section 192B (which relates to the alteration of distance recorders).

Section 197 (which relates to evidence of testing and accuracy of weighing devices and sites, and speed-measuring devices).

Section 199A (which relates to fees for traffic officer accident reports).

2

Provisions of Transport (Vehicle and Driver
Registration and Licensing) Act 1986
repealed on 1 March 1999

Sections 37, 39, 40(1), 40(3), 40(4), 43, 44(2), 45A, and 46 (which relate to driver licences).

3

Land Transport Acts repealed on 1 March
1999

1993, No 88—The Land Transport Act 1993.

1995, No 43—The Land Transport Amendment Act 1995.

4

Land Transport enactments repealed on date
or dates appointed by Order in Council

Provisions of Transport Act 1962

- 1 Section 52 (which relates to speed limits).
- 2 Sections 52A and 53 (which relate to exemptions from speed limits).
- 3 Section 64 (which relates to compulsory stopping).
- 4 Section 70AA (which relates to heavy traffic restrictions).
- 5 Sections 70E to 70K (which relate to the transportation of hazardous substances).
- 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 Sections 79, 79A, and 79B (which relate to certificates of fitness and certificates of loading).
- 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).

4—continued

Provisions of Transport (Vehicle and Driver Registration and Licensing) Act 1986

13 Sections 40(2), 41, 42, 44(1), 45, 47, 48, and 48A.

Land Transport Amendment Act 1997

14 1997, No 4—The Land Transport Amendment Act 1997 (which relates to the transfer of staff).

Part 5

**Enactments repealed on date or dates
appointed by Order in Council**

Schedule 2 Part 5 heading: amended, on 29 June 2009, by section 35(2) of the Land Transport Amendment Act 2009 (2009 No 17).

1962, No 135—The Transport Act 1962. (RS Vol 16, p 659.)

1964, No 126—The Transport Amendment Act 1964. (RS Vol 16, p 894.)

1965, No 127—The Transport Amendment Act 1965. (RS Vol 16, p 895.)

1965, No 128—The Transport Amendment Act (No 2) 1965. (RS Vol 16, p 897.)

1966, No 107—The Transport Amendment Act 1966. (RS Vol 16, p 698.)

1967, No 1—The Transport Amendment Act 1967. (RS Vol 16, p 899.)

1967, No 153—The Transport Amendment Act (No 2) 1967. (RS Vol 16, p 900.)

1968, No 148—The Transport Amendment Act 1968. (RS Vol 16, p 902.)

1969, No 137—The Transport Amendment Act (No 2) 1969. (RS Vol 16, p 903.)

1970, No 136—The Transport Amendment Act 1970. (RS Vol 16, p 905.)

1971, No 57—The Transport Amendment Act 1971. (RS Vol 16, p 659.)

Part 5—*continued*

- 1971, No 68—The Transport Amendment Act (No 2) 1971. (RS Vol 16, p 910.)
- 1972, No 129—The Transport Amendment Act 1972. (RS Vol 16, p 911.)
- 1973, No 35—The Transport Amendment Act 1973. (RS Vol 16, p 916.)
- 1974, No 61—The Transport Amendment Act 1974. (RS Vol 16, p 917.)
- 1976, No 126—The Transport Amendment Act 1976. (RS Vol 16, p 920.)
- 1977, No 3—The Transport Amendment Act 1977. (RS Vol 16, p 921.)
- 1978, No 46—The Transport Amendment Act (No 3) 1978. (RS Vol 16, p 924.)
- 1980, No 96—The Transport Amendment Act 1980. (RS Vol 16, p 926.)
- 1982, No 4—The Transport Amendment Act 1982. (RS Vol 16, p 930.)
- 1982, No 10—The Transport Amendment Act (No 2) 1982. (RS Vol 16, p 931.)
- 1983, No 33—The Transport Amendment Act (No 2) 1983. (RS Vol 16, p 933.)
- 1983, No 35—The Transport Amendment Act (No 3) 1983. (RS Vol 16, p 942.)
- 1985, No 50—The Transport Amendment Act 1985. (RS Vol 16, p 946.)
- 1985, No 76—The Transport Amendment Act (No 2) 1985. (RS Vol 16, p 947.)
- 1985, No 126—The Transport Amendment Act (No 3) 1985.
- 1985, No 194—The Transport Amendment Act (No 4) 1985.
- 1987, No 96—The Transport Amendment Act 1987.
- 1988, No 139—The Transport Amendment Act 1988.
- 1988, No 170—The Transport Amendment Act (No 2) 1988.
- 1989, No 77—The Transport Amendment Act 1989.
- 1989, No 158—The Transport Amendment Act (No 2) 1989.

Part 5—*continued*

1990, No 135—The Transport Amendment Act 1990.
 1992, No 48—The Transport Amendment Act 1992.
 1992, No 67—The Transport Amendment Act (No 2) 1992.
 1992, No 108—The Transport Amendment Act (No 3) 1992.
 1995, No 44—The Transport Amendment Act 1995.
 1997, No 3—The Transport Amendment Act 1997.
 1998, No 76—The District Courts Amendment Act 1998: So much of the Schedule as relates to the Transport Act 1962.

Schedule 3
Enactments amended

Section 215

Enact- ment	Amendment
1950, No 52—The Machinery Act 1950 (RS Vol 18, p 409)	By omitting from the definition of the term tractor in section 2 the words “the Transport Act 1962”, and substituting the words “the Transport (Vehicle and Driver Registration and Licensing) Act 1986”.
1956, No 65—The Health Act 1956 (RS Vol 31, p 467)	By omitting from section 22C(2)(i) the words “Ministry of Transport”, and substituting the words “Land Transport Safety Authority of New Zealand”.

Enact- ment	Amendment
1957, No 87—The Summary Proceedings Act 1957 (RS Vol 9, p 583)	<p>By inserting in the definition of the term infringement notice in section 2(1), after paragraph (f), the following paragraph:</p> <p>“(fa) Section 139 of the Land Transport Act 1998; or</p> <p>By repealing sections 9D and 9E (as inserted by section 3(1) of the Summary Proceedings Amendment Act (No 2) 1998), and substituting the following sections:</p> <p>“9D Power to impose penalties provided for in Land Transport Act 1998</p> <p>“(1) Where a person who is charged with any summary offence to which section 9C applies is found guilty of that offence by a Court presided over by a District Court Judge or pleads guilty to that offence, a Court presided over by one or more Community Magistrates—</p> <p>“(a) May, if that offence is an offence to which section 80 of the Land Transport Act 1998 applies, make, under that section, an order disqualifying the person from holding or obtaining a driver licence for such period as the Court thinks fit, whether or not the Court imposes any other penalty for the offence:</p> <p>“(b) Must, if that offence is a first or second offence to which section 32 of the Land Transport Act 1998 applies, make, in addition to any other penalties it may impose but subject to sections 81 and 94 of that Act an order under section 32 of that Act disqualifying the person from holding or obtaining a driver licence for 6 months or more, unless the Court for special reasons relating to the offence thinks fit to order otherwise:</p>

Enact- ment	Amendment
	<p>“(c) Must, if that offence is an offence to which section 35 or section 38 of the Land Transport Act 1998 applies, make, in addition to any other penalties it may impose but subject to sections 81 and 94 of that Act, an order under section 35 or section 38 of that Act disqualifying the person from holding or obtaining a driver licence for 6 months or more, unless the Court for special reasons relating to the offence thinks fit to order otherwise:</p> <p>“(d) Must, if that offence is a first or second offence to which section 56 or section 58 or section 60 of the Land Transport Act 1998 applies, make, in addition to any other penalties it may impose but subject to sections 81 and 94 of that Act, an order under section 56 or section 58 or section 60 of that Act disqualifying the person from holding or obtaining a driver licence for 6 months or more, unless the Court for special reasons relating to the offence thinks fit to order otherwise:</p> <p>“(e) Must, if that offence is an offence to which section 57 of the Land Transport Act 1998 applies, make, in addition to any other penalties it may impose but subject to sections 81 and 94 of that Act, an order under section 57 of that Act disqualifying the person from holding or obtaining a driver licence for 3 months or more, unless the Court for special reasons relating to the offence thinks fit to order otherwise:</p> <p>“(f) May, if that offence is an offence to which section 59 of the Land Transport</p>

Enact- ment	Amendment
	<p>Act 1998 applies, make an order under that section disqualifying the person from holding or obtaining a driver licence for such period as the Court thinks fit, whether or not the Court imposes any other penalty for the offence:</p> <p>“(g) Must, if the offence is one to which section 65 of the Land Transport Act 1998 applies, make, subject to subsection (3) of that section, an order under that section requiring the person to attend an Assessment Centre and disqualifying the person from holding or obtaining a driver licence until the Director makes an order under section 100 of that Act removing that disqualification:</p> <p>“(h) Must, if the offence is one to which section 63 of the Land Transport Act 1998 applies, make, in addition to any other penalty the Court may impose, and notwithstanding section 94 of that Act, an order under section 63 of that Act disqualifying the person from driving any vehicle being used in a transport service (other than a rental service) for such period exceeding 1 year but not exceeding 10 years as the Court thinks fit.</p> <p>“(2) Nothing in this section restricts section 9C or any other duty or power of a Court presided over by one or more Community Magistrates—</p> <p>“(a) To disqualify any person from holding or obtaining a driver licence; or</p> <p>“(b) To impose any other penalty.</p>

Enact- ment	Amendment
	<p>“9E Ancillary powers under Criminal Justice Act 1985 and Land Transport Act 1998</p> <p>A Court presided over by one or more Community Magistrates has, in exercising any power conferred on it by section 9C or section 9D,—</p> <p>“(a) Power to make, under section 138 of the Criminal Justice Act 1985 (which relates to the power to clear the Court and to forbid reports of proceedings), orders of any kind described in subsection (2) of that section:</p> <p>“(b) Power to make orders under section 140 of the Criminal Justice Act 1985 (which relates to the power to prohibit the publication of names and other particulars):</p> <p>“(c) All the powers and processes that a court has under the Criminal Justice Act 1985 or the Land Transport Act 1998 for the purpose of perfecting, or giving full effect to, any sentence imposed or order made under any of the provisions of those Acts referred to in section 9C or section 9D.</p> <p>By inserting in section 19B(1), after the words “the Transport Act 1962”, the words “or section 69 of the Land Transport Act 1998”.</p> <p>By omitting from section 19B(1)(a) the words “that Act”, and substituting the words “the Transport Act 1962 or section 77(3)(a) of the Land Transport Act 1998”.</p> <p>By omitting from section 19B(1)(b) the words “that Act”, and substituting the words “the Transport Act 1962 or section 2(1) of the Land Transport Act 1998,”.</p> <p>By omitting from section 19B(6) the words “means a traffic officer or a constable” and substituting the</p>

Enact- ment	Amendment
	<p>words “has the same meaning as it has in section 2(1) of the Land Transport Act 1998”.</p> <p>By omitting from section 20A(3)(c)(ii) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.</p> <p>By repealing paragraph (b) of section 20A(10), and substituting the following paragraph:</p> <p>“(b) An enforcement officer under the Land Transport Act 1998:</p> <p>By repealing subsection (12) of section 20A, and substituting the following subsection:</p> <p>“(12) For the purposes of this section, the term minor offence means,—</p> <p> “(a) In the case of a summary offence under the Transport Act 1962 or the Land Transport Act 1998, any summary offence under either of those Acts for which the defendant is not liable on conviction to a sentence of imprisonment or to a fine exceeding \$2,000:</p> <p> “(b) In any other case, means any summary offence for which the defendant is not liable on conviction to a sentence of imprisonment or to a fine exceeding \$500.</p> <p>By inserting in section 21, after subsection (2), the following subsection:</p> <p>“(2A) For the purposes of this section, a reminder notice that is in a form prescribed under the Land Transport Act 1998 is to be treated as containing substantially the same particulars as the relevant infringement notice under that Act.</p> <p>By inserting in section 24(1)(d), after the words “the Transport (Vehicle and Driver Registration and Licensing) Act 1986,”, the words “the Land Transport Act 1998,”.</p> <p>By repealing paragraph (d) of section 25(1), substituting the following paragraph:</p>

Enact- ment	Amendment		
	<p>“(d) In the case of a summons to the defendant or other document required to be served on the defendant in proceedings for an offence against any Act, regulation, or bylaw to which section 68B(1) of the Transport Act 1962 or section 113(1) of the Land Transport Act 1998 applies, an enforcement officer under the Land Transport Act 1998:</p> <p>By repealing the item relating to the Transport Act 1962 in Part 2 of Schedule 1.</p> <p>By inserting in Part 2 of Schedule 1, in its appropriate alphabetical order, the following item:</p>		
	“The Land Transport Act 1998	32(4)	Driving while disqualified or contrary to limited licence or while licence suspended or revoked.
		36(1)	Reckless or dangerous driving causing injury or death, or failing to stop and render assistance after person injured or killed.
		39(1)	Causing injury or death while carelessly using vehicle.
		56(4)	Contravening specified breath or blood-alcohol limit.

Enact- ment	Amendment
58(3)	Driving while under influence of drink or drug to such an extent as to be incapable of proper control of vehicle.
60(3)	Failing or refusing to allow blood specimen to be taken.
61(1),(2)	Causing injury or death while in charge of vehicle and having breath or blood alcohol level over specified limit, or to such an extent as to be incapable of proper control of vehicle.
62(1)	Causing injury or death while carelessly driving vehicle and under influence of drink or drug (other than an offence against section 61).”

Enact- ment	Amendment
1960, No 30—The Animals Protection Act 1960 (RS Vol 6, p 1)	<p>By omitting from section 8(1) the words “a traffic officer under the Transport Act 1962”, and substituting the words “an enforcement officer under the Land Transport Act 1998”.</p> <p>By omitting from section 8(2) the words “a traffic officer”, and substituting the words “an enforcement officer under the Land Transport Act 1998”.</p>
1962, No 135—The Transport Act 1962 (RS Vol 16, p 659)	<p>By repealing section 2(2).</p> <p>By inserting in section 30(3), after the words “for an offence against”, the words “or in respect of”.</p> <p>By repealing paragraph (b) of section 30(3), and substituting the following paragraph:</p> <p>“(b) Section 4 of the Railway Safety and Corridor Management Act 1992 (which relates to traffic at level crossings); or</p> <p>By omitting from section 30(3) the words “driver’s licence”, and substituting the words “driver licence”.</p> <p>By repealing subsection (1) of section 42A, and substituting the following subsection:</p> <p>“(1) In this Act, the term infringement offence means a stationary vehicle offence.</p> <p>By repealing subsection (7) of section 42A, and substituting the following subsection:</p> <p>“(7) An infringement notice may be in the same form as an infringement notice under section 139(4) of the Land Transport Act 1998, so long as the associated reminder notice contains the details set out in section 140 of that Act; and those sections 139 and 140 apply with any necessary modifications for the purposes of this subsection.</p> <p>By repealing subsection (8A) of section 42A, and substituting the following subsection:</p>

Enact- ment	Amendment
	<p>“(8A) The infringement fee payable for a stationary vehicle offence is the infringement fee specified in the Second Schedule for the offence that constitutes the stationary vehicle offence.</p> <p>By omitting from section 42A(11) the words “officer of the Authority” and “officer”, and substituting, respectively, the words “employee of the Authority” and “employee”.</p> <p>By omitting from section 43(1) the words “or section 69C of this Act”.</p> <p>By omitting from section 52(a) the words “Part II of the Land Transport Act 1993”, and substituting the words “the Land Transport Act 1998”.</p> <p>By inserting in section 52A, after the word “regulation,”, the word “rule,”.</p> <p>By repealing paragraph (a) of section 52A, and substituting the following paragraph:</p> <p>“(a) A road controlling authority in accordance with any ordinary rule or emergency rule made under the Land Transport Act 1998; or</p> <p>By inserting in section 64(1)(aa), after the word “by”, the words “or on behalf of”.</p> <p>By omitting from section 64(5) the words “section 54 of the New Zealand Railways Corporation Act 1981”, and substituting the words “section 4 of the Railway Safety and Corridor Management Act 1992”.</p> <p>By omitting from sections 70C, 70D, 79A, 80, 196A, and 196B the words “officer of the Authority” wherever they appear, and substituting in each case the words “employee of the Authority”.</p> <p>By omitting from sections 70B and 70C the words “authorised officer of the Authority” wherever they appear, and substituting in each case the words “authorised employee of the Authority”.</p> <p>By omitting from section 70D(5)(b) the words “officer of the Authority”, and substituting the words “other person”.</p>

Enact- ment	Amendment
	<p>By inserting in 70D(5)(b), after the words “constable or officer”, the words “or other authorised person”.</p> <p>By omitting from section 70D(8)(a) the words “officer of the Authority”, and substituting the words “other person”.</p> <p>By omitting from section 70D(8)(b) the words “officer of the Authority”, and substituting the words “other person”.</p> <p>By omitting from section 70D(9) the words “or other officer”, and substituting the words “or other authorised person”.</p> <p>By omitting from section 70H(1)(a) the words “driver’s licence”, and substituting the words “driver licence”.</p> <p>By omitting from section 70H(1)(a) the words “under section 48(2)(e) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986”.</p> <p>By repealing section 77(1)(fg).</p> <p>By repealing section 199(1)(a) and (b).</p>
<p>1964, No 135—The Education Act 1964 (RS Vol 34, p 355)</p>	<p>By repealing subsection (2) of section 201A and substituting the following subsection:</p> <p>“(2) For the purposes of section 201D,—</p> <p> “Contract, in relation to the carriage of passengers or goods or the letting of motor vehicles on hire by any transport service,—</p> <p> “(a) Means a contract in writing signed by the parties to it for the carriage of any passenger or goods or letting of a motor vehicle on hire (otherwise than under a hire-purchase agreement) on a specified occasion or on specified occasions or during a specified period; and</p> <p> “(b) Includes a contract for the carriage of passengers for hire by means of taxicab,</p>

Enact- ment	Amendment
	<p>whether or not the contract is in writing; but</p> <p>“(c) Does not include a contract which is evidenced by the issue of a ticket:</p> <p>“Passenger service and rental service have the meanings given to them in the Transport Services Licensing Act 1989</p> <p>“Taxicab service means a passenger service.</p>
<p>1966, No 51—The Airport Authorities Act 1966 (RS Vol 17, p 1)</p>	<p>By omitting from section 9(7) the expression “41B”, and substituting the expression “41A”.</p>
<p>1968, No 35—The Estate and Gift Duties Act 1968 (RS Vol 28, p 341)</p>	<p>By omitting from the definition of the term personal chattels in section 2(1) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.</p>

Enact- ment	Amendment
1974, No 66—The Local Government Act 1974 (RS Vol 25, p 1)	<p>By omitting from the definition of the term vehicle in section 336(14) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.</p> <p>By omitting from section 591A(1)(d) the words “section 2 of the Transport Act 1962”, and substituting the expression “subsection (5)”.</p> <p>By adding to section 591A the following subsection: “(5) In this section,—</p> <p> “Motorcar—</p> <p> “(a) Means a motor vehicle (other than a motor cycle or moped) designed exclusively or principally for the carriage of persons not exceeding 9 in number inclusive of the driver; and</p> <p> “(b) Includes a motor vehicle which is designed principally for the carriage of passengers but which has rear doors and collapsible rear seats:</p> <p> “Motor cycle—</p> <p> “(a) Means a motor vehicle running on 2 wheels, or not more than 3 wheels when fitted with a side car; and</p> <p> “(b) Includes any vehicle with motor cycle controls that has an engine cylinder capacity exceeding 50 cubic centimetres or has a maximum speed exceeding 50 kilometres per hour; but</p> <p> “(c) Does not include a moped.</p> <p>By inserting in clause 11C of Schedule 10, after paragraph (e), the following paragraph: “(ea) The Land Transport Act 1998:</p> <p>By omitting from clause 11C(f) of Schedule 10 the expression “paragraphs (a) to (e)”, and substituting the expression “paragraphs (a) to (ea)”.</p>

Enact- ment	Amendment
1975, No 127—The Motor Vehicle Dealers Act 1975 (RS Vol 5, p 749)	<p>By adding to the definition of the term defect in section 2(1) the words “or evidence of vehicle inspection under the Land Transport Act 1998.”</p> <p>By inserting in the definition of the term secondhand motor vehicle in section 2(1), after the words “the Transport Act 1962 or”, the words “the Transport (Vehicle and Driver Registration and Licensing) Act 1986 or”.</p> <p>By inserting in section 93(2)(a), after the words “the Transport Act 1962”, the words “or current evidence of vehicle inspection issued under the Land Transport Act 1998”.</p> <p>By inserting in section 102A(a), after the words “the Transport Act 1962”, the words “or current evidence of vehicle inspection under the Land Transport Act 1998”.</p>
1977, No 66—The Reserves Act 1977 (RS Vol 36, p 603)	<p>By omitting from section 110(7) the words “the Transport Act 1962”, and substituting the words “the Transport (Vehicle and Driver Registration and Licensing) Act 1986”.</p>
1977, No 84—The Gaming and Lotteries Act 1977 (RS Vol 33, p 17)	<p>By omitting from the definition of the term vehicle in section 2(1) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.</p>

Enact- ment	Amendment
<p>1977, No 124—The Road User Charges Act 1977 (RS Vol 21, p 759)</p>	<p>By omitting from the definition of the term owner in section 2(1) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”. By repealing the definitions of the terms trailer and unladen weight, and substituting the following definitions:</p> <p>“Trailer—</p> <p>“(a) Means a vehicle without motive power that is capable of being drawn or propelled by a motor vehicle from which it is readily detachable; but</p> <p>“(b) Does not include—</p> <p>“(i) A sidecar attached to a motor cycle; or</p> <p>“(ii) A vehicle normally propelled by mechanical power while it is being temporarily towed without the use of its own power:</p> <p>“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 the vehicle that are necessary for its operation for the purpose for which it was designed</p> <p>By omitting from the definition of the term vehicle in section 2(1) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”. By omitting from the definition of the term weight in section 2(1) the words “Land Transport Safety Authority of New Zealand” in both places where they appear, and substituting in each case the words “Minister of Police”. By omitting from the definition of the term weight in section 2(1) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”. By inserting in section 23(6), after the words “or a distance recorder offence”, the words “or as an infringement offence under the Land Transport Act 1998”</p>

Enact- ment	Amendment
	<p>By inserting in section 23(6), after the words “section 42A of that Act”, the words “or the Land Transport Act 1998”.</p> <p>By omitting from section 23A(1)(b) the words “or any regulations made under this Act or the Transport Act 1962”, and substituting the words “or the Land Transport Act 1998 or any regulations made under any of those Acts”.</p> <p>By omitting from section 23B(2)(a) the word “officer”, and substituting the word “employee”.</p> <p>By omitting from section 23B(2)(a) the words “established by section 15 of the Land Transport Act 1993”, and substituting the words “of New Zealand”.</p> <p>By omitting from section 23B(2) the words “that authorised officer or employee”, and substituting the words “that authorised employee”.</p> <p>By repealing section 24(1)(b).</p> <p>By inserting in section 24(1)(f), after the words “warrant of fitness”, the words “, or evidence of vehicle inspection under the Land Transport Act 1998,”.</p>
1979, No 41—The Litter Act 1979	<p>By repealing the definition of the term Traffic Officer in section 2(1), and substituting the following definition:</p> <p>“Traffic officer means an enforcement officer under the Land Transport Act 1998</p>

Enact- ment	Amendment
1980, No 66—The National Parks Act 1980 (RS Vol 36, p 517)	<p>By omitting from the definition of the term motor vehicle in section 2 the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.</p> <p>By omitting from the definition of the term vehicle in section 2 the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.</p> <p>By omitting from section 71(9) the words “the Transport Act 1962”, and substituting the words “the Transport (Vehicle and Driver Registration and Licensing) Act 1986”.</p>
1981, No 12—The Petroleum Demand Restraint Act 1981	<p>By adding to section 8(1) the expression “; or” and also the following paragraph:</p> <p>“(d) The Land Transport Act 1998.</p> <p>By repealing section 19, and substituting the following section:</p> <p>“19</p> <p>Powers of enforcement officers—An enforcement officer under the Land Transport Act 1998, if for the time being in uniform or in possession of any warrant or other evidence of his or her authority as an enforcement officer, is authorised to enforce the provisions of this Act or any regulations made under this Act on any road as defined in section 2 of that Act.</p> <p>By adding to the definition of the term proceedings in section 22(1) the words “or under section 139 of the Land Transport Act 1998”.</p> <p>By omitting from section 22(2)(b) the words “section 16 of the Transport Act 1962”, and substituting the</p>

Enact- ment	Amendment
	<p>words “section 18 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986”.</p> <p>By inserting in section 22(8), after the words “the Transport Act 1962”, the words “and section 139 of the Land Transport Act 1998,”.</p> <p>By repealing subsections (9) and (10) of section 22, and substituting the following subsections:</p> <p>“(9) Where any petroleum demand restraint regulations specify that an offence against those regulations is an infringement offence, those regulations must specify the infringement fee (which fee must not exceed \$100) that is payable in respect of that offence and that infringement fee is,—</p> <p>“(a) For the purposes of section 42A of the Transport Act 1962 deemed to be specified in respect of that offence in the Second Schedule of that Act:</p> <p>“(b) For the purposes of sections 138 to 141 of the Land Transport Act 1998, deemed to be specified in respect of that offence by regulations made under that Act.</p> <p>“(10) In this section,—</p> <p>“Motor vehicle has the meaning given to it in section 2(1) of the Land Transport Act 1998</p> <p>“Use, in relation to a motor vehicle, includes driving, drawing, or propelling by means of another vehicle, and permitting to be on a road.</p>
1981, No 23—The Juries Act 1981	<p>By repealing the definition of the term Traffic Officer in section 2, and substituting the following definition:</p> <p>“Traffic Officer means an enforcement officer under the Land Transport Act 1998</p>

Enact- ment	Amendment
1981, No 35—The Public Works Act 1981	By omitting from section 239(8) the words “the Transport Act 1962”, and substituting the words “the Transport (Vehicle and Driver Registration and Licensing) Act 1986”.
1981, No 119—The New Zealand Railways Corporation Act 1981	By omitting from subsection (4), and also from subsection (5), of section 16 the words “Part VII of the Transport Act 1962”, and substituting in each case the words “the Transport Services Licensing Act 1989”. By omitting from section 119A the words “or the Transport Services Licensing Act 1989”, and substituting the words “the Transport Services Licensing Act 1989, or the Land Transport Act 1998”.
1983, No 46—The Civil Defence Act 1983	By omitting from section 18(2) the words “a traffic officer appointed under the Transport Act 1962”, and substituting the words “an enforcement officer under the Land Transport Act 1998”. By omitting from section 18(2) the words “a traffic officer”, and substituting the words “an enforcement officer”.

Enact- ment	Amendment
1986, No 6—The Transport (Vehicle and Driver Registration and Licensing) Act 1986	<p>By omitting from the definition of the term Authority in section 2(1) the words “established by section 15 of the Land Transport Act 1993”, and substituting the words “continued by section 184 of the Land Transport Act 1998”.</p> <p>By omitting from the definition of the term Director in section 2(1) the words “section 24 of the Land Transport Act 1993”, and substituting the words “section 186 of the Land Transport Act 1998”.</p> <p>By inserting in section 2(1), after the definition of the term officer of the Authority, the following definition:</p> <p>“Prescribed fees means the applicable fees and charges prescribed for the purposes of Part I of this Act by regulations made under the Land Transport Act 1998</p> <p>By repealing the definition of the term traffic officer in section 2(1), and substituting the following definition:</p> <p>“Traffic officer means an enforcement officer under the Land Transport Act 1998</p> <p>By omitting from section 6A the words “a current vehicle inspection certificate issued under the Transport Act 1962 by an authorised inspection agent”, and substituting the words “current evidence of vehicle inspection issued under the Land Transport Act 1998”.</p> <p>By repealing paragraph (ba) of section 7(2), and substituting the following paragraph:</p> <p>“(ba) Current evidence of vehicle inspection issued under the Land Transport Act 1998:</p> <p>By inserting in section 11(4)(a)(ii), after the words “certificate of fitness”, the words “, or evidence of vehicle inspection under the Land Transport Act 1998,”.</p>

Enact- ment	Amendment
	<p>By inserting in section 19(2)(a)(ii), after the words “certificate of fitness”, the words “, or evidence of vehicle inspection under the Land Transport Act 1998,”.</p> <p>By repealing section 19(6).</p> <p>By repealing paragraphs (b), (c), (d), and (i) of section 35A(1).</p> <p>By omitting from section 36 the words “fees and charges”, and substituting the words “prescribed fees”.</p>
<p>1987, No 65—The Conservation Act 1987 (RS Vol 36, p 1)</p>	<p>By omitting from the definition of the term vehicle in section 2(1) the words “Transport Act 1962”, and substituting the words “Land Transport Act 1998”.</p>
<p>1989, No 14—The Motor Vehicle Securities Act 1989</p>	<p>By adding to the definition of the term vehicle identification number in section 2(1) the words “or rules made under the Land Transport Act 1998”.</p>
<p>1989, No 24—The Children, Young Persons, and Their Families Act 1989</p>	<p>By repealing paragraph (b) of the definition of the term enforcement officer in section 2(1), and substituting the following paragraph:</p> <p>“(b) An enforcement officer (as defined in section 2(1) of the Land Transport Act 1998):</p> <p>By repealing paragraph (a) of the definition of the term traffic offence in section 2(1), and substituting the following paragraph:</p> <p>“(a) Any offence against the Transport Act 1962 or the Land Transport Act 1998, or against any</p>

Enact- ment	Amendment
	<p>regulation or bylaw made under either of those Acts:</p> <p>By repealing section 233, and substituting the following section:</p> <p>“233</p> <p>Breath-alcohol and blood-alcohol provisions of Land Transport Act 1998 not affected—Nothing in the provisions of sections 214 to 232 limits or affects the powers of an enforcement officer under any of the provisions of sections 68 to 72 of the Land Transport Act 1998.</p> <p>By omitting from section 293A(1)(b) the words “section 30 or section 30AA or section 30AB of the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.</p> <p>By omitting from section 293A(1)(c) the words “section 30A of the Transport Act 1962”, and substituting the words “section 65 of the Land Transport Act 1998”.</p> <p>By omitting from section 293A(3) the words “sections 30B to 30D and 33 to 41 of the Transport Act 1962”, and substituting the words “Parts 5 to 7 of the Land Transport Act 1998”.</p> <p>By omitting from section 293A(3) the words “Part IV of”.</p> <p>By omitting from section 293A(4) the words “section 30AA(4) or section 30A(1)(a) of the Transport Act 1962”, and substituting the words “section 32(1) or section 65(1) of the Land Transport Act 1998”.</p> <p>By omitting from section 293A(5) the words “section 30B(1) of the Transport Act 1962”, and substituting the words “section 65(4) of the Land Transport Act 1998”.</p> <p>By repealing section 294, and substituting the following section:</p>

Enact- ment	Amendment
<p>1989, No 74—The Transport Services Licensing Act 1989</p>	<p>“294 Demerit points Where— “(a) A charge against a young person is proved before a Youth Court; and “(b) The offence is such that, if the offender were convicted in a District Court, the Director of Land Transport Safety would be obliged under section 88 of the Land Transport Act 1998 to record demerit points in respect of the offender,— the young person is, unless the information is discharged under section 282 of this Act, deemed, for the purposes of sections 88 to 91 of the Land Transport Act 1998 and of any regulations made under section 167(1)(g) of that Act, to have been convicted of that offence, and the provisions of those sections of that Act and those regulations apply accordingly with all necessary modifications. By omitting from section 394(4) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.</p> <p>By omitting from the definition of the term Authority in section 2(1), the words “established by section 15 of the Land Transport Act 1993”, and substituting the words “continued by section 184 of the Land Transport Act 1998”.</p> <p>By omitting from the definition of the term Director in section 2(1), the words “section 24 of the Land Transport Act 1993”, and substituting the words “section 186 of the Land Transport Act 1998”.</p> <p>By repealing the definition of the term gross laden weight in section 2(1), and substituting the following definition:</p>

Enact- ment	Amendment
	<p>“Gross laden weight has the same meaning as it has in section 2(1) of the Land Transport Act 1998</p> <p>By repealing the definition of the term motor vehicle in section 2(1), and substituting the following definition:</p> <p>“Motor vehicle has the same meaning as it has in section 2(1) of the Land Transport Act 1998</p> <p>By repealing the definition of the term traffic officer in section 2(1), and substituting the following definition:</p> <p>“Traffic officer means an enforcement officer under the Land Transport Act 1998</p> <p>By omitting from section 2(2) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.</p> <p>By repealing subsection (2) of section 17, and substituting the following subsection:</p> <p>“(2) Nothing in this section or in sections 14 to 16 derogates from or affects any power of the Director under the Land Transport Act 1998, or under rules made under that Act, to revoke, suspend, or otherwise deal with any driver licence.</p> <p>By repealing paragraph (a) of section 18(2), and substituting the following paragraph:</p> <p>“(a) Any exemption granted under the Land Transport Act 1998, or</p> <p>By omitting from section 19(2)(a) the words “on a form provided by the Director, or in such other manner as may be prescribed by regulations made under the Transport (Vehicle and Driver Registration and Licensing) Act 1986”, and substituting the words “in accordance with the Land Transport Act 1998 and rules made under that Act”.</p> <p>By omitting from section 19(2)(a)(i) the words “the Director or as is prescribed in any such regulations”,</p>

Enact- ment	Amendment		
	<p>and substituting the words “the Land Transport Act 1998 and rules made under that Act”.</p> <p>By omitting from section 19(2)(d) the words “the Director or prescribed in the regulations”, and substituting the words “the Land Transport Act 1998 and rules made under that Act”.</p> <p>By omitting from section 65 the words “under this Act”, and substituting the words “for the purposes of this Act”.</p> <p>By repealing section 66(a).</p> <p>By inserting in item 1 of Part 2 of Schedule 1, after the words “running on”, the words “self-laying”.</p> <p>By repealing so much of Schedule 2 as relates to sections 69A(3) and 68B(3) of the Transport Act 1962.</p> <p>By inserting in the appropriate columns in Schedule 2, after the items relating to the Road User Charges Act 1977, the following items:</p>		
	Land Transport Act 1998	52(1)(c)	Contin- ven- ing sec- tion 118 by fail- ing to give in- for- ma- tion about driver

Enact- ment	Amendment
52(1)(b) or (c)	<div>25-25</div> Cont- ven- ing sec- tion 113(2) or (3), or sec- tion 115, by fail- ing to com- ply with di- rec- tions given by en- force- ment of- fi- cer
52(1)(c)	<div>Fail-25 25</div> ing to com- ply with di-

Enact- ment	Amendment
	<p>rec- tion of en- force- ment of- fi- cer given under sec- tion 125 or sec- tion 126 about stop- ping, in- spect- ing, weigh- ing, or off- load- ing over- weight ve- hicle</p> <p>By repealing paragraph (c) of clause 18 of the Annex to Part 3 of Schedule 3, and substituting the following paragraph:</p>

Enact- ment	Amendment
<p>1989, No 75—The Transit New Zealand Act 1989</p>	<p>“(c) Operate the vehicle, or permit it to be operated, in circumstances that constitute an offence by the driver against any of sections 56, 57, and 58 of the Land Transport Act 1998:</p> <p>By inserting in paragraph (f) of that clause 18, after the words “the Transport Act 1962,”, the words “the Land Transport Act 1998,”.</p> <p>By inserting in that paragraph (f) of clause 18, after the word “regulations,”, the word “rules,”.</p> <p>By omitting from the definition of the term Director of Land Transport Safety in section 2(1), the words “section 24 of the Land Transport Act 1993”, and substituting the words “section 186 of the Land Transport Act 1998”.</p> <p>By omitting from paragraph (a) of the definition of the term fees and charges in section 2(1) the words “levied under” and substituting the words “prescribed for the purposes of”.</p> <p>By omitting from the definition of the term Land Transport Safety Authority in section 2(1) the words “established by section 15 of the Land Transport Act 1993”, and substituting the words “continued by section 184 of the Land Transport Act 1998”.</p> <p>By repealing the definition of the terms national land transport strategy and strategy in section 2(1), and substituting the following definition:</p> <p>“National land transport strategy or strategy means a national land transport strategy completed and signed by the Minister under section 171 of the Land Transport Act 1998, as from time to time amended under section 173 of that Act</p> <p>By omitting from the definition of the term regional land transport committee in section 2(1) the words “section 29I of the Land Transport Act 1993”, and</p>

Enact- ment	Amendment
	<p>substituting the words “section 178 of the Land Transport Act 1998”.</p> <p>By omitting from the definition of the term regional land transport strategy in section 2(1), the words “section 29F of the Land Transport Act 1993”, and substituting the words “section 175 of the Land Transport Act 1998”.</p> <p>By repealing the definition of the term traffic officer in section 2(1), and substituting the following definition:</p> <p>“Traffic officer means an enforcement officer under the Land Transport Act 1998</p> <p>By omitting from section 3C(1)(g) the words “the Land Transport Act 1993”, and substituting the words “the Land Transport Act 1998”.</p> <p>By omitting from paragraph (b), and also from paragraph (c), of section 8 the words “payable under”, and substituting in each case the words “payable for the purposes of”.</p> <p>By omitting from section 10(2)(b)(iii) the words “in accordance with”, and substituting the words “for the purposes of”.</p> <p>By omitting from section 42F(10) the words “established under section 29I of the Land Transport Act 1993.”</p> <p>By omitting from section 42M(3)(c) the words “prepared under section 29F of the Land Transport Act 1993”.</p> <p>By inserting in section 61(2B), after the words “the Transport Act 1962,”, the words “or under regulations or rules made under the Land Transport Act 1998,”.</p> <p>By omitting from section 79(5)(a) the words “and of any regulations in force under that Act”, and substituting the words “and the Land Transport Act 1998, and of any regulations or rules in force under either of those Acts”.</p>

Enact- ment	Amendment
1990, No 32—The New Zealand Walkways Act 1990 (RS Vol 36, p 583)	By omitting from the definition of the term motor vehicle in section 2 the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.
1990, No 99—The Transport Accident Investigation Commission Act 1990	By omitting from the definition of the term Land Transport Authority in section 2 the words “established by section 15 of the Land Transport Act 1993”, and substituting the words “continued by section 184 of the Land Transport Act 1998”.
1991, No 69—The Resource Management Act 1991 (RS Vol 32, p 131)	By omitting from section 326(1)(b) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.
1991, No 150—The Building Act 1991	By omitting from section 3(1)(e) the words “section 2(1) of the Transport Act 1962 and section 2(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986”, and substituting the words “section 2(1) of the Land Transport Act 1998”.

Enact- ment	Amendment
1992, No 13—The Accident Rehabilitation and Compensation Insurance Act 1992	By omitting from the definition of the term road in section 3 the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.
1992, No 122—The Electricity Act 1992	By omitting from the definition of the term vehicle in section 2(1) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.
1992, No 124—The Gas Act 1992	By adding to section 3(2)(a)(iii) the words “or the Land Transport Act 1998”.
1993, No 28—The Privacy Act 1993	<p>By omitting from Part 1 of Schedule 2 the expression “Sections 18 and 45” where it appears in the second column opposite the entry relating to the Transport (Vehicle and Driver Registration and Licensing) Act 1986, and substituting the expression “Section 18”.</p> <p>By adding to Part 1 of Schedule 2 the following entries:</p> <p>“Land Transport Act 1998 Section 199.</p> <p>By omitting from the first column of Schedule 5, under the heading “Land Transport Safety Authority Records”, the words “Drivers’ licences register”, and substituting the words “Driver licence register (except photographic images on driver licences)”.</p> <p>By omitting from the second column under that heading the word “drivers’ licences (whether issued by the Land Transport Safety Authority of New Zealand or</p>

Enact- ment	Amendment
1994, No 164—The Income Tax Act 1994	<p>a local body)”, and substituting the words “driver licences”.</p> <p>By omitting from the third column of Schedule 5, opposite the item relating to the motor vehicles register, the words “Section 17(1) of the Land Transport Act 1993”, and substituting the words “Section 190(1) of the Land Transport Act 1998”.</p>
1996, No 30—The Hazardous Substances and New Organisms Act 1996	<p>By omitting from the definition of the term motor vehicle in section 2(1) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.</p> <p>By omitting from the definition of the term road in section 2(1) the words “the Transport Act 1962”, and substituting the words “the Land Transport Act 1998”.</p>
1997, No 3—The Transport Amendment Act 1997	By repealing section 3(2).
1997, No 60—The Trans Tasman Mutual Recognition Act 1997	By omitting from Schedule 3, under the heading Laws Relating to Road Vehicles, the words “Land Transport Act 1993”, and substituting the words “Land Transport Act 1998”.

The item relating to the Income Tax Act 1994 was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

The item relating to the Criminal Justice Act 1985 was repealed, as from 30 June 2002, by section 187 Sentencing Act 2002 (2002 No 9). *See* sections 148 to 160 of that Act for the transitional and savings provisions. *See* clause 2 Sentencing Act Commencement Order 2002 (SR 2002/176).

The items relating sections 37S(1)(h), 587(1), 588(1), 589, 590, and 709A(1) of the Local Government Act 1974 were repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

The item relating to the definition of local authority in section 2(1) of the Transport Act 1962 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

Schedule 4

Section 215(2)

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

“I

“Parking offences

Offence	Infringement Fee
1. Any parking offence involving parking on a road in breach of a local authority bylaw, in excess of a period fixed by a meter or otherwise, where the excess time is—	
Not more than 30 minutes	\$12 or such lesser amount as is fixed by the local authority
More than 30 minutes but not more than 1 hour	\$15 or such lesser amount as is fixed by the local authority

I—continued

Offence	Infringement Fee
More than 1 hour but not more than 2 hours	\$21 or such lesser amount as is fixed by the local authority
More than 2 hours but not more than 4 hours	\$30 or such lesser amount as is fixed by the local authority
More than 4 hours but not more than 6 hours	\$42 or such lesser amount as is fixed by the local authority
More than 6 hours	\$57 or such lesser amount as is fixed by the local authority
2. (a) Parked on or within 6m of an intersection	\$60
(b) Parked on or near a pedestrian crossing	\$60
(c) Parked on broken yellow lines	\$60
(d) Double parking	\$60
(e) Inconsiderate parking	\$60
(f) Parked on a clearway	\$60
(g) Parked on a bus only lane	\$60

I—*continued*

Offence	Infringement Fee
3. All other parking offences	\$40
<p><i>Towage Fee:</i> Where expenses are incurred by an enforcement authority in respect of the movement or proposed movement under section 113(2)(c) of the Land Transport Act 1998 or section 68BA(2)(b) of this Act of the vehicle involved in the offence (whether or not the vehicle is in fact moved), the infringement fee is the total of the amount specified above in respect of the offence and the amount of the appropriate towage fee (including any goods and services tax payable in respect of the towage fee).</p>	

“II
“Speeding offences

Offence	Infringement Fee \$
Any speeding offence, where the speed exceeds the speed limit by—	
Not more than 10 kilometres an hour.....	30
More than 10 kilometres an hour but not more than 15 kilometres an hour.....	80
More than 15 kilometres an hour but not more than 20 kilometres an hour.....	120
More than 20 kilometres an hour but not more than 25 kilometres an hour.....	170
More than 25 kilometres an hour but not more than 30 kilometres an hour.....	230
More than 30 kilometres an hour but not more than 35 kilometres an hour.....	300

II—*continued*

Offence	Infringe- ment Fee \$
More than 35 kilometres an hour but not more than 40 kilometres an hour.....	400
More than 40 kilometres an hour but not more than 45 kilometres an hour.....	510
More than 45 kilometres an hour but not more than 50 kilometres an hour.....	630

“V

“Offences against Transport Act 1962 (other
than speeding and overloading offences)

Section	Brief Description of Offence	Infringement Fee \$
64	Failure in certain cases to stop to ascertain railway line clear	280
68BA(6)	Failure to release vehicle towed away, in certain circumstances	280

“VII

“Offences against Traffic Regulations 1976

Regulation	Brief Description of Offence	Infringe- ment Fee \$
26	Offences concerning dangerous substances on roads.....	280
27	Operating unsafe vehicles and loads	600

VII—*continued*

Regulation	Brief Description of Offence	Infringe- ment Fee \$
(Part II generally)	Offences against Part II (which relates to driving rules) not otherwise specified in this Part of this Schedule, and not being a speeding or a parking offence against regulation 21, regulation 23, or regulation 25	150
44B	Careless riding of cycle or moped	150
(Part III generally)	Offences against Part III (which relates to rules for cycles and mopeds) not otherwise specified in this Part of this Schedule	55
(Part IV generally)	Offences against Part IV (which relates to animal traffic)	55
48E	Failure to observe restrictions affecting cycles, mopeds, and motor-cycles	55
50	Failure to use flag to indicate excess dimensions.....	150
(Part V generally)	Offences against Part V (which relates to loading and dimensions) not otherwise specified in this Part of this Schedule.....	370
(Part VII generally)	Offences against Part VII (which relates to equipment) not otherwise specified in this Part of this Schedule.....	150
(Part XII generally)	Offences against Part XII (which relates to traffic signs).....	150

“VIII
“Offences against regulation 18(1) of Heavy
Motor Vehicle Regulations 1974

Regulations to which Offence Relates	Brief Description of Offence	Infringement Fee \$
5(5)	Unlawful use of Class C road	370
7(5)	Failure to comply with conditions of permit to exceed weight limit	370
8(1)	Operation of vehicle with excessive tyre pressure.....	150
8(3)	Failure to comply with conditions of permit to exceed minimum tyre pressure.....	150
10	Failure to comply with provisions concerning prohibition on certain heavy traffic	370
11	Failure to comply with provisions concerning protection of bridges	470
13	Use, etc, of devices to alter axle weights.....	370
14	Failure to mark tare weight.....	150
16	Unlawful erection of signs, interference with prescribed signs, etc	150
16	Failure to comply with vehicle standards, etc	370
17	Failure to comply with requirements of traffic officer, obstruction, etc.....	370

“IX
“Offences against Land Transport Act 1998

Section	Brief Description of Offence	Infringe- ment Fee \$
31(1)(a)	Driving without appropriate current driver licence	400
31(1)(b)	Driving contrary to the conditions of driver licence	400
31(1)(c)	Failing to produce driver licence	55
34(1)(b)	Operating vehicle without displaying current evidence of vehicle inspection or certificate of loading, where the vehicle is a heavy motor vehicle or is used in a transport service	600
34(1)(b)	Operating vehicle without displaying current evidence of vehicle inspection or certificate of loading, where the vehicle is not a heavy motor vehicle or is not used in a transport service	200
44(1)	Making a false or misleading statutory declaration, etc	750
46(1)	Contravening requirements, conditions, or directions about traffic surveys	500
47(1)	Failing to report damage to other vehicles or property	370
50(1)	Failing to release vehicle towed away, in certain circumstances	280

IX—*continued*

Section	Brief Description of Offence	Infringe- ment Fee \$
52(1)(a)	Removing, obscuring, or rendering indistinguishable a notice directing that vehicle not be driven on road	600
52(1)(b)	Driving vehicle contrary to notice under section 115	600
52(1)(c) or (d)	Failing to comply with direction or requirement concerning off-loading of heavy motor vehicle or securing of load on heavy motor vehicle	750
52(1)(c)	Failing to comply with direction to stop heavy motor vehicle or to drive heavy motor vehicle to weighing device	1000
53(1)	Obstruction, etc, in relation to inspection of vehicle required to have evidence of vehicle inspection or certificate of loading	370

“X

“Other offences”

Provision	Brief Description of Offence	Infringe- ment Fee \$
Section 5, Transport (Vehicle and Driver Registration and	Using, etc, unlicensed motor vehicle or motor vehicle that does not have registration plates affixed in the prescribed manner	200

X—continued

Provision	Brief Description of Offence	Infringe- ment Fee \$
Licensing) Act 1986		
Section 17, Transport (Vehicle and Driver Registration and Licensing) Act 1986	Unauthorised, deceptive, or obscured registration plates or unauthorised li- cence, etc	200
Regulations 11(1), (2), and (3) and 18, Goods Service (Con- structional) Regulations 1936	Failure to comply with any provi- sion of the regulations, and related offences.....	280
Regulation 11(1), Vehicular Traffic Road Closure Regulations 1965	Use of closed road otherwise than in terms of permit	280
Regulation 76, Passenger Service Vehicle Construction Regulations 1978	Failure to comply with any provi- sions of the regulations or any pro- vision or restriction in a certificate of loading, and related offences	280

X—continued

Provision	Brief Description of Offence	Infringe- ment Fee \$
Any provision of the Transport (Drivers Licensing) Regulations 1987	Failure to comply with appropriate regulation.....	150
Any provision of any bylaw involving the use of vehicles, other than a provision—	Failure to comply with appropriate regulation.....	750
(a) Setting a speed limit; or		(or such lesser amount as may be set by bylaws)
(b) Imposing a parking prohibition or restriction; or		

X—continued

Provision	Brief Description of Offence	Infringe- ment Fee \$
(c) For which any infringement fee is otherwise specified in this schedule		
Failure to comply with appropriate provision		

Land Transport Amendment Act 2005

Public Act 2005 No 77
Date of assent
Commencement see section 2

1 Title

- (1) This Act is the Land Transport Amendment Act 2005.
- (2) In this Act, the Land Transport Act 1998 is called “the principal Act”.

2 Commencement

- (1) Sections 11 to 16, 21, 24, 30(2), 31 to 34, 36, 43, 44, 46 to 50, 52 to 55, 65, 75, 81, 82(1), (3), (4), and (5), 84, 95(1), (2), and (9), 95(12), 98, and 99 come into force—
 - (a) on 16 January 2006; or
 - (b) on an earlier date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions.
- (2) Sections 4(1), 4(3), 4(5) to (8), 4(13), 5, 18, 19, 29, 38 to 40, 42, 45, 51, 56, 61 to 63, 66 to 69, 71 to 73, 77, 78(2), 79, 82(2), 83, 85, 86, 91(2) to (6), 91(8), 91(9), 93, 94(1), 95(3) and (4), 95(6), 95(8), 95(11), 96, 97, and 100 come into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions.
- (3) The rest of this Act comes into force on the day after the date on which this Act receives the Royal assent.

Section 2(2): sections 4(1), 4(3), 4(5) to (8), 4(13), 5, 18, 19, 29, 38 to 40, 42, 45, 51, 56, 61 to 63, 66 to 69, 71 to 73, 77, 78(2), 79, 82(2), 83, 85, 86, 91(2) to (6), 91(8), 91(9), 93, 94(1), 95(3) and (4), 95(6), 95(8), 95(11), 96, 97, and 100 brought into force, on 1 October 2007, by clause 2 of the Land Transport Amendment Act 2005 Commencement Order 2007 (SR 2007/232).

Part 2

Amendments to principal Act

Subpart 1—Principal Act

Mitigation of penalties and rights of appeal

61 New sections 111A and 111B inserted

- (1) *Amendments incorporated in the principal Act*
- (2) *Amendment incorporated in the principal Act*
- (3) This section applies to every appeal under this Act to a District Court, whether the appeal is commenced before or after the commencement of this section, subject to the right of appeal being exercised within the applicable time limit in Part 4 of the Summary Proceedings Act 1957.

Subpart 2—Repeals, amendments, and transitional and savings provisions

Transitional and savings provisions

96 Rights of existing transport service licence holders

- (1) Every person who, immediately before the commencement of Part 4A of the principal Act, was the holder of a transport service licence (except a rail service licence) under the Transport Services Licensing Act 1989 is deemed to have been granted, on the commencement of Part 4A of the principal Act, the equivalent transport service licence under this Act.
- (2) Any licence deemed by subsection (1) to have been granted under this Act may at any time on or after the commencement of Part 4A of the principal Act be revoked or suspended or otherwise dealt with in accordance with that Act.
- (3) A certificate of knowledge of law and practice issued under the Transport Services Licensing Act 1989 continues to have effect, and may be revoked or otherwise dealt with as if it had been issued under the principal Act, or the regulations or rules made under the principal Act.

Compare: 1989 No 74 s 9

97 Rights of existing approved taxi organisations

- (1) Every person who, immediately before the commencement of Part 4A of the principal Act, was an approved taxi organisation under the Transport Services Licensing Act 1989—
 - (a) continues to be an approved taxi organisation on the commencement of Part 4A of the principal Act; and
 - (b) may be dealt with in accordance with Part 4A of the principal Act.
- (2) Any application to be an approved taxi organisation that was lodged before the commencement of Part 4A of the principal Act is to be treated as being lodged under Part 4A of the principal Act.

98 Rights of existing operators of traction engines

- (1) Every person who, immediately before the commencement of sections 22B and 22C of the principal Act, was qualified under the Boilers, Lifts, and Cranes Act 1950 to operate a traction engine is deemed to have been granted, on the commencement of those sections, the equivalent qualification under this Act.
- (2) Any qualification deemed by subsection (1) to have been granted under this Act may at any time on or after the commencement of sections 22B and 22C of the principal Act be revoked or suspended or otherwise dealt with in accordance with the rules.

99 Transitional provision for notices given under section 96 of the principal Act

If, after the commencement of section 50, an enforcement officer issues a notice under section 96 of the principal Act in any case to which subsection (1) of that section applies in a form used by enforcement officers before the commencement of section 50, that form does not of itself invalidate the notice.

Land Transport Management Amendment Act 2008

Public Act 2008 No 47
Date of assent
Commencement see section 2

1 Title

This Act is the Land Transport Management Amendment Act 2008.

2 Commencement

This Act comes into force on 1 August 2008.

Part 2 Miscellaneous provisions

47 Consequences of establishment of New Zealand Transport Agency

(1) On 1 July 2008,—

- (a) Land Transport New Zealand and Transit New Zealand are dissolved; and
- (b) the office of the Director of Land Transport ceases to exist; and
- (c) the Transit New Zealand Act 1989 is called the Government Roding Powers Act 1989.

(2) Schedule 2 applies to this section.

48 Transitional and savings provisions

Other transitional and savings provisions relating to the coming into force of this Act are set out in Schedule 2.

Schedule 2

Transitional and savings provisions

ss 47, 48

Interpretation

1 Interpretation

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

Authority has the same meaning as in section 5 of the Land Transport Management Act 2003 as in force immediately before 1 August 2008

board, in relation to the new Agency, means the board specified in section 98 of the Land Transport Management Act 2003

Director means the Director of Land Transport

former agency means (as the case may require)—

- (a) Land Transport New Zealand;
- (b) Transit New Zealand

land transport programme has the same meaning as in section 5 of the Land Transport Management Act 2003 as in force immediately before 1 August 2008

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

property—

- (a) means every type of property; and
- (b) includes—
 - (i) every type of estate and interest in property; and
 - (ii) money

suitable alternative position, in relation to an employee, means a position—

- (a) for which the employee has the appropriate skills and experience; and
- (b) the pay and conditions of which are, in their overall effect, no less favourable to the employee than those applying to the employee immediately before the date of the employee's transfer to that position

transferred employee means a person who,—

- (a) immediately before 1 August 2008, is employed by a former agency; and
- (b) is transferred to the new Agency under clause 26(1)(h).

- (2) Any term or expression that is defined in the Land Transport Management Act 2003 and used, but not defined, in this schedule has, unless the context otherwise requires, the same meaning as in that Act.

Compare: 2004 No 97 Schedule 2 cl 1

National land transport fund

2 Treatment of certain land transport revenue

- (1) This clause applies to—
- (a) all land transport revenue referred to in section 9(6) of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008) and held in the national land transport fund immediately before that date; and
 - (b) all amounts referred to in section 10(3)(a) of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008) and held by the Authority in the national land transport account immediately before that date.
- (2) On 1 August 2008, all land transport revenue and all amounts to which this clause applies must be treated as being part of the national land transport fund referred to in section 10(1) of the Land Transport Management Act 2003 (as in force on and from that date).

3 Crown may pay new Agency for certain liabilities incurred before 1 August 2008

- (1) This clause applies to all land transport revenue referred to in section 9(6) (as in force immediately before 1 August 2008) that has not been paid to the Authority before that date, in respect of the 2007/08 financial year.
- (2) Without limiting clause 26(1)(d), the Crown may, without further appropriation than this clause, pay to the new Agency an amount equal to the land transport revenue to which this clause applies, as if the 2007/08 financial year ended on 31 July 2008.

4 Crown's authority to pay for certain expenditure using land transport revenue

- (1) The Crown may use land transport revenue to pay to—
- (a) the Secretary the following amount in each of the following financial years for the purposes of Waikato rail works:

Financial year	Amount (\$)
2008/09	5,000,000
2009/10	5,000,000

- (b) the Secretary to the Treasury the following amount in each of the following financial years for the purposes of upgrades and renewal of the below track Auckland rail infrastructure:

Financial year	Amount (\$)
2008/09	155,000,000
2009/10	130,000,000

- (2) In respect of the 2008/09 and 2009/10 financial years, the amount referred to in section 9(3) of the Land Transport Management Act 2003 is an amount equal to the land transport revenue for the relevant financial year less—
- (a) any amounts that have been paid in respect of that year under subclause (1); and
- (b) the amounts for that year that are referred to in section 9(1) and (2) of the Land Transport Management Act 2003.
- (3) In each of the 2008/09 and 2009/10 financial years, the amounts paid under subclause (1) must be deducted from the amount of land transport revenue that constitutes an inflow of the national land transport fund for the relevant financial year under section 10(2)(a) of the Land Transport Management Act 2003.
- (4) The Governor-General may, by Order in Council, reduce or increase any or all amounts or financial years specified in subclause (1), and this clause will apply or continue to apply (as the case may be), with the necessary modifications, in respect of any amended amount or financial year.

Land transport programmes

5 Completed land transport programmes for 2008/09 financial year to have effect until 1 July 2009

- (1) This clause applies to the following land transport programmes (as defined immediately before 1 August 2008):
 - (a) the land transport programme completed by an approved organisation for the 2008/09 financial year under section 12 of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008);
 - (b) the land transport programme completed by the Authority for the 2008/09 financial year under section 12A of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008).
- (2) A land transport programme to which this clause applies has effect until 1 July 2009.
- (3) Subject to clause 6, the relevant provisions of the Land Transport Management Act 2003 that were in force immediately before 1 August 2008 continue to apply, with all necessary modifications, to a land transport programme that is continued in effect by subclause (2) as if—
 - (a) a reference to the Authority were a reference to the new Agency; and
 - (b) the land transport programme completed by each of the former agencies for the 2008/09 financial year were completed by the new Agency.

6 Treatment of police activities and combinations of police activities in Authority's completed land transport programme for 2008/09 financial year

- (1) This clause applies to the land transport programme referred to in clause 5(1)(b).
- (2) Police activities and combinations of police activities that are included in the land transport programme to which this clause applies are to be treated as if they were recommendations of the new Agency that had been approved by the responsible Minister under section 18L(1) of the Land Transport Management Act 2003.

- (3) However, to avoid doubt, the police activities and combinations of police activities referred to in subclause (2) are not to be treated as if they were the first approval referred to in clause 9.

7 Completion of draft land transport programmes for 2008/09 financial year

- (1) This clause applies to any draft land transport programme under section 12 or 12A of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008) that was in existence (but not completed) immediately before 1 August 2008.
- (2) Approved organisations must, unless it is impracticable to do so, comply with the relevant provisions of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008) when completing their land transport programmes for the 2008/09 financial year.
- (3) The new Agency must, unless it is impracticable to do so, comply with the relevant provisions of the Land Transport Management Act 2003 (as in force immediately before 1 July 2008) when completing the land transport programme for each former agency for the 2008/09 financial year.
- (4) A land transport programme that is completed under this clause continues to have effect until 30 June 2009.
- (5) Subject to clause 6, the relevant provisions of the Land Transport Management Act 2003 that were in force immediately before 1 August 2008 continue to apply, with all necessary modifications, to a land transport programme that is continued in effect by subclause (4) as if—
 - (a) a reference to the Authority were a reference to the new Agency; and
 - (b) the land transport programme completed by each of the former agencies for the 2008/09 financial year were completed by the new Agency.

First regional land transport programmes

8 First regional land transport programmes

Each regional council and ARTA must ensure that their first regional land transport programmes are in place for the 3 financial years commencing on and from 1 July 2009.

Police activities or combinations of police activities

9 First approval of recommendations

The Minister must ensure that the first approval under section 18L(1) is for the 3 financial years commencing on and from 1 July 2009.

National land transport programme

10 National land transport programme for 2008/09 financial year to have effect until 1 July 2009

- (1) This clause applies to the national land transport programme that has been prepared and adopted by the Authority for the 2008/09 financial year under section 19 of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008).
- (2) The national land transport programme to which this clause applies has effect until 1 July 2009.
- (3) The relevant provisions of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008) continue to apply, with all necessary modifications, to a national land transport programme that is continued in effect by sub-clause (2) as if—
 - (a) a reference to the Authority were a reference to the new Agency; and
 - (b) the national land transport programme prepared and adopted by Land Transport New Zealand for the 2008/09 financial year were prepared and adopted by the new Agency.

11 First national land transport programme of new Agency

The new Agency must ensure that its first national land transport programme is in place for the 3 financial years commencing on and from 1 July 2009.

Approval of activities or combinations of
activities

12 Approvals in effect immediately before 1 August 2008

Subject to clause 42, approvals in effect under sections 20 and 21 of the Land Transport Management Act 2003 immediately before 1 August 2008 continue to have effect.

Compare: 2004 No 97 Schedule 2 cl 16

13 Approval of activities and combinations of activities for 2008/09 financial year

Subject to clauses 12 and 14 to 17, the new Agency must, unless it is impracticable to do so (for example, because there is no GPS), comply with the relevant provisions of the Land Transport Management Act 2003 when approving activities and combinations of activities for the 2008/09 financial year.

14 Approval of certain activities or combinations of activities

- (1) The new Agency must approve activities and combinations of activities as qualifying for payment from the national land transport fund up to the amount, which is subject to subclause (2), and by the financial year specified in the second column of the following table in order to fulfil the Crown's commitment described in the first column of that table opposite that amount and financial year:

The Crown's commitment	Amount (which is subject to subclause (2)) and financial year by which amount is to be approved (\$)
Auckland Land Transport—contribution to implementing Auckland's regional land transport strategy: the Crown's commitment was originally \$898,000,000 over 2004/05–2014/15, including rail funding	130,000,000 by 2012/13

Bay of Plenty—to address congestion and improve access and safety through investment in strategic roading, passenger transport, transport demand management, and walking and cycling: the Crown's commitment was originally \$150,000,000 over 2006/07–2014/15	135,000,000 by 2015/16
Waikato Land Transport—contribution to implementing Waikato's regional land transport strategy: the Crown's commitment was originally \$215,000,000 over 2007/08–2016/17, including rail funding	188,000,000 by 2017/18
Wellington Land Transport—contribution to implementing Wellington's regional land transport strategy: the Crown's commitment was originally \$225,000,000 over 2005/06–2014/15	163,000,000 by 2015/16

Wellington Land Transport (Western Corridor)—contribution to improve safety and access reliability of the Wellington Western Corridor: the Crown's commitment was originally \$660,000,000 over 2006/07–2015/16

640,000,000 by 2016/17 made up as follows:

- (a) up to 405,000,000 to be applied to advance a long-term solution to address access reliability for State Highway 1 between Kapiti and Wellington
- (b) up to 235,000,000 to be applied to passenger transport and road-ing to address congestion and to improve safety and access reliability of the Wellington Western Corridor.

- (2) The Governor-General may, by Order in Council, increase any or all of the amounts or periods specified in the second column of the table in subclause (1).
- (3) The new Agency must include in its annual report on the national land transport fund under section 11 of the Land Transport Management Act 2003 a statement of the total expenses or capital expenditure incurred from the 2008/09 financial year to date in fulfilling each of the Crown's commitments listed in subclause (1).
- (4) The reporting requirement in subclause (3) applies until all of the Crown's commitments listed in subclause (1) have been fulfilled.
- (5) To avoid doubt, compliance by the new Agency with this clause does not constitute a breach of section 95(2) of the Land Transport Management Act 2003.

15 Approval of new Agency's activities and combinations of activities (excluding those relating to State highways) for 2008/09 financial year

- (1) This clause applies to activities and combinations of activities (excluding those relating to State highways)—
 - (a) that the new Agency proposes to deliver, or to manage the delivery of, in the 2008/09 financial year; and
 - (b) for which funding is sought from the national land transport fund; and
 - (c) whether or not those activities or combinations of activities have been included in a land transport programme for the 2008/09 financial year that has been completed by the Authority under section 12A of the Land Trans-

port Management Act 2003 (as in force immediately before 1 August 2008).

- (2) Despite section 20(2)(a), (b), (e), and (f) of the Land Transport Management Act 2003, the new Agency may approve any activities or combinations of activities to which this clause applies as qualifying for payment from the national land transport fund.

16 Treatment of certain costs and expenses of new Agency for 2008/09 financial year

- (1) This clause applies to costs and expenses of the new Agency for the 2008/09 financial year that arise out of the performance of its functions and duties under subpart 1 of Part 2 of the Land Transport Management Act 2003.
- (2) Despite section 20(2)(a), (b), (e), and (f) of the Land Transport Management Act 2003, the new Agency may approve any costs and expenses of the new Agency to which this clause applies as qualifying for payment from the national land transport fund.

17 No Ministerial approval required for costs and expenses of new Agency for 2008/09 financial year

- (1) This clause applies despite anything to the contrary in the Land Transport Management Act 2003 (as in force immediately before 1 August 2008 and as in force on and from that date).
- (2) The Minister's approval of the costs and expenses of the new Agency for the 2008/09 financial year is not required.

18 Approved procurement procedures

Subject to clause 42, approved procurement procedures in effect under section 25 or 95(1) of the Land Transport Management Act 2003 immediately before 1 August 2008 continue to have effect as approved procurement procedures under that Act.

Compare: 2004 No 97 Schedule 2 cl 21

19 Reporting requirements for new Agency in 2008/09 and 2009/10 financial years

Despite section 26(2)(a), the new Agency is required to report on the statement of inflows and expenses and capital expenditure of the national land transport fund as follows:

- (a) for the 2008/09 financial year, for that financial year:
- (b) for the 2009/10 financial year, for that financial year and the 2008/09 financial year.

Regional land transport committees and first
regional transport committees

20 Temporary continuation of regional land transport committees (other than Auckland regional transport committee)

- (1) This clause applies to any regional land transport committee (other than the Auckland regional transport committee) that—
 - (a) was established under section 178 of the Land Transport Act 1998 (as in force immediately before 1 August 2008); and
 - (b) was in existence immediately before that date.
- (2) A regional land transport committee to which this clause applies continues in existence until whichever is the earlier of the following:
 - (a) a regional transport committee for the region concerned is established under section 105 of the Land Transport Management Act 2003:
 - (b) the close of 30 September 2008 or on a date, no later than 31 December 2008, that the Minister agrees.

21 Establishment of first regional transport committees for each region (excluding Auckland region)

- (1) Every regional council, or unitary authority, must establish a regional transport committee, under section 105 of the Land Transport Management Act 2003, for its region before 1 October 2008 or on a date, no later than 31 December 2008, that the Minister agrees.
- (2) If section 105(11) of the Land Transport Management Act 2003 applies, the relevant territorial authority must decide

which regional transport committee to join before 1 October 2008.

22 Continuation of Auckland regional land transport committee

The Auckland regional land transport committee established under section 178 of the Land Transport Act 1998 (as in force immediately before 1 August 2008), and in existence immediately before that date, continues in existence as the Auckland regional transport committee under clause 11 of Schedule 7 (as in force from 1 August 2008).

Regional land transport strategies

23 Existing regional land transport strategies

- (1) This clause applies to regional land transport strategies in force under Part 13 of the Land Transport Act 1998 immediately before the commencement of Part 3 of the Land Transport Management Act 2003.
- (2) Subject to subclause (3) and clause 42, a regional land transport strategy to which this clause applies continues to have effect until it would have ceased to be current under section 176 of the Land Transport Act 1998 (as in force immediately before the commencement of Part 3 of the Land Transport Management Act 2003).
- (3) The Minister may approve the extension of a regional land transport strategy to which this clause applies by a period of up to 18 months.

24 First progress reports on regional land transport strategy

Each regional transport committee must ensure that its first progress report on its regional land transport strategy is for the 3 consecutive financial years ending on 30 June 2011.

First GPS

25 First GPS

- (1) Despite section 86 of the Land Transport Management Act 2003, the first GPS must be issued with effect on and from 1 July 2009.

- (2) Despite section 87(1)(c) and (2) of the Land Transport Management Act 2003, in preparing the first GPS, the Minister may, but need not,—
- (a) have regard to the views of Local Government New Zealand and representative groups of land transport users and providers (including representative groups of coastal shipping users and providers);
 - (b) consult with the new Agency.

Dissolution of Land Transport New Zealand and
Transit New Zealand

26 Consequences of dissolution

- (1) On 1 August 2008,—
- (a) the functions, duties, and powers of the former agencies under any enactment vest in the new Agency; and
 - (b) all property belonging to the former agencies vests in the new Agency; and
 - (c) all information held by the former agencies is held by the new Agency; and
 - (d) all money payable to or by the former agencies becomes payable to or by the new Agency; and
 - (e) all rights, liabilities, contracts, entitlements, and engagements of the former agencies become the rights, liabilities, contracts, entitlements, and engagements of the new Agency; and
 - (f) all directions to the former agencies in effect immediately before 1 August 2008 become directions to the new Agency; and
 - (g) any delegation by Transit under section 62 of the Transit New Zealand Act 1989 has effect as if it were a delegation by the new Agency; and
 - (h) subject to clause 31, every employee of the former agencies becomes an employee of the new Agency on the same terms and conditions as applied immediately before becoming an employee of the new Agency; and
 - (i) anything done, or omitted to be done, or that is to be done, by, or in relation to, the former agencies is to be treated as having been done, or having been omitted to

- be done, or to be done, by, or in relation to, the new Agency; and
- (j) the commencement, continuation, or enforcement of proceedings by or against the former agencies may instead be commenced, continued, or enforced by or against the new Agency without amendment to the proceedings; and
 - (k) the completion of a matter or thing that would, but for this clause, have been completed by the former agencies, may be completed by the new Agency.
- (2) Despite anything in subclause (1), the board of the new Agency may appoint a new chief executive after 1 August 2008.
 - (3) The transfer of information from the former agencies to the new Agency under subclause (1)(c) does not constitute an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993.
 - (4) The dissolution of the former agencies does not, by itself, affect any of the following matters:
 - (a) any decision made, or anything done or omitted to be done, by a former agency in relation to the performance or the exercise of the former agency's functions, duties, or powers under any enactment:
 - (b) any proceedings commenced by or against a former agency:
 - (c) any other matter or thing arising out of a former agency's performance or exercise, or purported performance or exercise, of the former agency's functions, duties, or powers under any enactment.

Compare: 2004 No 97 Schedule 2 cl 2

27 Operating principles

- (1) Despite section 96(1)(b)(ii) of the Land Transport Management Act 2003, for the 2008/09 and 2009/10 financial years the new Agency must, but only if and to the extent that it is practicable and reasonable to do so, comply with the operating principle set out in that provision.
- (2) However, the Minister may extend the application of subclause (1) to the new Agency for the 2010/11 financial year.

- (3) Despite section 96(2) of the Land Transport Management Act 2003, the new Agency is only required to comply with that provision after 30 September 2008 or on a date, no later than 31 October 2008, that the Minister agrees.

28 References to former agency

- (1) This clause applies to—
- (a) things that are in force or existing on 1 August 2008 (whether coming into force, entered into, or created before or after the commencement of this clause); and
 - (b) references in any thing, including (without limitation) enactments, rules, bylaws, deeds, agreements, proceedings, instruments, documents and notices.
- (2) If this clause applies, every reference in any thing specified in subclause (1) to a former agency is, on or after 1 August 2008, to be read as a reference to the new Agency unless the context otherwise requires.

Compare: 2004 No 97 Schedule 2 cl 3

29 New Agency replaces Transit New Zealand as requiring authority

- (1) This clause applies to any Order in Council, notice, or other instrument that approves of Transit New Zealand as a requiring authority and that was in effect immediately before 1 August 2008, including (without limitation)—
- (a) the Resource Management (Approval of Transit New Zealand as Requiring Authority) Order 1992; and
 - (b) the Resource Management (Approval of Transit as Requiring Authority) Notice 1994.
- (2) Without limiting clauses 26 and 28, on 1 August 2008,—
- (a) the new Agency replaces Transit New Zealand as a requiring authority under any Order in Council, notice, or other instrument to which this clause applies; and
 - (b) every reference to Transit New Zealand in any Order in Council, notice, or other instrument to which this clause applies, is, unless the context otherwise requires, to be read as a reference to the new Agency; and
 - (c) anything done, or omitted to be done, or that is to be or may be done (under or in relation to an Order in Council,

- notice, or other instrument to which this clause applies) by Transit New Zealand is to be treated as having been done, or having been omitted to be done, or to be or may be done, by the new Agency; and
- (d) every notice of requirement and designation of Transit New Zealand is transferred to and held by the new Agency, with the same status and priority as if Transit New Zealand and the new Agency were the same entity.

30 First members of new Agency

In appointing the first members of the new Agency, the Minister may, but need not, consult in accordance with section 98(2) of the Land Transport Management Act 2003.

Compare: 2004 No 97 Schedule 2 cl 4

31 Transferred employees

- (1) The terms and conditions of employment of a transferred employee immediately before 1 August 2008 continue to apply in relation to that employee until—
- (a) those terms and conditions are varied by agreement between the transferred employee and the new Agency; or
- (b) the transferred employee accepts a subsequent appointment with the new Agency.
- (2) For the purposes of every enactment, law, determination, contract, and agreement relating to the employment of a transferred employee,—
- (a) the employment agreement of that employee is to be treated as unbroken; and
- (b) the employee's period of service with a former agency, and every other period of service of that employee that is recognised by a former agency as continuous service, is to be treated as a period of service with the new Agency.
- (3) To avoid doubt, the employment of a transferred employee by the new Agency does not constitute new employment for the purposes of the KiwiSaver Act 2006.
- (4) A transferred employee is not entitled to receive any payment or any other benefit because—

- (a) the position held by the employee in a former agency has ceased to exist; or
- (b) the employee has ceased (as a result of the transfer to the new Agency) to be an employee of a former agency; or
- (c) the employee has been transferred to a suitable alternative position.

Compare: 2004 No 97 Schedule 2 cls 5–8

32 Government Superannuation Fund

- (1) This clause applies to every person who, immediately before 1 August 2008, was an employee of a former agency.
- (2) Nothing in this Act affects any entitlement under the Government Superannuation Fund Act 1956 of a person to whom this clause applies.
- (3) This clause is for the avoidance of doubt.

Compare: 2004 No 97 Schedule 2 cl 9

33 Final reports and accounts

- (1) As soon as practicable after the commencement of this Act, the new Agency must arrange for the final report of each former agency to be delivered to the Minister.
- (2) The report must—
 - (a) describe the former agency's operation for the period beginning on 1 July 2007 and ending with 30 June 2008; and
 - (b) include—
 - (i) financial statements of that agency prepared, in accordance with Part 4 of the Crown Entities Act 2004, for that period; and
 - (ii) an audit report prepared by the Auditor-General and a statement of responsibility relating to those financial statements.
- (3) The Minister must present a copy of the final report of each former agency to the House of Representatives as soon as is reasonably practicable after receiving it from the new Agency.

Compare: 2004 No 97 Schedule 2 cl 10

34 Responsibility for reports and accounts of former agencies from 1 July 2008

- (1) The new Agency must include in its initial annual report the information in respect of each former agency for the period commencing 1 July 2008 and ending on 31 July 2008 that each former agency would have had to include in the former agency's annual report under section 151 of the Crown Entities Act 2004 had it continued in existence.
- (2) To avoid doubt, the new Agency may, if it so decides, present the information referred to in subclause (1) in a combined form for the whole of the financial year ended 30 June 2009.
- (3) For the purposes of subclause (1), section 45J(1) of the Public Finance Act 1989 does not apply to each former agency in respect of the period commencing 1 July 2008 and ending on 31 July 2008.

35 Statements of intent

A former agency is not required to produce a statement of intent for the financial year commencing 1 July 2008.

Compare: 2004 No 97 Schedule 2 cl 12

36 Directions to former agencies continue to have effect as directions to new Agency

Subject to clause 42, directions to any former agency in effect immediately before 1 August 2008 under any enactment continue to have effect as directions to the new Agency.

Compare: 2004 No 97 Schedule 2 cl 13

37 Delegations

Subject to clause 42, delegations in effect immediately before 1 August 2008 under the Crown Entities Act 2004 or any other Act continue to have effect despite the dissolution of Land Transport New Zealand or Transit New Zealand or the disestablishment of the office of the Director of Land Transport.

Compare: 2004 No 97 Schedule 2 cl 14

38 Continuation of certain appointments

A person who holds office as an enforcement officer or a dangerous goods enforcement officer under section 208 of the Land Transport Act 1998 immediately before the commencement of this Act is to continue in office and holds office, until his or her appointment would have expired under the Land Transport Act 1998, as if this Act had not been passed.

Compare: 2004 No 97 Schedule 2 cl 15(2)

Disestablishment of office of Director of Land
Transport

39 Consequences of disestablishing office of Director of Land Transport

(1) On 1 August 2008,—

- (a) the functions, duties, and powers of the Director under any enactment vest in the new Agency; and
- (b) all property belonging to the Director vests in the new Agency; and
- (c) all information held by the Director is held by the new Agency; and
- (d) all money payable to or by the Director becomes payable to or by the new Agency; and
- (e) all rights, liabilities, contracts, entitlements, and engagements of the Director become the rights, liabilities, contracts, entitlements, and engagements of the new Agency; and
- (f) anything done, or omitted to be done, or that is to be done, by, or in relation to, the Director is to be treated as having been done, or having been omitted to be done, or to be done, by, or in relation to, the new Agency; and
- (g) the commencement, continuation, or enforcement of proceedings by or against the Director may instead be commenced, continued, or enforced by or against the new Agency without amendment to the proceedings; and
- (h) the completion of a matter or thing that would, but for this clause, have been completed by the Director, may be completed by the new Agency.

- (2) The transfer of information from the Director to the new Agency under subclause (1)(c) does not constitute an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993.
- (3) The disestablishment of the office of the Director of Land Transport does not, by itself, affect any of the following matters:
 - (a) any decision made, or anything done, or omitted to be done, by the Director in relation to the performance or the exercise of the Director's functions, duties, or powers under any enactment:
 - (b) any proceedings commenced by or against the Director:
 - (c) any other matter or thing arising out of the Director's performance or exercise, or purported performance or exercise, of the Director's functions, duties, or powers under any enactment.

40 References to Director

- (1) This clause applies to—
 - (a) things that are in force or existing on 1 August 2008 (whether coming into force, entered into, or created before or after the commencement of this clause); and
 - (b) references in any thing, including (without limitation) enactments, rules, bylaws, deeds, agreements, proceedings, instruments, documents, and notices.
- (2) If this clause applies, every reference in any thing specified in subclause (1) to the Director (or to the Director of Land Transport) is, on and after 1 August 2008, to be read as a reference to the new Agency unless the context otherwise requires.

Miscellaneous

41 General savings provision

Except as otherwise expressly provided in this Act, nothing in this Act affects the completion of a matter or thing, or the bringing or completion of proceedings, that relates to an existing right, liability, contract, entitlement, interest, title, immunity, or duty.

Compare: 2004 No 97 s 20

42 Matters continued by this Act have effect until replaced or revoked

If a matter or thing is continued with a specified effect by this Act, the matter or thing continues to have that effect until revoked or replaced under the relevant empowering enactment.

Compare: 2003 No 118 s 111

43 Transitional regulations

(1) The Governor-General may, by Order in Council, make regulations—

- (a) prescribing transitional and savings provisions concerning the coming into force of this Act that may be in addition to, or in place of, the transitional and savings provisions in this Act:
- (b) 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 meaning given to them by the regulations:
 - (iii) specified provisions repealed or amended or revoked by this Act are to continue to apply.

(2) This clause expires on 1 January 2012.

Public Transport Management Act 2008

Public Act 2008 No 87
Date of assent
Commencement see section 2

1 Title

This Act is the Public Transport Management Act 2008.

2 Commencement

This Act comes into force on 1 January 2009.

Part 2 Regulation of public transport

Subpart 3—Miscellaneous

Transitional and savings provisions

64 Transitional provision for existing registered services

- (1) A passenger service (or any part of a passenger service) that, before the commencement of this Act, was not a contracted service under Part 2 of the Transport Services Licensing Act 1989 but was registered under section 49 of the Transport Services Licensing Act 1989 is to be treated as a registered commercial public transport service under this Act.
- (2) Subsection (1) does not apply to the following services:
 - (a) taxi services; and
 - (b) shuttle services; and
 - (c) private hire services.
- (3) A passenger service that, before the commencement of this Act, was a contracted service under Part 2 of the Transport Services Licensing Act 1989, and a registered service under that Act, is to be treated as a contracted public transport service that is a registered service under this Act.
- (4) For the purposes of this section, **passenger service** means a passenger service as defined in section 47 of the Transport Services Licensing Act 1989, as if that Act were still in force.

65 Transitional provision for notifications received but not processed before commencement of Act

A notification received under the Transport Services Licensing Act 1989 but not processed before the commencement of this Act is to be treated as a notification received under section 32, 36, or 46, as the case may require.

66 Transitional provision for existing regional passenger transport plans

- (1) Except in the Auckland region, a regional council must adopt a regional public transport plan under section 9 at the same time or as soon as is reasonably practicable after the regional council has approved a regional land transport strategy for the first time after the commencement of this Act but in any case not later than 3 years after the commencement of this Act, if section 9(1) applies.
- (2) In the Auckland region, ARTA must adopt a regional public transport plan under section 9 as soon as is reasonably practicable after the Auckland Regional Council has approved a regional land transport strategy for the first time after the commencement of this Act but in any case not later than 3 years after the commencement of this Act, if section 9(1) applies.
- (3) A regional passenger transport plan prepared by a regional council under the Transport Services Licensing Act 1989 expires when the regional council adopts a regional public transport plan in accordance with subsection (1) or (2) or 3 years after the commencement of this Act, whichever is earlier.
- (4) Subject to subsection (5) or (6), until a regional council's regional passenger transport plan prepared under the Transport Services Licensing Act 1989 expires under subsection (3), that regional passenger transport plan remains in effect as if that Act (immediately before the commencement of this Act) was still in force.
- (5) If a regional passenger transport plan remains in effect under subsection (4), a regional council may not vary the plan to include a control under section 13.
- (6) Sections 14(a)(iii)(B), 18J(2)(c)(ii), 19B(b)(ii), 20(3)(c), 48(1)(c)(i), 58(1)(c), 65J(b)(iii), 82, 105(13) of the Land

Transport Management Act 2003 apply as if section 77(h) of that Act were not repealed under section 63(2) if a regional passenger transport plan (other than a plan that relates to the Auckland region) continues in effect under subsection (4) and—

- (a) is or, immediately before the commencement of this Act, was contained in a regional land transport strategy that has been approved or continued in accordance with the Land Transport Management Act 2003; or
- (b) would have been required to be contained in a regional land transport strategy but for the repeal of section 77(h) of the Land Transport Management Act 2003.

67 Transitional provisions for register of services

- (1) Subject to subsection (2), the register of services established under Part 2 of the Transport Services Licensing Act 1989 is to be treated as the register of services established under this Act.
- (2) All entries in the register of services established under Part 2 of the Transport Services Licensing Act 1989 in relation to taxi services, shuttle services, and private hire services are to be treated as expunged and deleted.

68 Transitional provisions for regional councils and ARTA

- (1) Except in the Auckland region, a regional council may adopt a regional public transport plan for the first time under this Act at the same time as it approves a regional land transport programme under the Land Transport Management Act 2003.
 - (2) ARTA may prepare and adopt a regional public transport plan for the first time under this Act at the same time as it prepares and approves a regional land transport programme under the Land Transport Management Act 2003.
-

Contents

- 1 General
 - 2 About this eprint
 - 3 List of amendments incorporated in this eprint (most recent first)
-

Notes**1 General**

This is an eprint of the Land Transport Act 1998. It incorporates all the amendments to the Act as at 29 June 2009. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

3 List of amendments incorporated in this eprint (most recent first)

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 124 and 130(1)
Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48): section 47
Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1)
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
Land Transport Amendment Act 2005 (2005 No 77)
