

Land Transport (Enforcement Powers) Amendment Bill

Government Bill

As reported from the Transport and Industrial Relations Committee

Commentary

Recommendation

The Transport and Industrial Relations Committee has examined the Land Transport (Enforcement Powers) Amendment Bill and recommends that it be passed with the amendments shown.

Introduction

This bill amends the Land Transport Act 1998. Its objective is to reduce the harm and nuisance caused in the community by illegal street racers in terms of road safety, noise, and public nuisance and disorder. The bill strengthens the powers of the Police, local authorities, and other road control agencies to deal with racers and their anti-social behaviour.

Commencement

It is proposed that the bill be enacted to commence on 1 December 2009. We are aware, however, that the commencement date of the provisions relating to driver licence reinstatement (clauses 9, 10,

12A, 12B, 14, 15, and 29(2)) must come into effect to coincide with operational changes by the New Zealand Transport Agency.

We recommend an amendment to clause 2 to provide for commencement of the driver licence reinstatement provisions by Order in Council.

Part 1: Amendments to Land Transport Act 1998

Interpretation

Three new definitions are proposed to be inserted into section 2(1) of the Land Transport Act 1998. The definition of “cruising” refers to the act of “driving repeatedly over the same section of road” to draw attention to the power or sound of the motor vehicle, or in order to create a convoy which impedes traffic flow. The bill as introduced is unclear as to whether a driver should be allowed to drive in one direction along a two-way road and back in the other direction without being considered to have driven on the same section of road twice. We consider that the time taken to circle a particular route should also be a factor in determining whether or not the driver is “cruising”.

We recommend an amendment to clause 4 to the effect that cruising means driving repeatedly in the same direction over the same section of road. This amendment would make it clear that vehicles travelling in opposite directions are not the same section of road for the purpose of the definition of cruising.

Bylaws

Clause 7 inserts new sections 22AB to 22AF to allow the making of bylaws to authorise the racing of motor vehicles, or alternatively to control or restrict cruising, as defined in the bill. New section 22AB describes the purpose, application, and restrictions on the types of bylaws that can be made by road controlling authorities. Under new section 22AC, the bill would allow the Minister of Transport to amend, replace, or disallow such bylaws. A road controlling authority that was also a local authority would make bylaws only if it had consulted on them, as set out in the Local Government Act 2002. Consultation requirements are also set out for road controlling authorities that are not local authorities (new section 22AD).

Road controlling authorities may make certain bylaws

New section 22AB would allow road controlling authorities to make certain bylaws. We recommend that new section 22AB(1)(a), which would authorise the racing of motor vehicles on public roads subject to restrictions and conditions, be deleted. We consider this section is superfluous, as road controlling authorities already have the power to close a road or roads for a motor racing event.

We recommend an amendment to new section 22AB(1)(b) to allow the prohibition of cruising, as well as its control or restriction. We also recommend adding two new subsections to new section 22AB(1)(b), to permit two specific kinds of bylaws. The first proposed subsection specifies the roads on which cruising can take place. The second proposed subsection permits the making of a bylaw to specify the amount of time that must elapse between the successive times a vehicle can be driven along a section of road for it not to be regarded as repeatedly using the same section of road. We consider that the time in question should probably be measured in minutes, not hours, and would depend to some extent on local geography.

We recommend further that new section 22AB be amended to allow changes to be made by resolution of the road controlling authority, on the same lines that are set out in section 151(2) of the Local Government Act 2002. Proposed new section 22AB(2A) would allow the authority to amend details of the roads affected, and the times at which the prohibition applied, once a bylaw has been made. It would also allow the exemption of an event from the provisions of the Act.

Minister may amend, replace, or disallow bylaws

We understand that the Minister of Transport has been empowered to review and, if necessary, disallow traffic bylaws for many years. New section 22AC would enable the Minister to amend and replace bylaws, as well as review and disallow them. It is intended that such powers would be triggered only when there were grounds to disallow a traffic bylaw, and that the Minister would consult with the relevant road controlling authority before exercising the powers. Enabling the Minister to amend or replace bylaws would prevent the situation where a bylaw had been disallowed, but had not yet been replaced.

We also understand that formally inserting these powers into the Act would reduce potential judicial review costs.

We therefore recommend an amendment to new section 22AC(1) to clarify that the Minister's powers to amend and replace traffic bylaws would be based on the same grounds as the review or disallowance of such a bylaw.

Suspension and revocation of licences

Clause 8 of the bill proposes to amend section 27 of the Act, which provides that the Agency may suspend or revoke a driver's licence in accordance with regulations and rules. A new subsection would allow the Agency to cancel a current licence if a court had ordered the disqualification of the licence-holder, or if the licence was suspended because of an accumulation of demerit points.

On reflection, we do not consider that the bill is the appropriate legislative instrument with which to make the proposed amendment. We therefore recommend that clause 8 be omitted. We consider that it may be more appropriate to make the necessary changes through consequential amendments to the Land Transport (Driver Licensing) Rule 1999, by way of amendment to Schedule 2 of the bill.

Certain driver licences have no effect

Clause 9 of the bill proposes to repeal section 29 of the Act, which prescribes the circumstances in which certain driver licences have no effect. Proposed section 29(1)(b) refers to a person who "already holds a driver licence of the same class as the other licence".

We consider that the wording of section 29(1)(b) is imprecise, and could have the perverse effect of invalidating a recently reissued licence and also increase the risk of fraud. We recommend that new section 29(1)(b) be deleted and replaced by a new subsection referring to a licence that is invalid, or has been issued invalidly.

Proposed substitute section 29(1)(c) was found to have omitted reference to a "revoked" licence. We recommend an amendment to remedy the omission.

Driver licences are property of Agency and are to be surrendered in certain circumstances

Clause 10 proposes to amend section 30 of the Act, which provides that driver licences are the property of the Agency and are to be surrendered in certain circumstances. In particular, section 30 deals with the return of licences to previously disqualified persons or to persons whose licences have been suspended, and with the issuing of limited licences. It provides that, subject to section 83 of the Act, licences can be returned or issued as soon as practicable after determining that the holder is eligible to hold the licence.

For the purposes of clarity, we recommend an amendment to new section 30(5)(a) to clarify that it is the photographic driver licence, not the person's eligibility to drive, that is automatically cancelled. New section 30(5)(b), which refers to a suspended licence, should also be amended to refer to the "reissue" of a licence, rather than the "return" of a licence, to avoid confusion.

We note that the inclusion of new section 30(5) would require a consequential amendment to current section 82 to provide for the cancellation of the photographic driver licence or temporary driver licence of a disqualified person.

We also recommend the insertion of new subsection 82(3) (clause 12A) to provide that, with the exception of a partial disqualification relating to certain classes and endorsements of licences only, any photographic or temporary driver's licence held by a disqualified person is deemed to be cancelled.

We also recommend inserting new section 82A, to deal with the situation where an application is made to reinstate a driver licence following a disqualification or suspension of not more than 12 months.

Suspension of licence or disqualification from driving under demerit points system

Clause 15 proposes to repeal section 90(1) of the Act, which provides for the suspension of licences under the demerit points system or disqualification from driving. We recommend an amendment to the proposed substitute section to provide for the deemed cancellation of any photographic or temporary driver licence in the event of disqualification, and cancellation for a three-month period in the event of suspension. We consider that the inconvenience of not hav-

ing any photographic identification for three months must be seen as an appropriate consequence of the suspension.

Immediate suspension of driver licence for failure to stop

The Police Association submitted that the biggest public safety risk associated with illegal street racing is the offenders' failure to stop for police. We are concerned that there are insufficient penalties available to the police to deal with a failure to stop, with or without dangerous driving, and consider that suspension could be extended to cover this offence. However, we have been advised that to accommodate such changes would create issues regarding appeal provisions, and how they would apply to a subjective assessment.

Vehicle seized and impounded for 28 days in certain circumstances

Clause 16 proposes to amend section 96 of the Act, which concerns vehicle seizure and impoundment. The amendments relate to the application of seizure and impoundment provisions, the necessity to provide certain personal information, and the release of personal property held in the vehicle following impoundment.

We recommend an amendment to new section 96(2A) to include a requirement to provide the driver licence number to the enforcement officer, if it is required, in addition to the other personal information specified. We also recommend that new section 96(2A)(b) be amended to clarify that details of the person registered as owner of the vehicle have to be provided only if they differ from those of the driver. These changes are necessary in order to bring section 96 into line with the fines collection regime.

Impoundment of vehicles used in transport service

Clause 17 proposes to amend section 96A of the Act, which concerns the impoundment of vehicles used in a transport service. We consider that this clause needs an additional amendment to align its information provisions with those in section 96, which relates to other impounded vehicles. We recommend an amendment to section 96A by way of the inclusion of new subsection (2A) to include the extra provisions.

Release of vehicle after 28 days

Clause 19 proposes to amend section 98 of the Act, which concerns the release of vehicles at the end of the impoundment period. The amendments relate to the execution of a warrant to seize property under section 94 of the Summary Proceedings Act 1957, or a warrant of confiscation under section 132 of the Sentencing Act 2002.

The Motor Trade Association submitted that storage providers should be able to apply to dispose of any personal property still inside the vehicle at the end of the impoundment period, as well as the vehicle itself, after a certain period.

We recommend that sections 98(4) and 98(5) be amended to give effect to this suggestion. We note that people whose cars are impounded have 28 days plus a further grace period of 10 days, before the transfer of ownership to the storage provider, in which to retrieve any personal property from their vehicle.

New section 98(6)(b) also provides that persons executing either kind of warrant can enter into arrangements with storage providers for the payment of unpaid storage fees and charges in respect of vehicles seized or confiscated. We recommend an amendment to this section to clarify that such arrangements relate to the impoundment fees and charges referred to in section 97(2).

Enforcement officer may give directions or immobilise vehicle if driver breaches certain licence conditions

Clause 26 proposes to add new section 121A to the Act, which would allow an enforcement officer to give directions or immobilise a vehicle if the driver breached certain conditions, similar to the provisions contained in section 121. New section 121A also gives an enforcement officer the power to forbid a person to drive until he or she is able to comply with the provisions of their class 1 or class 6 learner licence, or a restricted licence.

As a result of the addition of section 121A, section 199(3) of the Act would require consequential modification. Section 199(3) requires the national register to indicate whether a person is specifically forbidden to drive a motor vehicle, or is disqualified from holding or obtaining a driver licence. We recommend that section 199(3) of the Act be amended to exclude the requirement to show information to the effect that a person is forbidden to drive for short periods (which

may have ended by the time the register is updated); this information is already being recorded in the New Zealand Police computer system.

Part 2: Transitional provision and consequential amendments

Consequential amendments to the Land Transport (Driver Licensing) Rule 1999, the Land Transport (Offences and Penalties) Regulations 1999, and the Land Transport (Ordering a Vehicle off the Road) Notice 1999 are contained in Schedule 2 of the bill. They are required to ensure consistency, and to allow the charging of fees to meet the costs of personal service of notices and cautions to disqualified or suspended drivers. We recommend that these amendments be separated into two clauses, depending on whether they would take effect on 1 December 2009, or by Order in Council.

The proposed amendments to the Land Transport (Driver Licensing) Rule 1999 reflect the amendments proposed to clauses 14 and 15 of the bill. We recommend a new clause to set out arrangements for the reinstatement of a driver licence for a person disqualified for not more than 12 months.

Petition 2005/189 of Nicky Wagner and 435 others

This petition requests that Parliament legislate to reduce vehicle noise by introducing a limit of 90 decibels for all motor cars and making it illegal to fit or supply exhausts above that level.

We understand that noise is a significant issue for many communities and have heard considerable evidence on this issue. However, we are not convinced that specifying lower decibel limits would be as effective as other measures proposed in this bill. We note that this issue was considered by the previous Government, and that all cars entering the fleet after June 2008 must meet 90 decibels. We do not consider that lower stationary tailpipe noise limits would significantly reduce vehicle noise, especially at night, when ambient noise levels are low.

We found that driving styles have a lot to do with the amount of noise produced. We consider that much of the noise created by cruising vehicles, particularly during evening and night-time hours, would be addressed by the “anti-cruising” bylaw provisions in the bill.

We heard that controls on noisy vehicles are under two separate land transport rules: the Vehicle Equipment Rule 2004, and the Road User Rule 2004. These rules provide police with a range of powers to deal with noisy vehicles.

Compulsory third party vehicle insurance

The introduction of compulsory third party vehicle insurance was suggested by several submitters as a means of altering drivers' behaviour and reducing the number of unsafe vehicles. We note that overseas compulsory insurance schemes generally cover the cost of personal injuries, which in New Zealand are covered by the ACC system, and that there are no compulsory insurance schemes anywhere in the world solely for property damage. We were advised that the costs of implementing compulsory third party vehicle insurance would be likely to increase all vehicle insurance premiums.

We understand that the Ministry of Transport is reviewing this type of insurance, and the Labour Party members consider it needs more detailed investigation, but the issue is outside the scope of the bill.

Using bylaws to deal with passenger drinking in cars

We consider that some of the antisocial behaviour associated with illegal street racing, or "cruising", is caused by alcohol consumed by passengers in the vehicles concerned. We are advised that someone who consumes or possesses liquor in an open container within a vehicle can be in breach of a liquor control bylaw made under section 147 of the Local Government Act 2002. We are pleased to see that a recent Law Commission review on the effects of alcohol discusses the issue of the possession or consumption of liquor in open containers within a vehicle.

Policing

We understand that there are effective interventions being undertaken by the New Zealand Police, such as Operation Sniper in Counties Manukau, and that measures have been taken by the New Zealand Police to ensure that operational responses to illegal street racing are national and consistent. This includes the Police fully utilising

all existing legislation and clearly monitoring illegal street racing in each district.

New Zealand Bill of Rights issues

Standing Order 261 (1) requires that whenever a bill contains any provision which appears to the Attorney-General to be inconsistent with any of the rights and freedoms contained in the New Zealand Bill of Rights Act 1990, the Attorney-General must indicate to the House what that provision is and how it appears to be inconsistent with the New Zealand Bill of Rights Act. We are aware of concern regarding property issues about vehicle impoundment; the reverse onus of proof in clause 6; and freedom of association, peaceful assembly, and movement. However, Crown Counsel advised the Attorney-General that there were no inconsistencies with the Act.

Appendix

Committee process

The Land Transport (Enforcement Powers) Amendment Bill was referred to us on 2 June 2009. The closing date for submissions was 3 July 2009. We received and considered 126 submissions from interested groups and individuals. We heard 30 submissions, which included holding hearings in Christchurch.

We received advice from the Ministry of Transport, the New Zealand Transport Agency, the New Zealand Police, the Ministry of Justice, and Parliamentary Counsel.

Committee membership

David Bennett (Chairperson)

Dr Jackie Blue

Carol Beaumont

Darien Fenton

Jeanette Fitzsimons

Hon Tau Henare

Moana Mackey

Allan Peachey

Michael Woodhouse

**Land Transport (Enforcement Powers)
Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Steven Joyce

Land Transport (Enforcement Powers) Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Land Transport (Enforcement Powers) Amendment Act **2009**.
- 2 Commencement**
This Act comes into force on **1 December 2009**. 5
- 2 Commencement**
(1) Sections 9, 10, 12A, 12B, 14, 15, and 29(2) come into force on a date appointed by the Governor-General by Order in Council.
(2) The rest of this Act comes into force on 1 December 2009. 10
- 3 Principal Act amended**
This Act amends the Land Transport Act 1998.

- Part 1**
Amendments to Land Transport Act 1998
- 4 Interpretation** 15
Section 2(1) is amended by inserting the following definitions in their appropriate alphabetical order:

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

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

“(b) creates a convoy that— 5

“(i) is formed otherwise than in trade; and

“(ii) impedes traffic flow

“**qualifying bylaw** means a bylaw made by a road controlling authority under **section 22AB(1)(b)** of this Act, section 72(1)(d) of the Transport Act 1962, section 684(1)(13) of the 10 Local Government Act 1974, or section 145 of the Local Government Act 2002 for the stated purpose of—

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

“(b) controlling or restricting cruising or any associated activities 15

“**Registrar**, in relation to the execution of a warrant of confiscation, means any Registrar of the High Court or of a District Court, as the case may require, and includes a Deputy Registrar.” 20

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

Section 13 is amended by inserting the following subsection above subsection (1):

“(1AA) A person driving a motor vehicle that has a warning notice 25 given under **section 22AE** attached to it must comply with that notice.”

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

Section 22A is amended by inserting the following subsection 30 after subsection (3):

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

7 **New heading and sections 22AB to 22AF inserted**

The following heading and sections are inserted after section 22A:

“Bylaws

“22AB Road controlling authorities may make certain bylaws 5

“(1) A road controlling authority may make any bylaw that it thinks fit for 1 or more of the following purposes:

~~“(a) authorising, subject to any restrictions or conditions, the racing of motor vehicles:~~

~~“(b) controlling or restricting cruising:~~ 10

“(b) controlling, restricting, or prohibiting cruising, including (but not limited to)—

“(i) specifying the section of road or roads on which cruising is controlled, restricted, or prohibited:

“(ii) prescribing the period of time that must elapse between each time a driver drives on a specified section of road for the driver to avoid being regarded as cruising: 15

“(c) prescribing fines, not exceeding \$500, for the breach of any bylaw made under this section. 20

“(2) A bylaw made under **subsection (1)** may apply—

“(a) to all roads, any specified road, or any part of a specified road under the care, control, or management of the road controlling authority making the bylaw:

“(b) to all vehicles or traffic or to any specified class or classes of vehicles or traffic using a road under the care, control, or management of the road controlling authority making the bylaw: 25

“(c) at any specified time or times.

“(2A) A bylaw made under **subsection (1)** may leave any matter or thing to be regulated, controlled, or prohibited by the road controlling authority by resolution generally, for any specified classes of case, or in a particular case. 30

“(3) A copy of every bylaw made under this section by a road controlling authority must, within 1 week after being made, be sent by the road controlling authority to the Minister, who may at any time disallow the bylaw or any part of the bylaw under **section 22AC**. 35

“(4) Nothing in this section—

- “(a) applies to any railway on, over, or across any road; or
 - “(b) limits any provision in this Act or any other Act, or any provision in any rules or regulations made under this Act or any other Act, regarding the regulation of traffic on roads; or 5
 - “(c) limits the power to make bylaws conferred on a road controlling authority under any other Act.
- “(5) In this section, **railway** has the same meaning as in section 4(1) of the Railways Act 2005.
- “**22AC Minister may amend, replace, or disallow bylaws** 10
- “(1) ~~The Minister may, by notice published in the *Gazette*,—~~
- ~~“(a) amend or replace any bylaw made by a road controlling authority under **section 22AB**;~~
 - ~~“(b) disallow, either wholly or in part, any bylaw made by a road controlling authority under **section 22AB** or any other enactment (whether before or after the commencement of this section) if the bylaw— 15~~
 - ~~“(i) is inconsistent with any enactment; or~~
 - ~~“(ii) is unreasonable or undesirable in so far as it relates to or may affect traffic. 20~~
- “(1) The Minister may, by notice published in the *Gazette*, amend, replace, or disallow, either wholly or in part, any bylaw made by a road controlling authority under **section 22AB** or any other enactment (whether before or after the commencement of this section) if the bylaw— 25
- “(a) is inconsistent with any enactment; or
 - “(b) is unreasonable or undesirable in so far as it relates to or may affect traffic.
- “(2) On any disallowance under **subsection (1)**, the bylaw must, to the extent to which it is disallowed, be treated as having been revoked. 30
- “(3) Any disallowance under **subsection (1)** takes effect either on the day of the publication of the notice of disallowance in the *Gazette* or on a later date that may be specified in the notice.
- “**22AD Consultation** 35
- “(1) A road controlling authority that is a local authority may not make a bylaw under **section 22AB** unless it has used the spe-

cial consultative procedures set out in section 83 of the Local Government Act 2002.

- “(2) A road controlling authority that is not a local authority may not make a bylaw under **section 22AB** unless it has consulted with— 5
- “(a) the occupiers of any properties adjoining the road to which the proposed bylaw would apply; and
 - “(b) any affected road controlling authorities that are responsible for roads that join, or are located near, the road to which the proposed bylaw would apply; and 10
 - “(c) the territorial authority for the area where the road is located; and
 - “(d) any affected local community; and
 - “(e) the Commissioner of Police; and
 - “(f) any other organisation or road user group that the road controlling authority considers affected; and 15
 - “(g) the Agency (if the road controlling authority is not the Agency).
- “(3) The road controlling authority must—
- “(a) give notice in writing to the persons specified in **sub-section (2)** of the road controlling authority’s proposal to make, amend, or replace a bylaw; and 20
 - “(b) give those persons a reasonable time, which must be specified in the notice, to make submissions on the proposal. 25

“**22AE Publication and proof of bylaws**

- “(1) As soon as practicable after a bylaw is made, the road controlling authority must give public notice of the making of the bylaw, stating— 30
- “(a) the date on which the bylaw comes into force; and
 - “(b) that copies of the bylaw may be inspected and obtained at the office of the relevant road controlling authority on payment of a specified amount.
- “(2) A road controlling authority must—
- “(a) keep copies of all its bylaws at the office of the road controlling authority; and 35

- “(b) make its bylaws available for public inspection, without fee, at reasonable hours at the office of the road controlling authority; and
- “(c) supply to any person, on request and on payment of a reasonable charge, a copy of any of its bylaws. 5
- “(3) The production of any document purporting to contain a printed copy of any bylaw made under **section 22AB** and authenticated by the road controlling authority that made it is, until the contrary is proved, sufficient evidence of the existence and provisions of the bylaw. 10

“22AF Warning notices

- “(1) If a motor vehicle is operated in a manner that breaches a qualifying bylaw, an enforcement officer may attach a warning notice to the motor vehicle (instead of, or in addition to, issuing an applicable infringement notice). 15
- “(2) The warning notice must be—
 - “(a) in the form prescribed by the Minister of Police by notice in the *Gazette*; and
 - “(b) attached to the motor vehicle subject to the warning notice in a manner that— 20
 - “(i) is visible; but
 - “(ii) does not interfere with the driver’s view of the road.
- “(3) A warning notice attached to a motor vehicle under **subsection (1)**— 25
 - “(a) is in effect for a period of 90 days from the date of its attachment; and
 - “(b) must remain attached to the motor vehicle for that period.”

8 Suspension and revocation of licences 30

Section 27 is amended by adding the following subsection as subsection (2):

- “(2) The Agency may cancel a person’s current photographic driver licence if— 35
 - “(a) a court has ordered the disqualification of that person; or

~~“(b) that person’s licence is suspended as a consequence of accumulating the requisite number of demerit points.”~~

9 Certain driver licences have no effect

Section 29 is amended by repealing subsection (1) and substituting the following subsection: 5

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

“(a) a person is disqualified from holding, or unqualified to hold, a driver licence:

~~“(b) a person already holds a driver licence of the same class as the other licence:~~ 10

“(b) the licence is invalid or is issued invalidly:

“(c) the licence is revoked, cancelled, superseded, or replaced:

“(d) the licence is for the time being suspended under any Act.” 15

10 Driver licences are property of Agency and are to be surrendered in certain circumstances

Section 30 is amended by repealing subsection (5) and substituting the following subsection:

“(5) The Agency must, subject to ~~section~~ **sections 82A and 83** 20 and as soon as practicable after being satisfied that a person is eligible to hold a driver licence,—

“(a) in the case where the person’s driver licence has been is treated as cancelled, issue a new driver licence to the person when the disqualification or suspension expires 25 or is removed; or

“(b) in the case where the licencee has been suspended person ceases to be licensed owing to a suspension (other than under section 90 for accumulated demerit points), ~~return the~~ reissue the person’s driver licence to the person when the suspension expires or is removed; or 30

“(c) in the case where a court authorises the issue of a limited licence, issue a new licence to the person.”

11 New section 36AB inserted

The following section is inserted after section 36A: 35

“36AB Contravention of sections 7 and 114

If a person commits an offence specified under section 35 or 36 in a manner that contravenes sections 7 and 114, a court, in sentencing or otherwise dealing with the person for the offence, must treat the contravention of section 114 as an aggravating factor.” 5

12 Contravening notices, requirements, etc, given or imposed by enforcement officers

Section 52 is amended by adding the following subsections:

- “(3) If a person is convicted of an offence against section 114 and has previously been convicted of an offence against section 114 or, while failing to comply with section 114, exceeded the applicable speed limit or operated a motor vehicle in an otherwise dangerous manner, a court must order the person to be disqualified from holding or obtaining a driver licence for 3 months. 10 15
- “(4) If a person is convicted for a third or subsequent offence against section 114,—
- “(a) the maximum penalty is imprisonment for a term not exceeding 3 months; and 20
 - “(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year.
- “(5) A disqualification ordered under **subsection (3) or (4)** is cumulative on, and not concurrent with, any other disqualification that a court may order in respect of the incident that gave rise to the person’s conviction under section 114. 25
- “(6) A person commits an offence if the person fails or refuses to provide information or provides false information with respect to any request for information made by an enforcement officer under section 118. 30
- “(7) The maximum penalty on conviction for an offence against **subsection (6)** is a fine not exceeding \$20,000.
- “(8) If a person removes, obscures, or makes indistinguishable a warning notice attached to a motor vehicle while the notice is in effect, the person commits an offence and is liable on conviction to a fine not exceeding \$10,000.” 35

12A Effect of disqualification

Section 82 is amended by adding the following subsection:

- “(3) If a disqualification relates to every class or endorsement specified on a driver licence or temporary driver licence held by a person, then that person’s driver licence or temporary driver licence is to be treated as cancelled.” 5

12B New sections 82A and 82B inserted

The following sections are inserted after section 82:

“82A Application for reinstatement if disqualified or suspended for a period not exceeding 12 months 10

- “(1) This section applies to a person if—

“(a) the person’s driver licence or temporary driver licence is suspended or treated as cancelled under section 82; and

“(b) the person’s period or periods of disqualification or suspension do not exceed 12 months; and 15

“(c) the person is not required to undergo any test or examination or undertake any course to renew his or her driver licence.

- “(2) If this section applies, a person may apply for reinstatement of the person’s driver licence or temporary driver licence in accordance with the regulations and the rules. 20

“82B Transitional provision in relation to reinstatement fees

A person must reinstate his or her driver licence and pay the prescribed reinstatement fee if, before the commencement of this section,— 25

“(a) the person has been disqualified from holding or obtaining a driver licence, for a period of not more than 12 months; or

“(b) the person’s driver licence is suspended under section 90.” 30

13 Holder to undergo approved tests or courses if disqualified for more than 1 year

Section 83(1)(b) is amended by omitting “or endorse the existing licence”. 35

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

(1) The heading to section 84 is amended by omitting “**or endorsement**”.

(1A) Section 84(1)(a) is amended by omitting “section 83(1)” and substituting “**section 82A** or 83(1)”. 5

(2) Section 84 is amended by repealing subsection (2) and substituting the following subsection:

“(2) If this section applies, then the Agency must issue a new licence to that person to authorise that person to drive the relevant class of motor vehicle and all lower classes of motor vehicles for which that person held a licence immediately before he or she was disqualified.” 10

15 Suspension of licence or disqualification from driving under demerit points system 15

(1) Section 90(1) is amended by repealing paragraph (a) and substituting the following paragraph:

“(a) suspend that person’s driver licence for 3 months and cancel that person’s current photographic driver licence; or” 20

(1) Section 90 is amended by repealing subsection (1) and substituting the following subsection:

“(1) If, in any 2-year period, a total of 100 or more demerit points have effect against a person, the Agency must give notice in writing to the person that,— 25

“(a) if the person holds a current driver licence or temporary driver licence on the date of the giving of the notice, suspends that person’s driver licence or temporary driver licence for 3 months by informing the person that—

“(i) the person ceases to be licensed for 3 months owing to a suspension; and 30

“(ii) the person’s driver licence or temporary driver licence is cancelled;

“(b) if the person does not hold a current driver licence or temporary driver licence on the date of the giving of the notice, disqualifies the person from holding or obtain- 35

ing a driver licence or temporary driver licence for 3 months.”

- (2) Section 90(3) is amended by inserting “, and the person’s driver licence or temporary driver licence is cancelled,” after “starts”.

5

16 Vehicle seized and impounded for 28 days in certain circumstances

- (1) Section 96 is amended by inserting the following subsection after subsection (1):

“(1AA) An enforcement officer must, if practicable, seize and impound, or seize and authorise the impoundment of, a motor vehicle for 28 days if the officer believes on reasonable grounds that—

10

“(a) the driver operated the vehicle in a manner that breached a qualifying bylaw; and

15

“(b) the vehicle is subject to a warning notice attached under **section 22AF.**”

- (2) Section 96(1A) is amended by omitting “may” and substituting “must, if practicable,”.

- (3) Section 96(2)(a)(i) is amended by omitting “name and address” and substituting “full name and full address”.

20

- (4) Section 96 is amended by inserting the following subsection after subsection (2):

“(2A) The driver of a motor vehicle seized or impounded under this section must, if requested to do so by an enforcement officer,—

25

“(a) provide the driver’s—

“(i) full name; and

“(ii) full address; and

“(iii) date of birth; and

“(iv) occupation; and

30

“(v) telephone number; and

“(vi) driver licence number;

“(b) provide, if known to the driver and the driver is not the registered person, the registered owner’s person’s—

35

“(i) full name; and

“(ii) full address; and

“(iii) date of birth; and

- “(iv) occupation; and
“(v) telephone number.”

(5) Section 96 is amended by repealing subsection (4) and substituting the following subsections:

“(4) Personal property (other than property attached to or used in connection with the operation of the vehicle) present in a motor vehicle at the time of the seizure and impoundment must be released on request to a person who produces satisfactory evidence to the effect that he or she was lawfully entitled to possession of the vehicle or personal property immediately before the vehicle was moved.

“(4A) Personal property present in a motor vehicle at the time of the seizure and impoundment must be released subsequently to—

“(a) a bailiff or constable who is executing a warrant to seize property:

“(b) a person acting on behalf of the owner of the goods if the person produces satisfactory evidence of the owner’s consent to such release.”

17 Impoundment of vehicle used in transport service

(1) Section 96A(2)(a)(i) is amended by omitting “name and address” and substituting “full name and full address”.

(2) Section 96A(2)(a)(ii) is amended by omitting “name and address” and substituting “full name and full address”.

(2A) Section 96A is amended by inserting the following subsection after subsection (2):

“(2A) The driver of a motor vehicle seized or impounded under this section must, if requested to do so by an enforcement officer,—

“(a) provide the driver’s—

“(i) full name; and

“(ii) full address; and

“(iii) date of birth; and

“(iv) occupation; and

“(v) telephone number; and

“(vi) driver licence number;

“(b) provide, if known to the driver and different from the driver, the transport service operator’s—

“(i) full name; and

- “(ii) full address; and
- “(iii) date of birth (if an individual); and
- “(iv) telephone number.”

- (3) Section 96A is amended by repealing subsection (4) and substituting the following subsections: 5
- “(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. 10
- “(5) Personal property present in a motor vehicle at the time of the seizure and impoundment must be released subsequently to— 15
- “(a) a bailiff or constable who is executing a warrant to seize property:
 - “(b) a person acting on behalf of the owner of the goods if the person produces satisfactory evidence of the owner’s consent to such release.”

18 Storage of impounded vehicles 20

- (1) Section 97(3) is amended by inserting “impounded” after “owner of the”.
- (2) Section 97 is amended by inserting the following subsection after subsection (3):
- “(3A) The fees and charges referred to in subsection (2) are recoverable from the chief executive of the Ministry of Justice by the vehicle recovery service operator or storage provider if an impounded vehicle is seized or confiscated from impoundment under the Summary Proceedings Act 1957 or the Sentencing Act 2002.” 25 30
- (3) Section 97 is amended by repealing subsection (6) and substituting the following subsection:
- “(6) The storage provider must immediately comply with— 35
- “(a) a direction given under this Act to release the vehicle to the owner or a person authorised for the purpose by the owner; or

- “(b) a warrant to seize property executed by a bailiff or constable under section 94 of the Summary Proceedings Act 1957; or
- “(c) a warrant of confiscation under section 132 of the Sentencing Act 2002 executed by a Registrar, bailiff, or constable.” 5
- (4) Section 97(7) is amended by inserting “the chief executive of the Ministry of Justice, or a Registrar,” after “The Commissioner.”
- (5) Section 97 is amended by adding the following subsection: 10
- “(8) For the purposes of subsection (7), **Registrar** means any Registrar of the High Court or of a District Court, as the case may require, and includes a Deputy Registrar.”
- 19 Release of vehicle after 28 days**
- (1) Section 98 is amended by repealing subsection (1) and substituting the following subsection: 15
- “(1) On or after the close of the 28-day impoundment period, the registered ~~owner~~ person in respect of the vehicle, or a person authorised for the purpose by the registered ~~owner~~ person, or a bailiff or a constable executing a warrant to seize property 20 under section 94 of the Summary Proceedings Act 1957, or a Registrar, bailiff, or constable executing a warrant of confiscation under section 132 of the Sentencing Act 2002, is entitled to remove the vehicle from storage by—
- “(a) showing the storage provider proof of identity and 25 either,—
- “(i) in the case of the registered ~~owner~~ person in respect of the vehicle, or a person authorised for the purpose by him or her, proof of ownership of the vehicle or the owner’s copy of the notice of acknowledgement of seizure and impoundment; 30 or
- “(ii) in the case of a Registrar, bailiff, or constable, the warrant; and
- “(b) paying the fees and charges for towage and storage of 35 the vehicle, or entering into an arrangement to pay those fees and charges.”

- (2) Subsection 98(2) is amended by omitting “subsection (1) is” and substituting “subsections (1), **(6), and (7)** are”.
- (2A) Section 98(4) is amended by omitting “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” and substitute “dispose of the vehicle, and any personal property found in the vehicle, and may, with the officer’s approval, dispose of the vehicle, and any personal property found in the vehicle, on the terms and conditions that the officer thinks fit”. 5
- (2B) Section 98(5) is amended by inserting “, and any personal property found in the vehicle,” after “vehicle”. 10
- (3) Section 98 is amended by adding the following subsections:
- “(6) Before removing a vehicle under subsection (1), a bailiff or constable executing a warrant to seize property under section 94 of the Summary Proceedings Act 1957, or a Registrar, bailiff, or constable executing a warrant of confiscation under section 132 of the Sentencing Act 2002, must— 15
- “(a) pay any unpaid fees and charges referred to in section 97(2) related to the vehicle to be removed; or
- “(b) enter into an arrangement with the storage provider for the payment of any unpaid ~~storage fees and charges fees~~ and charges that the owner of the impounded vehicle is liable to pay under section 97(2) in relation to the vehicle to be removed. 20
- “(7) Despite anything in subsections (1) to **(6)**,— 25
- “(a) in the case of a bailiff or constable executing a warrant to seize property under section 94 of the Summary Proceedings Act 1957, the period during which an impounded vehicle may be seized— 30
- “(i) begins immediately on the expiry of the applicable 14-day appeal period specified in section 102; and
- “(ii) ends when—
- “(A) the vehicle is released under subsection (1); or 35
- “(B) the storage provider becomes the owner of the vehicle under subsection (5):
- “(b) in the case of a Registrar, bailiff, or constable executing a warrant of confiscation under section 132 of the

- Sentencing Act 2002, the period during which an impounded vehicle may be seized—
- “(i) begins immediately on the impoundment of the vehicle; and
 - “(ii) ends when—
 - “(A) the vehicle is released under subsection (1); or
 - “(B) the storage provider becomes the owner of the vehicle under subsection (5).”
- 20 New heading and sections 98A and 98B inserted** 10
- The following heading and sections are inserted after section 98:
- “Prohibiting sale or disposal of motor vehicles*
- “98A Commissioner may prohibit sale or disposal of certain motor vehicles** 15
- “(1) This section applies if—
- “(a) a person is charged with an offence under this Act or any other enactment that would, if the person is convicted of the offence, permit or require a court to order the confiscation of the person’s motor vehicle under the Sentencing Act 2002; and
 - “(b) the Commissioner believes, on reasonable grounds in the circumstances, that the court would, if the person is convicted of the offence, order the confiscation of the person’s motor vehicle under the Sentencing Act 2002. 20
- “(2) If this section applies, the Commissioner may prohibit the sale or disposal of the motor vehicle by giving notice in the prescribed form to—
- “(a) the person who is charged; and
 - “(b) the registered ~~owner~~ person of the motor vehicle (if a person other than the person who is charged). 30
- “(3) A person notified under **subsection (2)** may not sell, or dispose of,—
- “(a) the motor vehicle specified in the notice;
 - “(b) any parts of the motor vehicle specified in the notice. 35
- “(4) The Commissioner—
- “(a) must cancel the notice given under **subsection (2)** if the person charged—

- “(i) does not own, or does not have a legal or equitable interest in, the motor vehicle specified in the notice; or
- “(ii) is not convicted of an offence that would permit or require a court to order the confiscation of the person’s motor vehicle under the Sentencing Act 2002; or 5
- “(iii) is convicted of such an offence but a court does not order the confiscation of the person’s motor vehicle under the Sentencing Act 2002; or 10
- “(b) may cancel the notice given under **subsection (2)** if—
 - “(i) the motor vehicle specified in the notice was stolen or converted at the time the person charged used it in a way that gave rise to the charge; or
 - “(ii) the owner of the vehicle specified in the notice 15 took all reasonable steps to prevent the person charged from using the vehicle in a way that gave rise to the charge; or
 - “(iii) the Commissioner is satisfied that prohibiting the sale of the motor vehicle specified in the notice would entail undue hardship to the person 20 charged, the owner of the motor vehicle, or any other person.

“98B Appeal of notice to District Court

- “(1) Any person who is given notice under **section 98A** may appeal to the District Court against the Commissioner’s decision to give the notice. 25
- “(2) The court must determine the appeal on 1 or more of the grounds specified in **section 98A(4)**.
- “(3) The court may confirm or cancel the notice. 30
- “(4) Every notice appealed against under this section continues in force pending the determination of the appeal, and no person is excused from complying with the notice on the ground that an appeal is pending.”

- 21 Appeal to Police against impoundment of vehicle**
Section 102(2) is amended by inserting “and lodged no later than 14 days after the date on which the vehicle is seized and impounded” after “declaration”.
- 22 Appeal against refusal of Police to direct release of impounded vehicle** 5
Section 110 is amended by inserting the following subsections after subsection (1):
- “(1A) If a person fails to lodge an appeal under section 102 within the time specified, the person may, if an enforcement officer agrees, appeal to a District Court. 10
- “(1B) An enforcement officer may agree in writing to an appeal under **subsection (1A)** if the enforcement officer is satisfied that there are exceptional circumstances that prevented the filing of the appeal within the time specified under section 102(2).” 15
- 23 Enforcement officers may enforce transport legislation**
Section 113(2)(a) is amended by omitting “name and address and date of birth,” and substituting “full name, full address, date of birth, occupation, and telephone number.”. 20
- 24 Power to require driver to stop and give name and address, etc**
Section 114(3)(b)(i) is amended by omitting “name and address and date of birth,” and substituting “full name, full address, date of birth, occupation, and telephone number.”. 25
- 25 Enforcement officers may give directions prohibiting driving of vehicles**
Section 115 is amended by inserting the following subsections after subsection (3):
- “(3A) When issuing a notice under subsection (3), an enforcement officer may direct the driver or owner of the vehicle to comply with any applicable requirements with respect to the noise emitted by the vehicle’s exhaust system if the enforcement of-

ficer believes on reasonable grounds that the vehicle does not comply with those requirements.

“(3B) If a vehicle is subject to a direction under subsection (1) or (3) on the grounds that the vehicle’s exhaust system exceeds any prescribed noise or decibel limits, the vehicle’s exhaust system must, before new evidence of vehicle inspection may be issued, be certified as complying with the relevant limits in accordance with any prescribed testing and certification procedure.” 5

26 New section 121A inserted 10

The following section is inserted after section 121:

“**121A Enforcement officer may give directions or immobilise vehicle if driver breaches certain licence conditions**

“(1) An enforcement officer may exercise all or any of the powers conferred by **subsection (2)** if the enforcement officer believes on reasonable grounds that a person who is for the time being in charge of a motor vehicle has, in relation to a prescribed class of motor vehicle, breached any condition of a class 1 or class 6 learner licence or a restricted licence held by that person. 15 20

“(2) The enforcement officer may—

“(a) forbid the person to drive a motor vehicle until that person is able to comply with the conditions of that person’s learner licence or restricted licence:

“(b) direct the person to drive to a specified place (for example, the person’s home): 25

“(c) take possession of all ignition or other keys of the vehicle, and for that purpose require the person to deliver up immediately all such keys:

“(d) take any steps that may be necessary to make the motor vehicle immobile or to move the motor vehicle to a place where it does not constitute a traffic hazard. 30

“(3) An enforcement officer may arrest without warrant a person who fails to comply with a power exercised under **subsection (2)**. 35

“(4) The power to take possession under **subsection (2)(c)** or to immobilise or move under **subsection (2)(d)** continues until—

- “(a) the driver is able to drive the vehicle without breaching the conditions of that driver’s licence; or
- “(b) another person is able to drive the vehicle without breaching—
 - “(i) that person’s licence: 5
 - “(ii) any enactment.”

27 New section 128C inserted

The following section is inserted after section 128B:

“128C Enforcement officer’s powers in respect of certain motor vehicles subject to service inspection and certification requirements 10

- “(1) This section applies if an enforcement officer has reasonable cause to suspect that a motor vehicle (other than a heavy motor vehicle) that is subject to a rule or regulation regarding in-service inspection and certification does not comply with that rule or regulation. 15
- “(2) If this section applies, an enforcement officer may direct the driver of that vehicle to—
 - “(a) drive the vehicle to a specified place for vehicle inspection; and 20
 - “(b) subject the vehicle to a vehicle inspection to determine whether it complies with any relevant enactment.
- “(3) Except where the driver has failed to stop when directed under **subsection (4)** or section 114, nothing in **subsection (2)** authorises an enforcement officer to direct a driver or person 25 in charge to travel a distance exceeding 5 km from the place where the direction is given to a specified place for vehicle inspection.
- “(4) The driver of a motor vehicle must, whenever directed by an enforcement officer, stop the vehicle and keep it stopped so 30 that an enforcement officer may determine whether or not to—
 - “(a) take any action under **subsection (2)**; or
 - “(b) complete the exercise of any other power conferred on an enforcement officer by this Act.”

27A Agency to maintain register of driver licences 35
Section 199(3) is amended by omitting “is specifically forbidden to drive a motor vehicle or”.

27B Regulations

Section 269(1) is amended by inserting the following paragraph after paragraph (s):

“(sa) setting the number of demerit points to be recorded in respect of an offence that concerns the driving of a motor vehicle:”. 5

Part 2

Consequential Transitional provision and consequential amendments

27C Transitional provision in relation to Transport (Vehicle and Driver Registration and Licensing) Act 1986 10

In the period commencing on the commencement of this section and ending immediately before the commencement of section 32(2) of the Land Transport Amendment Act 2009, any reference to a registered person in **sections 96(2A), 98(1), and 98A(2)** of the Land Transport Act 1998 (as inserted or substituted by this Act) must be read as a reference to a registered owner within the meaning of the Transport (Vehicle and Driver Registration and Licensing) Act 1986. 15

27D Transitional provision in relation to Land Transport (Offences and Penalties) Regulations 1999 20

In the period commencing on the commencement of this section and ending immediately before the commencement of section 32(2) of the Land Transport Amendment Act 2009, any reference to a registered person in the notice in Schedule 3 or 4 of the Land Transport (Offences and Penalties) Regulations 1999 (as substituted by this Act) must be read as a reference to a registered owner within the meaning of the Transport (Vehicle and Driver Registration and Licensing) Act 1986. 25

28 Acts consequentially amended 30

The Acts specified in Schedule 1 are consequentially amended in the manner set out in that schedule.

29 Regulations and rules consequentially amended

- (1) The regulations and rules specified in Part 1 of Schedule 2 are consequentially amended in the manner set out in that schedule.
 - (2) The regulations and rules specified in Part 2 of Schedule 2 are consequentially amended in the manner set out in that schedule. 5
-

Schedule 1

s 28

Acts consequentially amended

Land Transport Amendment Act 2009 (2009 No 17)

Item relating to Land Transport (Offences and Penalties) Regulations 1999 in Part 2 of Schedule 2: insert “full” after “person’s”.

5

Transport Act 1962 (1962 No 135)

Item relating to section 31(1)(b) in Part 9 of Schedule 2: omit.

Transport (Vehicle and Driver Registration and Licensing) Act 1986 (1986 No 6)

Section 35A: add:

10

“(3) The Governor-General may, by Order in Council, make regulations setting the number of demerit points to be recorded in respect of an offence under section 17 that concerns the driving of a motor vehicle.”

Schedule 2**s 29****Regulations and rules consequentially
amended****Land Transport (Driver Licensing and Driver Testing Fees)****Regulations 1999 (SR 1999/93)**

5

Heading to regulation 3: omit “or renew” and substitute “; renew, or reinstate”.

Regulation 3(1): omit “or renewal” and substitute “; renewal; or reinstatement”.

Part 1 of Schedule: add:

10

7.	3(1)(a)	Fee to reinstate a licence	65.00
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Land Transport (Driver Licensing) Rule 1999 (SR 1999/100)

Clause 14: omit “or renewal” and substitute “; replace; or reinstate”.

Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)

Regulation 4A: revoke and substitute:

15

“4A Certain proceedings not permitted

Despite anything in these regulations, a person may not be subject to proceedings with respect to a breach of—

“(a) clause 16(1)(a), (c)(ii), or (d)(ii), 18(1), or 57 of the Land Transport (Driver Licensing) Rule 1999 if that person is, with respect to the same facts, being proceeded against for a breach of section 31(1)(b) of the Act;

20

“(b) clause 8.9(1) of the Land Transport (Road User) Rule 2004 if that person is, with respect to the same facts,

25

Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)—*continued*

being proceeded against for a breach of another provision of a rule.²²

Item relating to the Land Transport Act 1998 in Schedule 1: insert in their appropriate numerical order:

22A(3A)	Contravention, without reasonable excuse, of a bylaw made under section 22AB or 22AC	1,000	-	150	-
31(1)(b)	Driving contrary to conditions of driver licence	-	-	400	400

Item relating to the Land Transport (Driver Licensing) Rule 1999 (91001) in Schedule 1: insert in their appropriate numerical order: 5

16(1)(a)	Drives without being properly accompanied	-	-	100	-
16(1)(c)(ii)	Drives between hours of 10 pm and 5 am	-	-	100	-
16(1)(d)(ii)	Drives in breach of various specified conditions	-	-	100	-
18(1)	Drives in breach of various specified conditions	-	-	100	-
57	Drives in breach of automatic transmission condition	-	-	100	-

Item relating to the Land Transport Rule: Vehicle Equipment 2004 (as amended by 32017/2) in Schedule 1: insert in their appropriate numerical order:

2.7(1)	Failure to fit motor vehicle with an exhaust system that is in good working order	500	500	150	150
2.7(8)	Failure to comply with relevant noise output standards	500	500	50	50
3.1(3)	Failure to comply with relevant noise output standards	500	500	50	50

Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)—*continued*

Part 1 of Schedule 2: insert in their appropriate numerical order:

1A: Land Transport (Driver Licensing) Rule 1999 (91001)	16(1)(a), (c)(ii) or (iii), or 18, or 57	Drives motor vehicle contrary to the conditions of his or her driver licence (other than conditions relating to display of 'L' plate) in a manner that breaches clause 16(1)(a), (c)(ii), or (iii), or (d)(ii), or 18, or 57	35
	16(1)(b), (c)(i), or (d)(i)	Failure to display 'L' plate as required	25
1B: Transport (Vehicle and Driver Registration and Licensing Act 1986	17	Use of unauthorised, deceptive, or obscured plates	25
4: Land Transport Rule: Vehicle Equipment 2004 (32017/2)	2.7(8) or 3.1(3)	Failure to operate a motor vehicle with an exhaust system that complies with relevant noise output standards	25

Paragraph 1 in Part 2 of the notice in Schedule 4: add “or released to a bailiff or constable executing a warrant to seize property under section 94 of the Summary Proceedings Act 1957”.

Paragraph 3 in Part 2 of the notice in Schedule 4: insert “If you decide to appeal to the Police, you must lodge your appeal with the Police within 14 days of the date on which the vehicle was seized and impounded. After that time, you may appeal to the District Court only with the agreement of the Police, who must be satisfied that exceptional circumstances exist for not appealing to the Police within the 14-day period.” after “to the District Court.”

Paragraph 5 in Part 2 of the notice in Schedule 4: add “You must lodge your appeal with the Police within 14 days of the date on which the vehicle was seized and impounded.”

Paragraph 12 in Part 2 of the notice in Schedule 4: add “In addition, the vehicle may be seized by a bailiff or constable executing a warrant to seize property under section 94 of the Summary Proceedings Act 1957 or by a Registrar, bailiff, or constable executing a warrant of confiscation under section 132 of the Sentencing Act 2002.”

Paragraph relating to personal property in the vehicle in the form in Schedule 5: add “or to a bailiff or constable executing a warrant

Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)—*continued*

to seize property under section 94 of the Summary Proceedings Act 1957²².

Paragraph relating to how to lodge an appeal in the form in Schedule 5: add “You must lodge your appeal with the Police within 14 days of the date on which the vehicle was seized and impounded.” 5

Paragraph relating to release of the vehicle in the form in Schedule 5: add “If you decide to appeal to the Police, you must lodge your appeal with the Police within 14 days of the date on which the vehicle was seized and impounded. After that time, you may only appeal to the District Court with the agreement of the Police, who must be satisfied that exceptional circumstances exist for not appealing to the Police within the 14-day period.” 10

Paragraph relating to release of the vehicle in the form in Schedule 5: add “In addition, the vehicle may be seized by a bailiff or constable executing a warrant to seize property under section 94 of the Summary Proceedings Act 1957 or by a Registrar, bailiff, or constable executing a warrant of confiscation under section 132 of the Sentencing Act 2002.” 15

Land Transport (Ordering a Vehicle off the Road) Notice 1999 (SR 1999/33) 20

Paragraph 2(b) of the form in Schedule 1: revoke and substitute:

“*(b) the vehicle’s exhaust system has been tested and certified under the low volume vehicle code as not exceeding the applicable decibel standard:

“*(c) a vehicle inspector, who is an employee of an authorised vehicle inspection agent, who does not repair vehicles in the course of business, has inspected the vehicle, is satisfied that the vehicle is no longer defective, and has issued new evidence of a vehicle inspection, which is displayed on the vehicle.” 25 30

Paragraph 2(b) of the form in Schedule 1A: revoke and substitute:

“*(b) the vehicle’s exhaust system has been tested and certified under the low volume vehicle code as not exceeding the applicable decibel standard (if the reason

**Land Transport (Ordering a Vehicle off the Road) Notice 1999
(SR 1999/33)**—*continued*

listed above includes the vehicle's alleged non-compliance with the rules regarding the level of exhaust noise emitted by the vehicle):

- “(e) a vehicle inspector, who is an employee of an authorised vehicle inspection agent, who does not repair vehicles in the course of business, has inspected the vehicle, is satisfied that the vehicle is no longer defective, and has issued new evidence of a vehicle inspection, which is displayed on the vehicle.”²²

Notice in Schedule 2: insert after paragraph 1: 10

“*1A In addition, an enforcement officer believes that the vehicle does not comply with the rules regarding the level of exhaust noise emitted by the vehicle. The vehicle's exhaust system must be tested and certified under the low volume vehicle code as not exceeding the applicable decibel standard before new evidence of vehicle inspection can be issued for the vehicle.” 15

Paragraph 2(a) of the notice in Schedule 2: insert “who does not repair vehicles in the course of business,” after “vehicle inspection agent,”.

Notice in Schedule 3: insert after paragraph 1: 20

“*1A In addition, I believe that the vehicle does not comply with the rules regarding the level of exhaust noise emitted by the vehicle. Under the provisions of **section 115(3B)** of the Land Transport Act 1998, the vehicle's exhaust system must be tested and certified under the low volume vehicle code as not exceeding the applicable decibel standard before new evidence of vehicle inspection can be issued for the vehicle.” 25

Paragraph 2(a) of the notice in Schedule 3: insert “who does not repair vehicles in the course of business,” after “vehicle inspection agent,”. 30

Land Transport Rule: Vehicle Equipment 2004 (as amended by 32017/2)

Clause 2.7(8)(a): omit “must,”.

Clause 2.7(8)(a)(i): insert “must” before “be less than”.

**Land Transport Rule: Vehicle Equipment 2004 (as amended by
32017/2)**—*continued*

Clause 2.7(8)(a)(ii): revoke and substitute:

“(ii) must not, if the noise output from the motor vehicle’s original exhaust system at the time of the vehicle’s manufacture is not known, exceed the maximum decibel level prescribed in Schedule 3, when tested in accordance with the low volume vehicle code.”⁵

Clause 3.1(3): add “as not exceeding the maximum decibel standard prescribed in Schedule 3”.

Schedule 2**s 29****Regulations and rules consequentially
amended****Part 1****Amendments that come into force on
1 December 2009**

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**Land Transport (Offences and Penalties) Regulations 1999 (SR
1999/99)**Regulation 4A: revoke and substitute:**“4A Certain proceedings not permitted**

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Despite anything in these regulations, a person may not be
subject to proceedings with respect to a breach of—“(a) clause 16(1)(a), (c)(ii), or (d)(ii), 18(1), or 57 of the
Land Transport (Driver Licensing) Rule 1999 if that
person is, with respect to the same facts, being pro-
ceeded against for a breach of section 31(1)(b) of the
Act:

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“(b) clause 8.9(1) of the Land Transport (Road User) Rule
2004 if that person is, with respect to the same facts,
being proceeded against for a breach of another provi-
sion of a rule.”

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Item relating to the Land Transport Act 1998 in Schedule 1: insert in
their appropriate numerical order:**22A(3A)** Contravention, without reasonable 1,000 = 150 =
excuse, of a bylaw made under
section 22AB or 22AC31(1)(b) Driving contrary to conditions of = = 400 400
driver licenceItem relating to the Land Transport (Driver Licensing) Rule 1999
(91001) in Schedule 1: insert in their appropriate numerical order:

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16(1)(a) Drives without being properly = = 100 =
accompanied16(1)(b) Fails to display L plate as required = = 100 =
for car16(1)(c)(i) Fails to display L plate as required = = 100 =
for moped16(1)(c)(ii) Drives between hours of 10 pm = = 100 =
and 5 am

Part 1—continued

Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)—continued

<u>16(1)(d)(i)</u>	<u>Fails to display L plate as required for motorcycle</u>	=	=	<u>100</u>	=
<u>16(1)(d)(ii)</u>	<u>Drives in breach of various specified conditions</u>	=	=	<u>100</u>	=
<u>18(1)</u>	<u>Drives in breach of various specified conditions</u>	=	=	<u>100</u>	=
<u>57</u>	<u>Drives in breach of automatic transmission condition</u>	=	=	<u>100</u>	=

Item relating to the Land Transport Rule: Vehicle Equipment 2004 (as amended by 32017/2) in Schedule 1: insert in their appropriate numerical order:

<u>2.7(1)</u>	<u>Failure to fit motor vehicle with an exhaust system that is in good working order</u>	<u>500</u>	<u>500</u>	<u>150</u>	<u>150</u>
<u>2.7(8)</u>	<u>Failure to comply with relevant noise output standards</u>	<u>500</u>	<u>500</u>	<u>50</u>	<u>50</u>
<u>3.1(3)</u>	<u>Failure to comply with relevant noise output standards</u>	<u>500</u>	<u>500</u>	<u>50</u>	<u>50</u>

Part 1 of Schedule 2: insert in their appropriate numerical order:

<u>1A. Land Transport (Driver Licensing) Rule 1999 (91001)</u>	<u>16(1)(a), (c)(ii) or (iii), or (d)(ii), 18, or 57</u>	<u>Drives motor vehicle contrary to the conditions of his or her driver licence (other than conditions relating to display of L plate) in a manner that breaches clause 16(1)(a), (c)(ii) or (iii), or (d)(ii), 18, or 57</u>	<u>35</u>
	<u>16(1)(b), (c)(i), or (d)(i)</u>	<u>Failure to display L plate as required</u>	<u>25</u>
<u>1B. Transport (Vehicle and Driver Registration and Licensing) Act 1986</u>	<u>17</u>	<u>Use of unauthorised, deceptive, or obscured plates</u>	<u>25</u>
<u>4. Land Transport Rule: Vehicle Equipment 2004 (32017/2)</u>	<u>2.7(8) or 3.1(3)</u>	<u>Failure to operate a motor vehicle with an exhaust system that complies with relevant noise output standards</u>	<u>25</u>

Part 1 of the notice in Schedule 4: omit “Driver’s name” and substitute “Driver’s full name”. 5

Part 1—continued

Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)—continued

Part 1 of the notice in Schedule 4: omit “Address” in each place where it appears and substitute in each case “Full address”.

Part 1 of the notice in Schedule 4: insert “Telephone number:” after “Occupation:”.

Part 1 of the notice in Schedule 4: insert “DOB: / / Occupation: Telephone number: Dlic. No:” above “Time of seizure: Date: / /”. 5

Paragraph 1 in Part 2 of the notice in Schedule 4: add “or released to a bailiff or constable executing a warrant to seize property under section 94 of the Summary Proceedings Act 1957”. 10

Paragraph 3 in Part 2 of the notice in Schedule 4: insert “If you decide to appeal to the Police, you must lodge your appeal with the Police within 14 days of the date on which the vehicle was seized and impounded. After that time, you may appeal to the District Court only with the agreement of the Police, who must be satisfied that exceptional circumstances exist for not appealing to the Police within the 14-day period.” after “to the District Court.” 15

Paragraph 5 in Part 2 of the notice in Schedule 4: add “You must lodge your appeal with the Police within 14 days of the date on which the vehicle was seized and impounded.” 20

Paragraph 12 in Part 2 of the notice in Schedule 4: add “In addition, the vehicle may be seized by a bailiff or constable executing a warrant to seize property under section 94 of the Summary Proceedings Act 1957 or by a Registrar, bailiff, or constable executing a warrant of confiscation under section 132 of the Sentencing Act 2002.” 25

Heading to paragraph 13 in Part 2 of the notice in Schedule 4: insert “AND PERSONAL PROPERTY” after “VEHICLE”.

Paragraph 13 in Part 2 of the notice in Schedule 4: insert “, and any personal property found in the vehicle, ” after “impounded vehicle”. 30

Paragraph 13(c) in Part 2 of the notice in Schedule 4: add “or any personal property found in the vehicle”.

Part 1—*continued*

Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)—*continued*

Preliminary paragraph relating to collection of data in the form in Schedule 5: omit “Address” in each place where it appears and substitute in each case “Full address”.

Preliminary paragraph relating to collection of data in the form in Schedule 5: omit “Operator’s name” and substitute “Operator’s full name”. 5

Preliminary paragraph relating to collection of data in the form in Schedule 5: insert “Telephone number:” below “Occupation:”.

Preliminary paragraph relating to collection of data in the form in Schedule 5: insert “Date of birth:” below “Address:”. 10

Preliminary paragraph relating to collection of data in the form in Schedule 5: insert “Telephone number:” below “Location:”.

Paragraph relating to personal property in the vehicle in the form in Schedule 5: add “or to a bailiff or constable executing a warrant to seize property under section 94 of the Summary Proceedings Act 1957”. 15

Paragraph relating to how to lodge an appeal in the form in Schedule 5: add “You must lodge your appeal with the Police within 14 days of the date on which the vehicle was seized and impounded.”

Paragraph relating to release of the vehicle in the form in Schedule 5: add the following paragraph: “If you decide to appeal to the Police, you must lodge your appeal with the Police within 14 days of the date on which the vehicle was seized and impounded. After that time, you may only appeal to the District Court with the agreement of the Police, who must be satisfied that exceptional circumstances exist for not appealing to the Police within the 14-day period. In addition, the vehicle may be seized by a bailiff or constable executing a warrant to seize property under section 94 of the Summary Proceedings Act 1957 or by a Registrar, bailiff, or constable executing a warrant of confiscation under section 132 of the Sentencing Act 2002.” 20
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Heading to paragraph relating to vehicle may be sold in the form in Schedule 5: insert “and personal property” after “Vehicle”.

Paragraph relating to vehicle may be sold in the form in Schedule 5: add “, and any personal property found in the vehicle,”.

Part 1—*continued***Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)—*continued***

Paragraph (c) in the paragraph relating to vehicle may be sold in the form in Schedule 5: insert “or any personal property found in the vehicle” after “the vehicle”.

Land Transport (Ordering a Vehicle off the Road) Notice 1999 (SR 1999/33)

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Paragraph 2(b) of the form in Schedule 1: revoke and substitute:

“(b) the vehicle’s exhaust system has been tested and certified under the low volume vehicle code as not exceeding the applicable decibel standard:

“(c) a vehicle inspector, who is an employee of an authorised vehicle inspection agent, who does not repair vehicles (other than to replace light bulbs and windscreen wiper blades) in the course of business, has inspected the vehicle, is satisfied that the vehicle is no longer defective, and has issued new evidence of a vehicle inspection, which is displayed on the vehicle.”

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Paragraph 2(b) of the form in Schedule 1A: revoke and substitute:

“(b) the vehicle’s exhaust system has been tested and certified under the low volume vehicle code as not exceeding the applicable decibel standard (if the reason listed above includes the vehicle’s alleged non-compliance with the rules regarding the level of exhaust noise emitted by the vehicle):

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“(c) a vehicle inspector, who is an employee of an authorised vehicle inspection agent, who does not repair vehicles (other than to replace light bulbs and windscreen wiper blades) in the course of business, has inspected the vehicle, is satisfied that the vehicle is no longer defective, and has issued new evidence of a vehicle inspection, which is displayed on the vehicle.”

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Notice in Schedule 2: insert after paragraph 1:

“*1A In addition, an enforcement officer believes that the vehicle does not comply with the rules regarding the level of exhaust

Part 1—continued

**Land Transport (Ordering a Vehicle off the Road) Notice 1999
(SR 1999/33)—continued**

noise emitted by the vehicle. The vehicle’s exhaust system
must be tested and certified under the low volume vehicle code
as not exceeding the applicable decibel standard before new
evidence of vehicle inspection can be issued for the vehicle.”

Paragraph 2(a) of the notice in Schedule 2: insert “who does not re-
pair vehicles (other than to replace light bulbs and windscreen wiper
blades) in the course of business” after “vehicle inspection agent”. 5

Notice in Schedule 3: insert after paragraph 1:

“*1A In addition, I believe that the vehicle does not comply with
the rules regarding the level of exhaust noise emitted by the
vehicle. Under the provisions of **section 115(3B)** of the
Land Transport Act 1998, the vehicle’s exhaust system must
be tested and certified under the low volume vehicle code as
not exceeding the applicable decibel standard before new evi-
dence of vehicle inspection can be issued for the vehicle.” 10 15

Paragraph 2(a) of the notice in Schedule 3: insert “who does not
repair vehicles in the course of business” after “vehicle inspection
agent”.

**Land Transport Rule: Vehicle Equipment 2004 (as amended
by 32017/2)** 20

Clause 2.7(8)(a): omit “must.”.

Clause 2.7(8)(a)(i): insert “must” before “be less than”.

Clause 2.7(8)(a)(ii): revoke and substitute:

“(ii) must not, if the noise output from the motor ve-
hicle’s original exhaust system at the time of the
vehicle’s manufacture is not known, exceed the
maximum decibel level prescribed in Schedule 3,
when tested in accordance with the low volume
vehicle code:” 25

Clause 3.1(3): add “as not exceeding the maximum decibel standard
prescribed in Schedule 3”. 30

Part 2Amendments that come into force on date
appointed by Order in Council**Land Transport (Driver Licensing and Driver Testing Fees)****Regulations 1999 (SR 1999/93)**

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Heading to regulation 3: omit “or renew” and substitute “, renew, or reinstate”.

Regulation 3(1): omit “or renewal” and substitute “, renewal, or reinstatement”.

Part 1 of Schedule: add:

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7. 3(1)(a) Fee to reinstate a licence 65.00

Land Transport (Driver Licensing) Rule 1999 (SR 1999/100)

Clause 11(1): omit “or replace” and substitute “, replace, or reinstate”.

Clause 14: omit “or replace” and substitute “, replace, or reinstate”.

Heading to clause 67A: insert “with respect to those who have been disqualified for more than 12 months” after “driver licence”.

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New clause 67B: insert after clause 67A:

“67B Reinstatement of driver licence after end of suspension or disqualification for a period of not more than 12 months

“(1) The Agency may, on the application of a person who has been disqualified for a period of not more than 12 months, or whose licence has been suspended due to demerit points, reinstate that person’s licence.

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“(2) A person is entitled to have his or her driver licence reinstated if—

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“(a) the person has served their disqualification or suspension, and there are no further subsequent periods of disqualification or suspension left to serve as of the date of application; and

“(b) the person complies with clause 67(2)(a); and

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“(c) in the case of an applicant of 75 years of age or over, the person produces a medical certificate in accordance with clause 44; and

“(d) the person passes the on-road safety test, if referred for the test under clause 44B; and

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**Land Transport (Enforcement Powers)
Amendment Bill**

Part 2—continued

**Land Transport (Driver Licensing) Rule 1999 (SR
1999/100)—continued**

- “(e) in the case of an applicant for a licence of any of Classes 2, 3, 4, or 5, the person produces a medical certificate in accordance with clause 44.
- “(3) A reinstated driver licence may be issued with an expiry date that is 10 years after the expiry date of the licence being reinstated if— 5
- “(a) the driver licence being reinstated is due to expire within 12 months of the date of the application, or has expired within the 5 years immediately preceding the date of application; and 10
- “(b) the applicant will be younger than 64 years on the date that the licence is due to expire.
- “(4) The expiry date specified on the reinstated licence must be the date of the person’s 75th birthday if—
- “(a) the driver licence being reinstated is due to expire within 12 months of the date of the application, or has expired within the 5 years immediately preceding the date of application; and 15
- “(b) the applicant will be older than 64 years, but younger than 75 on the date that the licence is due to expire. 20
- “(5) If a driver licence being reinstated has expired for more than 5 years immediately preceding the date of application, clause 67A(2) to (6) apply.”
- Clause 75(1): omit “The Agency must” and substitute “The Agency may, on the application of the holder of a driver licence or a driver identification card,”. 25

Legislative history

26 May 2009
2 June 2009

Introduction (Bill 40–1)
First reading and referral to Transport and Industrial
Relations Committee
