

**Reprint
as at 1 November 2013**



**Land Transport Amendment Act
2011**

Public Act 2011 No 31
Date of assent 22 July 2011
Commencement see section 2

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Note

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

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

This Act is administered by the Ministry of Transport.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Land Transport Amendment Act 2011.

2 Commencement

- (1) Sections 3, 6, 8, 9, and 11(1) and (2) come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates.

Section 2(2): sections 12 to 16 brought into force, on 1 August 2012, by the Land Transport Amendment Act 2011 Commencement Order 2012 (SR 2012/109).

Section 2(2): sections 4, 5, 7, 10, 11(3) to (5), and 17 brought into force, on 1 November 2013, by the Land Transport Amendment Act 2011 Commencement Order 2013 (SR 2013/403).

3 Principal Act amended

This Act amends the Land Transport Act 1998.

4 Interpretation

Section 2(1) is amended by inserting the following definition in its appropriate alphabetical order:

“**driver licence stop order** means an order imposed under section 91E”.

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

- (1) Section 30(1) is amended by inserting “or subsection (4B)” after “section 19”.
- (2) Section 30(4) is amended by omitting “or (4A)(b) or (c)” and substituting “(4A)(b) or (c), or (4B)”.
- (3) Section 30 is amended by inserting the following subsection after subsection (4A):

“(4B) A person on whom a driver licence stop order is imposed must,—

“(a) if the order is served in a way other than that described in section 91B(1)(a), deliver or post his or her driver licence to an employee or agent of the Ministry of Justice at an office of that Ministry or at a District Court:

“(b) if the order is served in the way described in section 91B(1)(a), surrender his or her driver licence to the employee or agent of the Ministry of Justice, or to the enforcement officer, who serves the order.”

6 Demerit points to be recorded by Agency

Section 88 is amended by repealing subsection (5) and substituting the following subsections:

“(5) For the purposes of subsections (1) and (4), the provisions of subsection (6) apply to an infringement offence in respect of which—

“(a) an infringement fee is paid to the enforcement authority, at the address for payment specified in the infringement notice, before a reminder notice is served or within 43 days after service of such a reminder notice; or

“(b) the enforcement authority enters into an arrangement to pay under section 21(3A) of the Summary Proceedings Act 1957.

- “(6) The provisions referred to in subsection (5) are as follows:
- “(a) the date on which the infringement notice was issued is to be treated as the date on which the offence was committed; and
 - “(b) a 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 or the date on which the arrangement to pay was entered into, as the case may be.”

7 New heading and sections 91A to 91H inserted

The following heading and sections are inserted after section 91:

“Driver licence stop orders

“91A Interpretation

In this section and in sections 91C to 91H, unless the context otherwise requires,—

“**defendant** means the person who is required to pay a traffic fine, and includes a young person within the meaning of the Children, Young Persons, and Their Families Act 1989

“**resolved**, in relation to a defendant’s obligation to pay a traffic fine, has the same meaning as in section 79 of the Summary Proceedings Act 1957

“**served personally**, in relation to a warning notice or a driver licence stop order, means served in the way described in section 91B(1)(a)

“**traffic fine**—

- “(a) means any amount of money that a person is for the time being obliged to pay under a sentence imposed or an order made, or deemed to be made, by a court in respect of a traffic offence, whether the amount payable under that sentence or order is described as a fine or as costs, levies, expenses, fees, reparation, or otherwise; and
- “(b) includes an offender levy imposed under section 105B of the Sentencing Act 2002 for a traffic offence and any prescribed costs, expenses, or fees payable in respect of the enforcement of any amount of money described in paragraph (a); but

“(c) does not include any amount of money adjudged or ordered to be paid in a civil proceeding

“**traffic offence** means—

“(a) any offence against this Act, the Transport Act 1962, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Road User Charges Act 2012, or the Land Transport Management Act 2003, or against any regulation, rule, or bylaw made under any of those Acts:

“(b) any offence against any regulation, rule, or bylaw made under any other Act if the offence relates to the use of motor vehicles or parking places or transport stations

“**warning notice** means a notice served under section 91D.

“**91B Ways in which warning notice or driver licence stop order must be served**

“(1) A warning notice or a driver licence stop order must be served on a defendant in 1 of the following ways:

“(a) by an employee or agent of the Ministry of Justice or an enforcement officer delivering it to the defendant personally or bringing it to the defendant’s notice if the defendant refuses to accept it:

“(b) by an employee or agent of the Ministry of Justice or an enforcement officer leaving it for the defendant, at his or her place of residence, with another person who appears to be of or over the age of 14 years:

“(c) by an employee or agent of the Ministry of Justice or an enforcement officer leaving it for the defendant, at the defendant’s place of business or place of work, with another person:

“(d) by the chief executive of the Ministry of Justice sending it to the defendant by prepaid post addressed to the defendant at the defendant’s last known place of residence or business or place of work:

“(e) if the defendant has a known electronic address, by the chief executive of the Ministry of Justice sending it to the defendant at that address in electronic form.

“(2) An endorsement on a copy of a warning notice or a driver licence stop order, or, where applicable, on a printout that

records an electronic document, stating the fact, mode, date and time of service and purporting to be signed by an employee or agent of the Ministry of Justice or by an enforcement officer is, in the absence of evidence to the contrary, sufficient proof of service of the notice or order.

- “(3) If a warning notice or driver licence stop order is served in the way described in subsection (1)(d), then, unless the contrary is shown, the notice or order is served when it would have been delivered in the ordinary course of post, and in proving service it is sufficient to prove that the letter concerned was properly addressed and posted.

“91C Liability to driver licence stop order

A defendant who is obliged to pay a traffic fine is liable to the imposition of a driver licence stop order if—

- “(a) the defendant has breached the provisions of an enactment or the terms of a sentence, an order, or a direction by failing to pay the traffic fine within the time provided or fixed by the enactment, sentence, order, or direction; and
- “(b) the defendant’s obligation to pay the fine is neither discharged, by payment in full or remission in full, nor resolved.

“91D Warning notice to be served on defendant

- “(1) If a defendant is liable to the imposition of a driver licence stop order, the chief executive of the Ministry of Justice must arrange for a warning notice to be served on the defendant.
- “(2) The notice must—
- “(a) explain why the defendant is liable to the imposition of a driver licence stop order and provide details of the unpaid traffic fine to which the liability relates; and
- “(b) if the defendant’s liability is related to the cancellation or revocation of a payment arrangement, deduction notice, or an attachment order, give the reason for the cancellation or revocation; and
- “(c) state that a driver licence stop order will not be imposed if, before the close of the 14th day after service of the notice, the unpaid traffic fine is paid in full, or remitted

in full, or the defendant's obligation to pay the fine is resolved.

- “(3) No driver licence stop order imposed on a person is invalid merely because a notice under subsection (1) was not received by that person or was received by that person after the driver licence stop order was imposed on the person.

“91E Imposition of driver licence stop order

- “(1) If, following the expiry of the period of 14 days after service of the notice sent to a defendant under section 91D, the defendant continues to be liable to a driver licence stop order because of the traffic fine described in that notice, the chief executive of the Ministry of Justice may impose a driver licence stop order on the defendant and issue it for service.
- “(2) The chief executive of the Ministry of Justice may, on 1 or more occasions, reissue a driver licence stop order that has previously been issued or reissued for service but that is not yet in effect.
- “(3) An order imposed under subsection (1) must be in a form approved by the chief executive of the Ministry of Justice and must state—
- “(a) the name of the defendant; and
 - “(b) the traffic fine in respect of which the order is imposed and the amount owing on that fine; and
 - “(c) that the order will stay in effect until the defendant's obligation to pay the traffic fine is discharged by payment in full or remission in full, or until it is resolved; and
 - “(d) that, immediately after the order takes effect, any driver licence held by the defendant, including any limited licence issued under section 105, is suspended until the driver licence stop order is cancelled in accordance with section 91G or terminated in accordance with section 91H; and
 - “(e) that if the order is served personally by an employee or agent of the Ministry of Justice or by an enforcement officer, the defendant must surrender any driver licence held by the defendant to that employee or agent or to that enforcement officer; and

- “(f) that if the order is served, but is not served personally, the defendant must post or deliver any driver licence held by the defendant to an employee or agent of the Ministry of Justice at an office of that Ministry or at a District Court; and
- “(g) if the defendant does not hold a current driver licence when the order takes effect, that—
 - “(i) the defendant is disqualified from holding or obtaining a driver licence (including any limited licence) until the driver licence stop order is cancelled in accordance with section 91G or terminated in accordance with section 91H; and
 - “(ii) if the defendant is authorised to obtain a limited licence, the limited licence may not be issued by the Agency until the driver licence stop order is so cancelled or terminated.
- “(4) When the order is issued for service, the defendant becomes liable to pay a single fee for the order, and that single fee—
 - “(a) is deemed to be imposed when the order is first issued, regardless of the number of times that the same order may subsequently be reissued; and
 - “(b) is not affected by the number of fines in respect of which the order is issued, so that if, for example, the order is issued for 2 fines, the fee is 1 fee and not 2 fees; and
 - “(c) is, for enforcement purposes, deemed to be a fine.
- “(5) The amount of the fee deemed to be imposed by subsection (4) is the same as that prescribed by regulations, made under the Summary Proceedings Act 1957, in respect of enforcement action taken under that Act to enforce a fine.

“91F Effect of driver licence stop order

- “(1) A driver licence stop order that is imposed on a defendant takes effect—
 - “(a) if the order is served personally on the defendant, immediately after the order is so served;
 - “(b) if the order is served, but is not served personally, on the defendant and the defendant posts or delivers the driver licence to an employee or agent of the Ministry of Just-

ice, immediately after that employee or agent receives the defendant's driver licence.

- “(2) A driver licence stop order that is in effect continues in effect until it is cancelled under section 91G or terminated under section 91H.
- “(3) Throughout the time that a driver licence stop order is in effect,—
- “(a) any driver licence held by the defendant on whom the order is imposed, including any limited licence held under section 105, is suspended; and
 - “(b) if the defendant on whom the order is imposed does not hold a current driver licence when the order takes effect, the defendant is disqualified from holding or obtaining a driver licence, including any limited licence under section 105; and
 - “(c) if the defendant's driver licence is suspended under paragraph (a), the defendant may not hold or obtain another driver licence, including any limited licence under section 105.
- “(4) The chief executive of the Ministry of Justice must notify the Agency and may notify the Commissioner of the driver licence stop order and of the date and time when it took effect.

“91G Cancellation of driver licence stop order

- “(1) The chief executive of the Ministry of Justice may, if there is good reason for doing so, cancel a driver licence stop order.
- “(2) Without limiting the generality of subsection (1), a good reason exists, for the purposes of that subsection, if the driver licence stop order—
- “(a) was imposed or served in error; or
 - “(b) is inconsistent with a judicial determination.
- “(3) The chief executive of the Ministry of Justice must give notice of the cancellation to the person on whom the order was imposed and to the Agency.
- “(4) The cancellation takes effect when it is shown on the national register maintained under section 199.
- “(5) When the Agency receives notice of the cancellation, the Agency must, if the defendant's driver licence was surren-

dered and forwarded to the Agency and the defendant is otherwise eligible to hold a current driver licence, replace the photographic driver licence and send it by ordinary post to the defendant's address recorded on the national register maintained under section 199.

- “(6) The chief executive of the Ministry of Justice must pay the Agency the prescribed fee for replacing the photographic driver licence in accordance with subsection (5).

“91H Termination of driver licence stop order if traffic fine paid or resolved

- “(1) The chief executive of the Ministry of Justice must terminate a driver licence stop order if the defendant's obligation to pay the traffic fine is discharged by payment in full or remission in full or if the defendant's obligation is resolved.
- “(2) The chief executive of the Ministry of Justice must give notice of the termination to the defendant and to the Agency.
- “(3) The termination takes effect when it is shown on the national register maintained under section 199.
- “(4) When the Agency receives notice of the termination, the Agency must, if the defendant's driver licence was surrendered and forwarded to the Agency and the defendant is otherwise eligible to hold a current driver licence, replace the photographic driver licence and send it by ordinary post to the defendant's address recorded on the national register maintained under section 199.
- “(5) The chief executive of the Ministry of Justice must pay the Agency the prescribed fee for replacing the photographic driver licence in accordance with subsection (4).”

Section 7: amended, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

8 Vehicle seized and impounded for 28 days in certain circumstances

Section 96(6) is amended by repealing paragraph (b) and substituting the following paragraph:

- “(b) the vehicle has not been—
“(i) released; or

- “(ii) seized under the Summary Proceedings Act 1957; or
- “(iii) confiscated under the Sentencing Act 2002.”

9 Impoundment of vehicle used in transport service

Section 96A(6) is amended by repealing paragraph (b) and substituting the following paragraph:

- “(b) the vehicle has not been—
 - “(i) released; or
 - “(ii) seized under the Summary Proceedings Act 1957; or
 - “(iii) confiscated under the Sentencing Act 2002.”

10 Persons who may apply to court for limited licence

Section 103(2) is amended by adding the following paragraph:

- “(f) a person in respect of whom a driver licence stop order is in effect.”

11 Court may make order authorising grant of limited licence

(1) Section 105 is amended by repealing subsection (6) and substituting the following subsection:

“(6) Subject to subsection (6A) and section 30(5), if the court makes an order under this section, the Agency must, subject to the provisions of this Act, issue to the person entitled to it a limited licence in accordance with the order even though—

- “(a) the person’s driver licence is suspended under section 90; or
- “(b) the person is disqualified from holding or obtaining a driver licence.”

(2) Section 105(7)(a) is amended by omitting “must be” and substituting “is”.

(3) Section 105 is amended by inserting the following subsection after subsection (7):

“(7A) If a driver licence stop order takes effect in respect of a person who holds a limited licence or is authorised to obtain a limited licence, then the limited licence—

- “(a) is revoked or may not be issued (as the case may be);
and
 - “(b) may, when a driver licence stop order is cancelled under section 91G or terminated under section 91H, be re-issued or issued (as the case may be) unless the person is otherwise disqualified from holding a limited licence.”
- (4) Section 105(8) is amended by inserting “photographic driver” after “his or her”.
- (5) Section 105 is amended by inserting the following subsection after subsection (8):
- “(8A) The holder of a limited licence that is revoked under subsection (7A) must immediately, and whether demand is made on the holder or not, surrender his or her photographic driver licence to an employee or agent of the Ministry of Justice or at an office of that Ministry or at the court.”

12 Powers of parking wardens

Section 128E(1) is amended by repealing paragraph (b) and substituting the following paragraph:

- “(b) may, in relation to enforcing the provisions of any stationary vehicle offence or special vehicle lane offence, direct any person on any road, and apparently in charge of or in any vehicle, to—
- “(i) provide the person’s full name and full address and give any other identifying particulars required as to the person’s identity (for example, the person’s date of birth, occupation, and telephone number):
 - “(ii) give any information that is within the person’s knowledge and that may lead to the identification of the driver or person in charge of any vehicle (for example, the other person’s full name, full address, date of birth, occupation, and telephone number):”.

13 Owner liability for moving vehicle offences

Section 133(4)(c) is amended by repealing subparagraph (i) and substituting the following subparagraph:

- “(i) identifying the driver, by giving—
 - “(A) the full name and full address of the driver; and
 - “(B) any other identifying particulars, so far as they are within the person’s knowledge, such as the driver’s date of birth, occupation, telephone number; or”.

14 Owner liability for stationary vehicle offences

Section 133A(4) is amended by repealing paragraph (c) and substituting the following paragraph:

- “(c) he or she has given the enforcement authority a statutory declaration that—
 - “(i) identifies another person who was, at the time of the alleged offence, lawfully entitled to possession, or was unlawfully in charge, of the vehicle by providing—
 - “(A) the full name and full address of the other person; and
 - “(B) any other identifying particulars of the other person that are known to the person making the declaration (for example, the other person’s date of birth, occupation, and telephone number); or
 - “(ii) establishes that the person making the declaration was unable to identify the other person after taking all reasonable steps to do so.”

15 Issue of infringement notice

Section 139 is amended by repealing subsections (4) and (5).

16 New section 140 substituted

Section 140 is repealed and the following section substituted:

“140 Contents of infringement and reminder notices

- “(1) An infringement notice must be in the form prescribed by regulations made under this Act and must contain—
 - “(a) details of the alleged infringement offence that are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and

- “(b) in the case of a speeding offence, the applicable speed limit and the speed at which it is alleged the driver was travelling at the time of the alleged offence; and
 - “(c) in the case of an infringement offence (other than a speeding offence) in respect of which a scale of infringement fees is prescribed having regard to the extent of the alleged offence, the extent of the infringement offence alleged; and
 - “(d) the amount of the infringement fee specified in respect of that offence; and
 - “(e) the address of the place at which the infringement fee may be paid; and
 - “(f) the time within which the infringement fee may be paid; and
 - “(g) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and
 - “(h) in the case of an alleged infringement offence that is a moving vehicle offence, a summary of the provisions of section 133 of this Act; and
 - “(i) a statement of the right of the person served with the notice to request a hearing; and
 - “(j) a statement of the consequences if the person served with the notice does not pay the infringement fee and does not make a request for a hearing; and
 - “(k) any other particulars as are prescribed.
- “(2) A reminder notice must—
- “(a) be in the form prescribed by regulations made under this Act; and
 - “(b) include the same particulars, or substantially the same particulars, as the infringement notice; and
 - “(c) in the case of an offence to which demerit points apply, include a statement that demerit points apply to the alleged offence.
- “(3) Different forms of infringement notices and reminder notices may be prescribed for different kinds of infringement offences.”

17 Agency to maintain register of driver licences

- (1) Section 199(2)(k) is amended by inserting “, including under any driver licence stop order,” after “held by the holder”.
 - (2) Section 199(2) is amended by inserting the following paragraph after paragraph (n):
“(na) information about any cancellation or termination of a driver licence stop order.”.
 - (3) Section 199(6)(b) is amended by omitting “to (n)” and substituting “to (na)”.
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Reprints notes

1 *General*

This is a reprint of the Land Transport Amendment Act 2011 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, will have the status of an official version once issued by the Chief Parliamentary Counsel under section 17(1) of that Act.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Land Transport Amendment Act 2011 Commencement Order 2013 (SR 2013/403)

Land Transport Amendment Act 2011 Commencement Order 2012 (SR 2012/109)

Road User Charges Act 2012 (2012 No 1): section 94
