



# Regulatory Systems (Transport) Amendment Act 2021

Public Act 2021 No 9  
Date of assent 30 March 2021  
Commencement see section 2

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##### New Part 3 of Schedule 1 of Land Transport Act 1998 inserted

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#### Schedule 3 28

##### New Part 3 of Schedule 1AA of Maritime Transport Act 1994 inserted

### The Parliament of New Zealand enacts as follows:

#### 1 Title

This Act is the Regulatory Systems (Transport) Amendment Act 2021.

#### 2 Commencement

This Act comes into force on 1 April 2021.

## Part 1

### Amendments to Land Transport Act 1998

#### 3 Amendments to Land Transport Act 1998

This Part amends the Land Transport Act 1998.

#### 4 Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

**class exemption** means an exemption granted under section 168D(1)(b)

**transport instrument** means an instrument made under section 168G

**5 Section 30ZA amended (Agency may grant exemptions or approve alternative fatigue management schemes)**

In section 30ZA(1), replace “section 166(2)” with “168D(3)”.

**6 Section 106 amended (General right of appeal to District Court)**

Replace section 106(5) with:

- (5) Subsection (1) does not apply—
- (a) if a right of appeal to the District Court against the decision concerned is conferred by any other section of this Act;
  - (b) to any decision made in relation to a class exemption, including a decision to grant (or not to grant), to amend, or to revoke a class exemption.

**7 Section 123 amended (Enforcement officer may seize and impound vehicle for up to 7 days in relation to certain offences)**

- (1) In the heading to section 123, replace “7 days” with “10 working days”.
- (2) In section 123(1) and (3), replace “7 days” with “10 working days”.

**8 Section 157 amended (Rules concerning roads)**

In section 157(e)(ii), after “Agency”, insert “or the Director”.

**9 Sections 166 and 166A repealed**

Repeal sections 166 and 166A.

**10 Section 167 amended (Regulations)**

After section 167(1)(mb), insert:

(mba) specifying for the purpose of section 168D(2)(b) those requirements of the regulations to which sections 168D and 168E apply:

**11 Section 168AAA amended (Regulations relating to register of land transport records)**

- (1) Replace section 168AAA(1)(b) and (c) with:
  - (b) if a bylaw, or a class of bylaws, is in a category of decisions or other things specified by regulations made under paragraph (a),—
    - (i) require or authorise a land transport record to be created for the bylaw or class of bylaws; and
    - (ii) prescribe any additional requirements relating to the creation of a land transport record for the bylaw or class of bylaws:
- (2) In section 168AAA(1)(j), replace “amends” with “creates, amends,”.
- (3) In section 168AAA(1)(k)(i), after “bylaw”, insert “(which consequences may include amending, replacing, or revoking the bylaw)”.

- (4) In section 168AAA(3)(a)(ii), replace “the purposes of subsection (1)(a), (b), or (c)” with “any of the purposes in subsection (1)(a) to (l)”.

## 12 New sections 168D to 168I and cross-headings inserted

After section 168C, insert:

### *Director may grant exemptions from rules and regulations*

#### **168D Director may grant exemptions**

- (1) The Director may, if the Director thinks it appropriate,—
- (a) exempt 1 or more named or specified persons, vehicles, vehicle components, rail vehicles, land transport-related services, or other things from 1 or more specified requirements in a regulation or rule made under this Part; or
  - (b) exempt any class of person, vehicle, vehicle component, rail vehicle, land transport-related service, or other thing from 1 or more specified requirements in a regulation or rule made under this Part.
- (2) The power under subsection (1)—
- (a) must not be used to provide an exemption from a requirement of a rule if the relevant rule specifically provides that no exemptions from the requirement may be granted; and
  - (b) may be used to allow an exemption from the requirement of a regulation only if the regulations specify under section 167(1)(mba) that this section and section 168E apply to that requirement.
- (3) The Director must not grant an exemption unless satisfied that—
- (a) the exemption is no broader than is reasonably necessary to address the matters that gave rise to the proposed exemption; and
  - (b) it is appropriate to grant the exemption considering—
    - (i) the Agency’s objective in section 94 of the Land Transport Management Act 2003; and
    - (ii) the need to maintain or improve land transport safety; and
    - (iii) whether the exemption supports the response to an emergency or other event; and
    - (iv) any other matter that the Director considers appropriate in the circumstances.
- (4) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other land transport Act.
- (5) The Director must notify the number and nature of exemptions granted under subsection (1)(a) in the *Gazette* at intervals not longer than 3 months.

- (6) A class exemption is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

#### **168E General provisions relating to exemptions**

- (1) This section applies to exemptions under section 168D.
- (2) The Director may—
- (a) grant an exemption on any terms and conditions that the Director thinks fit;
  - (b) amend or revoke an exemption;
  - (c) grant an exemption for an indefinite or limited period;
  - (d) replace an exemption either before or when it expires.
- (3) An exemption takes effect from the date specified in the exemption (which, for a class exemption, must not be a date earlier than the date on which the exemption is published under the Legislation Act 2019).
- (4) An exemption granted for a limited period expires (unless it is sooner replaced or revoked) on the date specified in the exemption.
- (5) If the term of an exemption is not specified in the exemption, it has effect for an indefinite period (or until it is replaced or revoked).
- (6) The breach of a term or condition of an exemption is a breach of the relevant provision in the regulation or rule to which the exemption relates (unless the terms of the exemption provide otherwise).

#### *Transport instruments*

#### **168F Regulations or rules may provide for transport instruments**

- (1) A regulation or rule made under a land transport Act may provide for any matter that could be included in that regulation or rule to be dealt with in a transport instrument.
- (2) A regulation or rule providing under subsection (1) for a matter to be dealt with in a transport instrument may be made only if,—
- (a) in the case of a regulation or rule to be made by the Governor-General, the Minister recommends it after being satisfied that the subject matter is appropriate to be in a transport instrument rather than in the regulation or rule itself; or
  - (b) in the case of a rule to be made by the Minister, the Minister is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself; or
  - (c) in the case of a rule to be made by the Agency, the Agency is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself.

- (3) A regulation or rule that provides for a transport instrument must specify who may make the instrument (the Agency, the Director, or the Secretary).
- (4) A regulation or rule that provides for a transport instrument may—
  - (a) provide for a particular transport instrument as amended or replaced from time to time;
  - (b) provide for any transport instrument that may be made for the purposes of that regulation or rule (even if the instrument has not been made at the time the regulation or rule is made);
  - (c) provide for any requirements in relation to the instrument or its creation.
- (5) A transport instrument provided for in a regulation or rule is part of that regulation or rule.
- (6) To avoid doubt,—
  - (a) a transport instrument has effect only to the extent that a regulation or rule made under a land transport Act refers to it; and
  - (b) a breach of a transport instrument is a breach of the regulation or rule that provides for the instrument.
- (7) If a regulation or rule provides for a transport instrument,—
  - (a) a transport instrument made under the regulation or rule is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
  - (b) the regulation or rule must contain a statement to that effect.

#### **168G Agency, Director, or Secretary may make transport instruments**

- (1) For the purposes of section 168F, the Agency, the Director, or the Secretary may make a transport instrument.
- (2) The Agency must not delegate the power to make, amend, or revoke a transport instrument to any person other than the Director or the Secretary.
- (3) The Secretary or the Director (as the case may be) must not delegate the power to make, amend, or revoke a transport instrument to any person.

#### **168H Procedures relating to transport instruments**

- (1) The Agency, the Director, or the Secretary must not make, amend, or revoke a transport instrument unless satisfied that all persons and organisations that the Agency, the Director, or the Secretary thinks appropriate have been consulted, having regard to the subject matter of the proposed instrument, amendment, or revocation.
- (2) The Agency, the Director, or the Secretary (as the case may be) may amend a transport instrument without complying with subsection (1) if satisfied that the amendment is to correct an error, for example, a grammatical or spelling error, or an error in numbering or cross-referencing.



**168I Incorporation of material in transport instruments**

- (1) Section 165 (which provides for the incorporation of material by reference) applies to transport instruments as if—
  - (a) transport instruments were rules; and
  - (b) references in that section to the person making the rule were references to the person making the transport instrument.
- (2) To avoid doubt, any material incorporated by reference in a transport instrument is to be treated for all purposes as part of the regulation or rule that provides for the instrument.

**13 Section 200B amended (Secondary legislation may require creation of land transport record)**

Replace section 200B(1) with:

- (1) Secondary legislation made under a land transport Act may require or authorise a land transport record to be created for a decision or other thing made or done in accordance with that secondary legislation.

**14 Sections 200C and 200D repealed**

Repeal sections 200C and 200D.

**15 Section 200F amended (Purpose of register)**

Replace section 200F(a) with:

- (a) to provide conclusive evidence of a land transport record; and

**16 Section 200G repealed (When Registrar must create land transport record)**

Repeal section 200G.

**17 Section 200H amended (Effect of land transport record)**

- (1) In the heading to section 200H, replace “Effect” with “Date of effect”.
- (2) Repeal section 200H(2).

**18 Section 200N amended (Registrar may notify record or changes to register)**

In section 200N(1), replace “amends” with “creates, amends,”.

**19 Section 200O replaced (Certified copy of information on register)**

Replace section 200O with:

**200O Evidentiary effect of information on register**

- (1) Subsection (2) applies to a document that—
  - (a) appears to be or to represent an image of a land transport record; and

- (b) does not appear to have been altered in any way.
- (2) Unless there is proof to the contrary, the document is conclusive evidence of the contents of the land transport record.
- (3) The Registrar must provide a copy, or a certified copy, of any information on the register to any person who applies for it and pays the prescribed fee or charge (if any).
- (4) A certified copy of information on the register purporting to be signed by the Registrar is conclusive evidence for all purposes that the information in the certified copy is entered in the register.
- (5) The copies referred to in subsections (3) and (4) may be provided in electronic form if the Registrar so determines.

**20 Section 222 amended (Saving of certain land transport documents)**

Repeal section 222(2).

**21 Schedule 1 amended**

- (1) In Schedule 1, clause 13, replace “section 66 of the Privacy Act 1993” with “section 69 of the Privacy Act 2020”.
- (2) In Schedule 1,—
  - (a) insert the Part set out in Schedule 1 of this Act as the last Part; and
  - (b) make all necessary consequential amendments.

## **Part 2**

### **Amendments to Maritime Security Act 2004**

**22 Amendments to Maritime Security Act 2004**

This Part amends the Maritime Security Act 2004.

**23 New sections 6A and 6B inserted**

After section 6, insert:

**6A Act is maritime Act**

- (1) This Act is a maritime Act under section 2(1) of the Maritime Transport Act 1994.
- (2) This has the effect that transport instruments may be made for the purposes of this Act under section 452B of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a maritime Act under that Act.

**6B Transitional, savings, and related provisions**

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

**24 Section 64 amended (Right of appeal to District Court)**

In section 64(1), replace “or section 43” with “section 43, or section 77 (other than any decision made in relation to a class exemption under section 77, including a decision to grant (or not to grant), to amend, or to revoke a class exemption)”.

**25 Section 76 amended (Regulations)**

- (1) In section 76(2)(a), replace “\$5,000” with “\$10,000”.
- (2) In section 76(2)(b), replace “\$30,000” with “\$50,000”.

**26 Section 77 replaced (Exemptions from regulations)**

Replace section 77 with:

**77 Exemptions from regulations**

- (1) The chief executive may, if the chief executive thinks it appropriate,—
  - (a) exempt 1 or more named or specified persons, ships, port facilities, or other things from 1 or more specified requirements in a regulation made under this Act; or
  - (b) exempt any class of person, ship, port facility, or other thing from 1 or more specified requirements in a regulation made under this Act.
- (2) The chief executive must not grant an exemption unless satisfied that—
  - (a) granting the exemption will not breach New Zealand’s obligations under any convention; and
  - (b) one of the following applies:
    - (i) the requirement has been substantially complied with and further compliance is unnecessary;
    - (ii) the manner in which the requirement has been, or is sought to be, fulfilled is as effective as or more effective than actual compliance with the requirement;
    - (iii) the requirement is clearly unreasonable or inappropriate in this particular case;
    - (iv) events have occurred that make the requirement unnecessary or inappropriate in this particular case; and
  - (c) the risk to security will not be significantly increased by granting the exemption.

- (3) The power under subsection (1) must not be used to provide an exemption from a requirement of a regulation if the relevant regulation specifically provides that no exemptions from the requirement may be granted.
- (4) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other maritime Act.
- (5) Sections 40AA(5), (7), and (8) and 40AB, and subpart 2 of Part 3 of Schedule 1AA of the Maritime Transport Act 1994 apply with any necessary modifications to exemptions granted under subsection (1), but, to avoid doubt, the definition of class exemption in section 40AA(8) of that Act must be read as referring to a class exemption granted under subsection (1)(b) of this section.
- (6) An exemption granted under subsection (1)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**27 Section 81 amended (Consequential amendments)**

In section 81(9) and (10), replace “the Schedule” with “Schedule 1”.

**28 Schedule amended**

In the Schedule heading, after “**Schedule**”, insert “**1**”.

**29 New Schedule 1AA inserted**

Insert the Schedule 1AA set out in Schedule 2 as the first schedule to appear after the last section of the Maritime Security Act 2004.

### **Part 3**

#### **Amendments to Maritime Transport Act 1994**

**30 Amendments to Maritime Transport Act 1994**

This Part amends the Maritime Transport Act 1994.

**31 Section 2 amended (Interpretation)**

In section 2(1), insert in their appropriate alphabetical order:

**maritime Act** means—

- (a) the Maritime Security Act 2004; and
- (b) the Maritime Transport Act 1994 (this Act); and
- (c) the Port Companies Act 1988; and
- (d) the Shipping Act 1987; and
- (e) the Ship Registration Act 1992; and
- (f) the Submarine Cables and Pipelines Protection Act 1996

**transport instrument** means an instrument made under section 452B

**32 Section 33B amended (Interpretation)**

In section 33B, replace the definition of **regional council** with:

**regional council** means—

- (a) a regional council within the meaning of section 5(1) of the Local Government Act 2002; and
- (b) a unitary authority within the meaning of section 5(1) of that Act; and
- (c) the Chatham Islands Council

**33 New sections 40AA to 40AC and cross-heading inserted**

After section 40, insert:

*Granting of exemptions from maritime rules*

**40AA Director may grant exemptions from maritime rules**

- (1) The Director may, if the Director thinks it appropriate,—
  - (a) exempt 1 or more named or specified persons, ships, maritime products, or other things from 1 or more specified requirements in a maritime rule; or
  - (b) exempt any class of person, ship, maritime product, or other thing from 1 or more specified requirements in a maritime rule.
- (2) The Director must not grant an exemption unless satisfied that—
  - (a) granting the exemption will not breach New Zealand's obligations under any convention; and
  - (b) one of the following applies:
    - (i) the requirement has been substantially complied with and further compliance is unnecessary;
    - (ii) the manner in which the requirement has been, or is sought to be, fulfilled is as effective as or more effective than actual compliance with the requirement;
    - (iii) the requirement is clearly unreasonable or inappropriate in this particular case;
    - (iv) events have occurred that make the requirement unnecessary or inappropriate in this particular case; and
  - (c) the risk of harm to the marine environment will not be significantly increased by granting the exemption; and
  - (d) the risk to safety will not be significantly increased by granting the exemption.
- (3) The power under subsection (1) must not be used to provide an exemption from a requirement of a rule if the relevant rule specifically provides that no exemptions from the requirement may be granted.

- (4) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other maritime Act.
- (5) The Director must notify the number and nature of exemptions granted under subsection (1)(a) in the *Gazette* at intervals not longer than 3 months.
- (6) A class exemption is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- (7) The Director’s reasons for granting a class exemption must be published with the exemption.
- (8) In this section and section 40AB, **class exemption** means an exemption granted under subsection (1)(b).

#### **40AB General provisions relating to exemptions**

- (1) This section applies to exemptions under section 40AA.
- (2) The Director may—
  - (a) grant an exemption on any terms and conditions that the Director thinks fit;
  - (b) amend or revoke an exemption;
  - (c) grant an exemption for an indefinite or limited period;
  - (d) replace an exemption either before or when it expires.
- (3) An exemption takes effect from the date specified in the exemption (which, for a class exemption, must not be a date earlier than the date on which the exemption is published under the Legislation Act 2019).
- (4) An exemption granted for a limited period expires (unless it is sooner replaced or revoked) on the date specified in the exemption.
- (5) If the term of an exemption is not specified in the exemption, it has effect for an indefinite period (or until it is replaced or revoked).
- (6) The breach of a term or condition of an exemption is a breach of the relevant provision in the rule to which the exemption relates (unless the terms of the exemption provide otherwise).

#### **40AC Appeal against decision on exemption under section 40AA(1)(a)**

A person in respect of whom any decision is taken to grant (or not to grant), to amend, or to revoke an exemption under section 40AA(1)(a) may appeal against that decision to the District Court under section 424.

#### **34 Section 47 repealed (Exemption)**

Repeal section 47.

#### **35 Section 67B amended (Other offences)**

In section 67B(1), replace “section 47” with “section 40AA”.

**36 Section 191 amended (Maritime levies)**

After section 191(2)(b), insert:

- (c) the facilitation of, or support for, seafarer welfare services.

**37 Section 201 amended (Regulations)**

- (1) In section 201(1)(c)(i), replace “\$5,000” with “\$10,000”.  
(2) In section 201(1)(c)(ii), replace “\$30,000” with “\$50,000”.

**38 Section 206 repealed (Dispensing powers of Director)**

Repeal section 206.

**39 Section 394 amended (Regulations)**

- (1) In section 394(1)(f)(i), replace “\$5,000” with “\$10,000”.  
(2) In section 394(1)(f)(ii), replace “\$30,000” with “\$50,000”.  
(3) In section 394(1)(h)(i), replace “\$5,000” with “\$10,000”.  
(4) In section 394(1)(h)(ii), replace “\$30,000” with “\$50,000”.

**40 Section 395 replaced (Exemptions)**

Replace section 395 with:

**395 Director may grant exemptions from marine protection rules**

- (1) The Director may, if the Director thinks it appropriate,—
- (a) exempt 1 or more named or specified persons, ships, marine protection products, offshore installations, pipelines, reception facilities, items of real or personal property, or other things from 1 or more specified requirements in a marine protection rule; or
  - (b) exempt any class of person, ship, marine protection product, offshore installation, pipeline, reception facility, real or personal property, or other thing from 1 or more specified requirements in a marine protection rule.
- (2) The Director must not grant an exemption unless satisfied that—
- (a) granting the exemption will not breach New Zealand’s obligations under any convention; and
  - (b) one of the following applies:
    - (i) the requirement has been substantially complied with and further compliance is unnecessary;
    - (ii) the manner in which the requirement has been, or is sought to be, fulfilled is as effective as or more effective than actual compliance with the requirement:

- (iii) the requirement is clearly unreasonable or inappropriate in this particular case;
- (iv) events have occurred that make the requirement unnecessary or inappropriate in this particular case; and
- (c) the risk to safety will not be significantly increased by granting the exemption; and
- (d) the granting of the exemption will not significantly increase the risk of harm,—
  - (i) for a marine protection rule on ballast water, to the environment, human health, property, or resources; or
  - (ii) for any other marine protection rule, to the marine environment.
- (3) The power under subsection (1) must not be used to provide an exemption from a requirement of a rule if the relevant rule specifically provides that no exemptions from the requirement may be granted.
- (4) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other maritime Act.
- (5) Sections 40AA(5), (7), and (8) and 40AB apply with any necessary modifications to exemptions granted under subsection (1), but, to avoid doubt, the definition of class exemption in section 40AA(8) must be read as referring to a class exemption granted under subsection (1)(b).
- (6) An exemption granted under subsection (1)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

#### **395A Appeal against decision on exemption under section 395(1)(a)**

A person in respect of whom any decision is taken to grant (or not to grant), to amend, or to revoke an exemption under section 395(1)(a) may appeal against that decision to the District Court under section 424.

#### **41 Section 429A amended (Membership of Authority)**

In section 429A(1), replace “5 members” with “at least 5, but no more than 7, members”.

#### **42 Section 443 amended (Delegation of Director’s functions or powers to employees of Authority)**

After section 443(4)(b), insert:

- (c) the power under section 452B to make, amend, or revoke a transport instrument (as prohibited by subsection (2) of that section).

#### **43 Section 444 amended (Delegation of Director’s functions or powers to persons outside Authority)**

After section 444(2)(e), insert:



- (f) the power under section 452B to make, amend, or revoke a transport instrument (as prohibited by subsection (2) of that section).

**44 Section 451 amended (Further general provisions in respect of rules)**

In section 451(4)(b), replace “Agency” with “Authority”.

**45 New sections 452A to 452D and cross-heading inserted**

After section 452, insert:

*Transport instruments*

**452A Regulations or rules may provide for transport instruments**

- (1) A regulation or rule made under a maritime Act may provide for any matter that could be included in that regulation or rule to be dealt with in a transport instrument.
- (2) A regulation or rule providing under subsection (1) for a matter to be dealt with in a transport instrument may be made only if,—
  - (a) in the case of a regulation or rule to be made by the Governor-General, the Minister recommends it after being satisfied that the subject matter is appropriate to be in a transport instrument rather than in the regulation or rule itself; or
  - (b) in the case of a rule to be made by the Minister, the Minister is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself; or
  - (c) in the case of a rule to be made by the Director, the Director is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself.
- (3) A regulation or rule that provides for a transport instrument must specify which of the persons listed in section 452B(3) may make the instrument.
- (4) A regulation or rule that provides for a transport instrument may—
  - (a) provide for a particular transport instrument as amended or replaced from time to time;
  - (b) provide for any transport instrument that may be made for the purposes of that regulation or rule (even if the instrument has not been made at the time the regulation or rule is made);
  - (c) provide for any requirements in relation to the instrument or its creation.
- (5) A transport instrument provided for in a regulation or rule is part of that regulation or rule.
- (6) To avoid doubt,—
  - (a) a transport instrument has effect only to the extent that a regulation or rule made under a maritime Act refers to it; and

- (b) a breach of a transport instrument is a breach of the regulation or rule that provides for the instrument.
- (7) If a regulation or rule provides for a transport instrument,—
- (a) a transport instrument made under the regulation or rule is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
  - (b) the regulation or rule must contain a statement to that effect.

#### **452B Specified person may make transport instruments**

- (1) For the purposes of a maritime Act, a specified person may make a transport instrument.
- (2) A specified person must not delegate the power to make, amend, or revoke a transport instrument.
- (3) In this section and section 452C, **specified person** means 1 or more of the following:
  - (a) the Authority;
  - (b) the Director;
  - (c) the Secretary;
  - (d) the Crown entity appointed as the Designated Authority under section 7 of the Maritime Security Act 2004.

#### **452C Procedures relating to transport instruments**

- (1) The specified person must not make, amend, or revoke a transport instrument unless satisfied that all persons and organisations that the specified person thinks appropriate have been consulted, having regard to the subject matter of the proposed instrument, amendment, or revocation.
- (2) The specified person may approve an amendment to a transport instrument without complying with subsection (1) if satisfied that the amendment is to correct an error, for example, a grammatical or spelling error, or an error in numbering or cross-referencing.

#### **452D Incorporation of material in transport instruments**

- (1) Section 452 (which provides for the incorporation of material by reference) applies to transport instruments as if—
  - (a) transport instruments were rules; and
  - (b) references in that section to the person making the rule were references to the person making the transport instrument.
- (2) To avoid doubt, any material incorporated by reference in a transport instrument is to be treated for all purposes as part of the regulation or rule that provides for the instrument.

**46 Schedule 1AA amended**

In Schedule 1AA,—

- (a) insert the Part set out in Schedule 3 of this Act as the last Part; and
- (b) make all necessary consequential amendments.

## **Part 4 Amendments to Railways Act 2005**

**47 Amendments to Railways Act 2005**

This Part amends the Railways Act 2005.

**48 New section 6A inserted (Act is land transport Act)**

After section 6, insert:

**6A Act is land transport Act**

- (1) This Act is a land transport Act under section 2(1) of the Land Transport Act 1998.
- (2) This has the effect that—
  - (a) transport instruments may be made for the purposes of this Act under section 168G of that Act; and
  - (b) enforceable undertakings may be given for the purposes of this Act in accordance with section 112A of that Act; and
  - (c) a land transport record may be required to be created for the purposes of this Act in accordance with section 200B of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a land transport Act under that Act.

**49 Section 57 amended (General provisions concerning making of rules)**

In section 57, replace “to 166” with “and 165”.

**50 New section 57A inserted (Exemptions from requirements in rules)**

After section 57, insert:

**57A Exemptions from requirements in rules**

- (1) The Director may, if the Director thinks it appropriate,—
  - (a) exempt 1 or more named or specified persons, rail vehicles, rail vehicle components, railway premises, or other things, or any named or specified railway infrastructure, from 1 or more specified requirements in a rule made under this Act; or

- (b) exempt any class of person, rail vehicle, rail vehicle component, railway premises, railway infrastructure, or other thing from 1 or more specified requirements in a rule made under this Act.
- (2) The power under subsection (1) must not be used to provide an exemption from a requirement of a rule if the relevant rule specifically provides that no exemptions from the requirement may be granted.
- (3) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other land transport Act.
- (4) Sections 168D(3) and (5) and 168E, and subpart 2 of Part 3 of Schedule 1, of the Land Transport Act 1998 apply with any necessary modifications to exemptions granted under subsection (1), but, to avoid doubt, the definition of class exemption in section 2(1) of the Land Transport Act 1998 must be read as referring to a class exemption granted under subsection (1)(b) of this section.
- (5) An exemption granted under subsection (1)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

#### **51 Section 59 amended (Regulations)**

- (1) After section 59(h), insert:
  - (ha) specifying for the purpose of section 60A(2) those requirements of the regulations to which section 60A applies:
- (2) In section 59, insert as subsection (2):
- (2) Regulations made under this section may incorporate material by reference and, for that purpose, section 165 of the Land Transport Act 1998 applies as if regulations were rules.

#### **52 New section 60A inserted (Exemptions from requirements in regulations)**

After section 60, insert:

#### **60A Exemptions from requirements in regulations**

- (1) The Director may, if the Director thinks it appropriate,—
  - (a) exempt 1 or more named or specified persons, rail vehicles, railway premises, or other things, or any named or specified railway infrastructure, from 1 or more specified requirements in regulations made under section 59; or
  - (b) exempt any class of person, rail vehicle, railway premises, railway infrastructure, or other thing from 1 or more specified requirements in regulations made under section 59.
- (2) This section may be used to allow an exemption from the requirement of a regulation only if the regulations specify under section 59(ha) that this section applies to that requirement.

- (3) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other land transport Act.
- (4) Sections 168D(3) and (5) and 168E, and subpart 2 of Part 3 of Schedule 1, of the Land Transport Act 1998 apply with any necessary modifications to exemptions granted under subsection (1), but, to avoid doubt, the definition of class exemption in section 2(1) of the Land Transport Act 1998 must be read as referring to a class exemption granted under subsection (1)(b) of this section.
- (5) An exemption granted under subsection (1)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

### **53 Section 68 amended (Appeal to District Court)**

After section 68(2), insert:

- (3) This section does not apply to any decision made in relation to a class exemption under section 60A, including a decision to grant (or not to grant), to amend, or to revoke a class exemption.

### **54 Schedule 1AA amended**

In Schedule 1AA, clause 3, replace “section 66 of the Privacy Act 1993” with “section 69 of the Privacy Act 2020”.

## **Part 5**

### **Amendments to other legislation**

#### **Subpart 1—Miscellaneous amendments to legislation**

### **55 Amendment to Civil Aviation Act 1990**

- (1) This section amends the Civil Aviation Act 1990.
- (2) In section 72A(2), replace “shall consist of 5 members” with “must have at least 5, but no more than 7, members”.

### **56 Amendment to Government Roding Powers Act 1989**

- (1) This section amends the Government Roding Powers Act 1989.
- (2) After section 3, insert:

### **3A Act is land transport Act**

- (1) This Act is a land transport Act under section 2(1) of the Land Transport Act 1998.
- (2) This has the effect that—
  - (a) transport instruments may be made for the purposes of this Act under section 168G of that Act; and
  - (b) enforceable undertakings may be given for the purposes of this Act in accordance with section 112A of that Act; and

- (c) a land transport record may be required to be created for the purposes of this Act in accordance with section 200B of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a land transport Act under that Act.

### 57 Amendments to Land Transport Management Act 2003

- (1) This section amends the Land Transport Management Act 2003.
- (2) After section 7B, insert:

#### 7C Act is land transport Act

- (1) This Act is a land transport Act under section 2(1) of the Land Transport Act 1998.
- (2) This has the effect that—
  - (a) transport instruments may be made for the purposes of this Act under section 168G of that Act; and
  - (b) enforceable undertakings may be given for the purposes of this Act in accordance with section 112A of that Act; and
  - (c) a land transport record may be required to be created for the purposes of this Act in accordance with section 200B of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a land transport Act under that Act.
- (3) In section 9(1), after “users of pleasure craft (within the meaning of section 2(1) of the Maritime Transport Act 1994)”, insert “and users of aircraft in recreational aviation”.
- (4) After section 9(1)(c), insert:
  - (ca) recreational aviation safety and safety awareness activities and services; and
  - (cb) aviation safety services that benefit recreational aviation; and
- (5) In section 9(1)(d), replace “(c)” with “(cb)”.
- (6) After section 9(5), insert:
  - (6) In subsection (1), **recreational aviation** means the use of aircraft for private sport and recreation operations, including flight training.
- (7) In section 98(1), replace “6, but no more than 8” with “7, but no more than 9”.
- (8) In section 109A(3) and (4), replace “Privacy Act 1993” with “Privacy Act 2020”.
- (9) In section 109B(5), replace “Privacy Act 1993” with “Privacy Act 2020”.
- (10) In Schedule 1AA, clause 7, replace “section 66 of the Privacy Act 1993” with “section 69 of the Privacy Act 2020”.

**58 Amendment to Port Companies Act 1988**

- (1) This section amends the Port Companies Act 1988.
- (2) After section 3, insert:

**3A Act is maritime Act**

- (1) This Act is a maritime Act under section 2(1) of the Maritime Transport Act 1994.
- (2) This has the effect that transport instruments may be made for the purposes of this Act under section 452B of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a maritime Act under that Act.

**59 Amendment to Road User Charges Act 2012**

- (1) This section amends the Road User Charges Act 2012.
- (2) After section 6, insert:

**6A Act is land transport Act**

- (1) This Act is a land transport Act under section 2(1) of the Land Transport Act 1998.
- (2) This has the effect that—
  - (a) transport instruments may be made for the purposes of this Act under section 168G of that Act; and
  - (b) enforceable undertakings may be given for the purposes of this Act in accordance with section 112A of that Act; and
  - (c) a land transport record may be required to be created for the purposes of this Act in accordance with section 200B of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a land transport Act under that Act.

**60 Amendment to Ship Registration Act 1992**

- (1) This section amends the Ship Registration Act 1992.
- (2) After section 5, insert:

**5A Act is maritime Act**

- (1) This Act is a maritime Act under section 2(1) of the Maritime Transport Act 1994.
- (2) This has the effect that transport instruments may be made for the purposes of this Act under section 452B of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a maritime Act under that Act.

**61 Amendment to Shipping Act 1987**

- (1) This section amends the Shipping Act 1987.
- (2) After section 2, insert:

**2A Act is maritime Act**

- (1) This Act is a maritime Act under section 2(1) of the Maritime Transport Act 1994.
- (2) This has the effect that transport instruments may be made for the purposes of this Act under section 452B of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a maritime Act under that Act.

**62 Amendment to Submarine Cables and Pipelines Protection Act 1996**

- (1) This section amends the Submarine Cables and Pipelines Protection Act 1996.
- (2) After section 5, insert:

**5A Act is maritime Act**

- (1) This Act is a maritime Act under section 2(1) of the Maritime Transport Act 1994.
- (2) This has the effect that transport instruments may be made for the purposes of this Act under section 452B of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a maritime Act under that Act.



**Schedule 1**  
**New Part 3 of Schedule 1 of Land Transport Act 1998 inserted**

s 21

**Part 3**  
**Provisions relating to Regulatory Systems (Transport) Amendment Act 2021**

Subpart 1—Pre-existing exemptions

**15 Interpretation**

In this subpart, **amendment Act** means the Regulatory Systems (Transport) Amendment Act 2021.

**16 Pre-existing exemptions from requirements in rules made under Part 11**

Any exemption granted under section 166 or 166A before section 9 of the amendment Act comes into force continues to have effect as if that section had not come into force.

Subpart 2—Provisions relating to Legislation Act 2019

**17 Application of subpart**

This subpart applies until the main commencement date (as defined in clause 2 of Schedule 1 of the Legislation Act 2019).

**18 Exemptions granted under section 168D**

*Class exemptions*

- (1) A class exemption is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (2) As soon as practicable after granting a class exemption, the Director must—
  - (a) notify the exemption in the *Gazette* (and include the text of the exemption); and
  - (b) publish the exemption on the Agency's Internet site.
- (3) The reference in section 168E(3) to the date on which the exemption is published under the Legislation Act 2019 is to be read as a reference to the date on which the exemption is notified under subclause (2)(a).

*Other exemptions*

- (4) An exemption granted under section 168D(1)(a) is not a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and

does not have to be presented to the House of Representatives under section 41 of that Act.

**19 Transport instruments**

- (1) A transport instrument is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (2) The Agency, the Director, or the Secretary (as the case may be) must, as soon as practicable after making, amending, or revoking a transport instrument,—
  - (a) notify the instrument, amendment, or revocation in the *Gazette* (but need not incorporate the text of the instrument, amendment, or revocation); and
  - (b) ensure that a copy of the instrument, amendment, or revocation is—
    - (i) published on the Agency’s Internet site; and
    - (ii) available for purchase in hard copy at a reasonable charge.

**Schedule 2**  
**New Schedule 1AA inserted into Maritime Security Act 2004**

s 29

**Schedule 1AA**  
**Transitional, savings, and related provisions**

s 6B

**Part 1**  
**Provisions relating to Regulatory Systems (Transport) Amendment Act 2021**

**1 Interpretation**

In this Part, **amendment Act** means the Regulatory Systems (Transport) Amendment Act 2021.

**2 Pre-existing exemptions from regulations made under section 77**

Any exemption granted under section 77 before section 26 of the amendment Act comes into force continues to have effect as if that section had not come into force.

**Schedule 3**  
**New Part 3 of Schedule 1AA of Maritime Transport Act 1994**  
**inserted**

s 46

**Part 3**  
**Provisions relating to Regulatory Systems (Transport) Amendment**  
**Act 2021**

Subpart 1—Pre-existing exemptions

**6 Interpretation**

In this subpart, **amendment Act** means the Regulatory Systems (Transport) Amendment Act 2021.

**7 Pre-existing exemptions from regulations made under sections 47 and 395**

- (1) Any exemption granted under section 47 before section 34 of the amendment Act comes into force continues to have effect as if that section had not come into force.
- (2) Any exemption granted under section 395 before section 40 of the amendment Act comes into force continues to have effect as if that section had not come into force.

Subpart 2—Provisions relating to Legislation Act 2019

**8 Application of subpart**

This subpart applies until the main commencement date (as defined in clause 2 of Schedule 1 of the Legislation Act 2019).

**9 Bylaws for Crown harbours and facilities**

If a responsible Minister makes bylaws under section 33W, the bylaws must be—

- (a) notified in the *Gazette*; and
- (b) published on an Internet site maintained by or on behalf of,—
  - (i) if they are made by the Minister of Conservation, the Department of Conservation; or
  - (ii) if they are made by the Minister of Defence, the New Zealand Defence Force; or
  - (iii) if they are made by the Minister of Local Government, the Department of Internal Affairs.

**10 Exemptions granted under section 40AA or 395***Class exemptions*

- (1) An exemption granted under section 40AA(1)(b) or 395(1)(b) is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (2) As soon as practicable after granting a class exemption, the Director must—
  - (a) notify the exemption in the *Gazette* (and include the text of the exemption); and
  - (b) publish the exemption on the Authority’s Internet site.
- (3) The reference in section 40AB(3) to the date on which the exemption is published under the Legislation Act 2019 is to be read as a reference to the date on which the exemption is notified under subclause (2)(a).

*Other exemptions*

- (4) An exemption granted under section 40AA(1)(a) or 395(1)(a) is not a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.

**11 Transport instruments**

- (1) A transport instrument is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (2) A specified person who makes, amends, or revokes a transport instrument must, as soon as practicable after doing so,—
  - (a) notify the instrument, amendment, or revocation in the *Gazette* (but need not incorporate the text of the instrument, amendment, or revocation); and
  - (b) ensure that a copy of the instrument, amendment, or revocation is—
    - (i) published on the Authority’s Internet site; and
    - (ii) available for purchase in hard copy at a reasonable charge.

**Legislative history**

14 February 2020	Introduction (Bill 196–1)
19 March 2020	First reading and referral to Transport and Infrastructure Committee
3 August 2020	Reported from Transport and Infrastructure Committee (Bill 196–2)
11 March 2021	Second reading
23 March 2021	Committee of the whole House, third reading
30 March 2021	Royal assent

This Act is administered by the Ministry of Transport.