



## Land Transport (Infringement and Reminder Notices) Amendment Regulations 2018

Patsy Reddy, Governor-General

### Order in Council

At Wellington this 14th day of May 2018

Present:

The Right Hon Jacinda Ardern presiding in Council

These regulations are made under section 167 of the Land Transport Act 1998 on the advice and with the consent of the Executive Council.

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## Regulations

### 1 Title

These regulations are the Land Transport (Infringement and Reminder Notices) Amendment Regulations 2018.

### 2 Commencement

These regulations come into force on 18 June 2018.

### 3 Principal regulations

These regulations amend the Land Transport (Infringement and Reminder Notices) Regulations 2012 (the **principal regulations**).

### 4 Regulation 3 amended (Infringement offences)

In regulation 3, after “other than”, insert “a public transport service offence,”.

### 5 New regulation 3A inserted (Public transport service offences)

After regulation 3, insert:

#### 3A Public transport service offences

- (1) An infringement notice for a public transport service offence must be in the form set out in Schedule 1A.
- (2) In these regulations, **public transport service offence** means an offence against section 79M(2) of the Land Transport Act 1998.

### 6 Regulation 9 amended (Reminder notice)

In regulation 9(1), after “Schedule 1,”, insert “1A,”.

### 7 New Schedule 1A inserted

After Schedule 1, insert the Schedule 1A set out in the Schedule of these regulations.

### 8 Schedule 4 amended

- (1) In Schedule 4, form, replace paragraphs 5 to 8 and the headings above paragraphs 5 and 7 with:

#### **Information for owner of vehicle (or registered person): presumed actions and defence**

- 5 If you are the owner of the vehicle involved in the alleged offence or if you are registered in respect of the vehicle (whether or not you were the driver, person in charge, or user of the vehicle at the time of the alleged offence), proceedings may be taken against you. In those proceedings, the actions of the person who allegedly committed the offence are presumed to be your actions, but you can establish a defence by proving, for

example, that the alleged offence was committed by someone other than yourself. See section 133A of the Land Transport Act 1998.

- (2) In Schedule 4, form, replace the paragraph following the heading “**Next steps**” with:

If you do not request a hearing and do not pay the infringement fee (including any towage fees) within 28 days after the service of this notice, a reminder notice may be sent to you. Please note that, in some circumstances, if you do not receive a reminder notice you may still become liable to pay a fine and court costs.

## 9 Schedule 5 amended

- (1) In Schedule 5, form, before item 1 in the list of offences, insert:

\*1AA A public transport service offence

- (2) In Schedule 5, form, after paragraph 12, insert:

### **Defence relating to public transport service offences**

13 You have a defence if you made reasonable attempts to pay the fare and there were no available means of paying.

## Schedule New Schedule 1A inserted

r 7

### Schedule 1A Public transport service offence infringement notice

r 3A

Form

Public transport service offence infringement notice

*(Issued under the Land Transport Act 1998)*

Notice No:

Enforcement authority:

Address for correspondence and payment:

**To:**

Full name: *[first name(s), family name]*

Full address:

Occupation:

Date of birth:

Sex:

Telephone number:

### **Alleged infringement offence(s) details**

Date:

Time:

Day of week:

Service number:

Service operator:

Locality:

<b>Offence No</b>	<b>Offence</b>	<b>Infringement fee payable (\$)</b>
1		
2		
3		

### **Payment of infringement fee(s)**

The infringement fee(s) is/are payable within 28 days after: [*Earliest date notice delivered personally or posted*]

### **Procedures for payment of penalty**

[*Payment verification stamp*]

[*Specify method(s) of payment.*]

### ***Information***

If there is anything in these notes you do not understand, you should consult a lawyer.

### **Payment**

- 1 If you pay the infringement fee(s) within 28 days after the service of this notice, no further enforcement action will be taken against you.

### **Defence**

- 2 You will have a complete defence against proceedings relating to an alleged offence if the infringement fee is paid to the enforcement authority and received at the address shown on this notice within 28 days after the service of this notice.
- 3 Late payment, or payment made to any other address, will not constitute a defence to proceedings in respect of the alleged offence.

### **Further action**

- 4 You must write to the enforcement authority if you wish to do any of the following things:

- (a) raise a matter concerning the circumstances of an alleged offence for consideration by the enforcement authority; or
- (b) deny liability for the alleged offence and request a court hearing; or
- (c) admit liability for the offence, but have the court consider submissions as to penalty or otherwise. In your letter, you must request a hearing, admit liability in respect of the offence, and set out the submissions that you would like the court to consider.

You must ensure that your request is received on or before the last day for payment.

If you deny liability and request a court hearing, the enforcement authority will then, if it decides to commence court proceedings in respect of the alleged offence, serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court.

If you admit liability but wish to have the court consider submissions, the enforcement authority will then, if it decides to commence court proceedings in respect of the offence, file your letter with the court. You are not entitled to make oral submissions to the court.

If the court finds you guilty or you make submissions, costs will be imposed in addition to any penalty.

Each offence identified by a number is a separate infringement offence. You may decide what to do in respect of each alleged offence individually, and may act in the same way in respect of all alleged offences or in different ways in respect of different alleged offences.

If it is not clear which alleged offence any payment relates to, your payment may be treated as relating to the alleged offences in the order in which they are set out on this notice.

### **Next steps**

If you do not request a hearing and you do not pay the infringement fee within the 28 days after the service of this notice, a reminder notice will be sent to you. Please note that in some circumstances if you do not receive a reminder notice you may still become liable to pay a fine and court costs.

**Note:** All payments, queries, and correspondence regarding this infringement notice must be directed to the enforcement authority at the address shown on this notice. When writing, please include the date of the alleged infringement offence and your address for replies.

Michael Webster,  
Clerk of the Executive Council.

## Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 18 June 2018, amend the Land Transport (Infringement and Reminder Notices) Regulations 2012 (the **principal regulations**).

The principal regulations prescribe infringement notices and reminder notices for the purposes of the Land Transport Act 1998 (the **Act**).

*Regulations 4 to 7 and 9—*

- insert *new Schedule 1A* in the principal regulations, which contains the prescribed form for public transport service offence infringement notices; and
- make consequential changes (including to Schedule 5).

*Regulation 8* amends Schedule 4 (stationary vehicle offence infringement notice) of the principal regulations by—

- replacing the lengthy summary of section 133A (owner liability for stationary vehicle offences) of the Act with an outline of that process (*see* section 140(1)(ha) of the Act); and
- replacing the paragraph relating to the service of a reminder notice in the event of non-payment of the infringement fee with a paragraph that more accurately reflects the process under section 21(2) of the Summary Proceedings Act 1957.

## Regulatory impact assessment

The Ministry of Transport produced a regulatory impact assessment on 12 September 2016 to help inform the decisions taken by the Government relating to the contents of this instrument that relate to public transport offences.

A copy of this regulatory impact assessment can be found at—

- <http://www.transport.govt.nz/assets/Uploads/About/Documents/RIS-Proposal-to-Manage-Fare-Evasion-on-Public-Transport-Services.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 17 May 2018.

These regulations are administered by the Ministry of Transport.