

# **Freedom Camping (Infringement Offences and Other Matters) Amendment Bill**

Member's Bill

## **Explanatory note**

### **General policy statement**

Freedom camping has a long history in New Zealand – lots of Kiwis and many of our international visitors love it. New Zealand is primarily a touring destination, and freedom camping is one of the many ways that people choose to experience our country.

But there are a lot more people freedom camping than there used to be and this has created some issues. New Zealanders are understandably frustrated by the poor behaviour of some freedom campers.

This bill updates freedom camping legislation to make it easier to crack down on some of the poor behaviour and make the rules more consistent and easier for people to follow:

- It retains the current definition of freedom camping in the Freedom Camping Act:
- Freedom camping should remain an option for New Zealanders and overseas visitors, but with more consistent restrictions:
- Non-self-contained freedom camping will be restricted to areas within 200 metres of toilet facilities:
- Additional government organisations will have powers to restrict freedom camping on land that they control or manage:
- Stronger enforcement of fines for those breaking the rules.

### **Clause by clause analysis**

*Clause 1* is the title clause.

*Clause 2* provides for the Bill to come into force 6 months after it receives the Royal assent.

*Clause 3* identifies the Freedom Camping Act 2011 as the Act being amended by the Bill (the **principal Act**).

*Clause 4* amends section 3 of the principal Act to provide the extension of the Act's regime to land administered by LINZ and NZTA.

*Clause 6* inserts new *sections 7A and 7B* to define the land administered by LINZ and NZTA that the Bill will apply to.

*Clauses 8 and 10* prohibit freedom camping in areas that are not within 200 metres of a public toilet, except where a self-contained vehicle is being used.

*Clause 11* inserts *new subparts 3 and 4* to Part 2 of the principal Act to provide for regulation of freedom camping on land administered by LINZ and NZTA.

*Clause 15* replaces section 28 of the principal Act, with a *new section 28*, which provides for an accelerated infringement notice procedure for infringement offences under the Act, and a *new section 28A* that requires an enforcement officer to transfer an infringement notice issued to the hirer of a vehicle to the rental company with which the hirer has or had a rental service agreement where the hirer does not pay the infringement fee immediately.

*Clause 20* inserts *new sections 33A and 33B* into the principal Act to provide for the appointment of enforcement officers by LINZ and NZTA.

*Clause 22* inserts a *new section 36A* into the principal Act to give enforcement officers the power to enter and inspect a vehicle that the officer has reasonable grounds to believe is being used for freedom camping in an area that is more than 200 metres from a public toilet to determine whether the freedom camping is being undertaken using a self-contained vehicle.

*Maureen Pugh*

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

**1 Title**

This Act is the Freedom Camping (Infringement Offences and Other Matters) Amendment Act **2021**.

**2 Commencement**

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This Act comes into force on the day that is 6 months after the date on which it receives the Royal assent.

**3 Principal Act**

This Act amends the Freedom Camping Act 2011 (the **principal Act**).

**4 Section 3 amended (Outline of Act)**

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(1) In section 3(2)(b) replace “Wildlife Act 1953.” with “Wildlife Act 1953; and”.

(2) After section 3(2)(b), insert:

(c) on land controlled or managed by LINZ; and

(d) on land controlled or managed by NZTA under the Land Transport Management Act 2003 and the Government Roding Powers Act 1989.

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(3) In section 3(3) replace “by the Department.” with “by the Department, LINZ, or NZTA.”

(4) Replace section 3(6) with:

(6) Part 2 provides for the regulation of freedom camping, which is permitted under this Part unless it is restricted or prohibited in accordance with the provisions of one of the 4 subparts, which deal with the following matters:

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(a) Subpart 1 deals with freedom camping on land under the control of local authorities:

(b) Subpart 2 deals with freedom camping on the land referred to in subsection (2)(b):

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(c) Subpart 3 deals with freedom camping on the land referred to in **subsection (2)(c)**:

(d) Subpart 4 deals with freedom camping on the land referred to in **subsection (2)(d)**.

**5 Section 4 amended (Interpretation)**

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(1) In section 4, insert the following definitions in their appropriate alphabetical order:

**LINZ** means Land Information New Zealand

**NZTA** means the New Zealand Transport Agency established under section 93 of the Land Transport Management Act 2003

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	<b>private land</b> means—	
	(a) any land that is held in fee simple by any person other than the Crown:	
	(b) any Maori land (within the meaning of section 4 of Te Ture Whenua Maori Act 1993):	
	(c) any land that is held by a person under a lease or licence granted to the person by the Crown	5
	<b>rental company</b> means the holder of a rental service licence under the Land Transport Act 1998	
	<b>Self-contained vehicle</b> means a vehicle designed and built for the purpose of camping which has the capability of meeting the ablutionary and sanitary needs of occupants of that vehicle for a minimum of three days without requiring any external services or discharging any waste and is certified that it complies with New Zealand Standard 5465:2001	10
	<b>Using a self-contained vehicle</b> means the occupier or occupiers of the self-contained vehicle use the ablutionary and sanitary capability of the vehicle to contain their waste until it can be discharged at a site approved by a local authority, the Department, or LINZ for that purpose.	15
(2)	In section 4, the definition of <b>enforcement officers</b> , replace “or 33” with “, 33, <b>33A</b> or <b>33B</b> ”	
(3)	In section 4, the definition of <b>freedom camping notice</b> , after “section 17”, insert “, the chief executive of LINZ under <b>section 19C</b> or NZTA under <b>section 19G</b> ”.	20
<b>6</b>	<b>Section 7A and 7B inserted</b>	
	After section 7, insert:	
<b>7A</b>	<b>Meaning of Crown-managed land</b>	25
	In this Act, <b>Crown-managed land</b> —	
	(a) means an area of land that is controlled or managed by LINZ; and	
	(b) includes any part of an area of land referred to in paragraph (a); but	
	(c) does not include an area of land referred to in paragraph (a) or (b) that is permanently covered by water.	30
<b>7B</b>	<b>Meaning of NZTA-managed land</b>	
	In this Act, <b>NZTA-managed land</b> —	
	(a) means an area of land that is controlled or managed by NZTA under the Land Transport Management Act 2003 and the Government Rounding Powers Act 1989; and	35
	(b) includes any part of an area of land referred to in paragraph (a); but	

	(c) does not include an area of land referred to in paragraph (a) or (b) that is permanently covered by water.	
7	<b>Section 10 amended (Where freedom camping permitted)</b> Replace “Freedom” with “Subject to section 10A, freedom”.	
8	<b>New section 10A inserted (Where freedom camping prohibited except self-contained vehicles)</b> After section 10, insert:	5
10A	<b>Where freedom camping prohibited except self-contained vehicles</b>	
(1)	Freedom camping is prohibited in any local authority area that is not within 200 meters of a public toilet.	10
(2)	<b>Subsection (1)</b> does not apply where the freedom camping is undertaken using a self-contained vehicle.	
9	<b>Section 15 amended (Where freedom camping permitted)</b> Replace “Freedom” with “Subject to section 15A, freedom”.	
10	<b>New section 15A inserted (Where freedom camping prohibited except self-contained vehicles)</b> After section 15, insert:	15
15A	<b>Where freedom camping prohibited except self-contained vehicles</b>	
(1)	Freedom camping is prohibited on any conservation land that is not within 200 meters of a public toilet.	20
(2)	<b>Subsection (1)</b> does not apply where the freedom camping is undertaken using a self-contained vehicle.	
11	<b>New subparts 3 and 4 of Part 2 inserted</b> After section 19, insert:	
	Subpart 3—Freedom camping on Crown-managed land	25
19A	<b>Where freedom camping permitted</b> Subject to <b>section 19B</b> , freedom camping is permitted on any Crown-managed land unless freedom camping is restricted or prohibited on the land—	
(a)	in accordance with a freedom camping notice made under <b>section 19C</b> ; or	30
(b)	under any other enactment.	

<b>19B</b>	<b>Where freedom camping prohibited except self-contained vehicles</b>	
(1)	Freedom camping is prohibited on any Crown-managed land that is not within 200 meters of a public toilet.	
(2)	<b>Subsection (1)</b> does not apply where the freedom camping is undertaken using a self-contained vehicle.	5
<b>19C</b>	<b>Freedom camping notices</b>	
(1)	The chief executive of LINZ may, by notice published in accordance with <b>section 19D</b> ,—	
(a)	define Crown-managed land where freedom camping is restricted and the restrictions that apply to freedom camping on that land:	10
(b)	define Crown-managed land where freedom camping is prohibited.	
(2)	A notice may be published under <b>subsection (1)</b> only if—	
(a)	the chief executive of LINZ is satisfied that the notice is necessary for 1 or more of the following purposes:	
(i)	to protect the area:	15
(ii)	to protect the health and safety of people who may visit the area:	
(iii)	to protect access to the area; and	
(b)	the notice is the most appropriate and proportionate way of addressing the perceived problem in relation to that area; and	
(c)	the notice is not inconsistent with the New Zealand Bill of Rights Act 1990.	20
(3)	The chief executive of LINZ must not publish a notice under <b>subsection (1)</b> without first consulting persons and organisations that the chief executive considers have an interest in the Crown-managed land to which the notice relates.	
(4)	A notice must—	25
(a)	define the Crown-managed land by a map or a description of its locality (other than just its legal description) or both; and	
(b)	specify whether freedom camping is restricted or prohibited on the land and, if applicable, the restrictions that apply; and	
(c)	state the date on which the notice comes into force.	30
(5)	However, where a notice contains both a map and a description and there is an inconsistency between the map and the description, the description prevails.	
<b>19D</b>	<b>Public notification of freedom camping notices</b>	
(1)	A freedom camping notice is published in accordance with this section if a summary of the notice—	35
(a)	is published in the <i>Gazette</i> ; and	
(b)	is published in the following newspapers:	



(i)	in a daily newspaper circulating in each of the cities of Auckland, Wellington, Christchurch, and Dunedin; or	
(ii)	if the chief executive of LINZ is satisfied that the notice is of local or regional interest only, in a newspaper or newspapers circulating throughout the locality or region to which the notice relates; and	5
(c)	complies with <b>subsection (2)</b> .	
(2)	A summary of a freedom camping notice must—	
(a)	generally describe the contents of the notice; and	
(b)	specify the date on which the notice will come into force (which must be a date that is no earlier than the later of the days on which the notice is published in the <i>Gazette</i> or the newspaper under <b>subsection (1)(a) and (b)</b> ); and	10
(c)	state that copies of the notice may be inspected and obtained at the offices of LINZ on payment of the specified amount.	
(3)	LINZ must—	15
(a)	keep copies of all freedom camping notices at its national office; and	
(b)	make the notices available for public inspection, without fee, at reasonable hours at LINZ's offices; and	
(c)	make the notices available on an Internet site maintained by or on behalf of LINZ; and	20
(d)	supply to any person, on request and on payment of a reasonable charge, a copy of a notice.	
<p>Subpart 4—Freedom camping on NZTA-managed land</p>		
<b>19E</b>	<b>Where freedom camping permitted</b>	
	Subject to <b>section 19F</b> , freedom camping is permitted on any NZTA-managed land unless freedom camping is restricted or prohibited on the land—	25
(a)	in accordance with a freedom camping notice made under <b>section 19G</b> ; or	
(b)	under any other enactment.	
<b>19F</b>	<b>Where freedom camping prohibited except self-contained vehicles</b>	30
(1)	Freedom camping is prohibited on any NZTA-managed land that is not within 200 meters of a public toilet.	
(2)	<b>Subsection (1)</b> does not apply where the freedom camping is undertaken using a self-contained vehicle.	
<b>19G</b>	<b>Freedom camping notices</b>	35
(1)	NZTA may, by notice published in accordance with <b>section 19H</b> ,—	

- (a) define NZTA-managed land where freedom camping is restricted and the restrictions that apply to freedom camping on that land;
- (b) define NZTA-managed land where freedom camping is prohibited.
- (2) A notice may be published under **subsection (1)** only if—
- (a) the NZTA is satisfied that the notice is necessary for 1 or more of the following purposes: 5
- (i) to protect the area;
- (ii) to protect the health and safety of people who may visit the area;
- (iii) to protect access to the area; and
- (b) the notice is the most appropriate and proportionate way of addressing the perceived problem in relation to that area; and 10
- (c) the notice is not inconsistent with the New Zealand Bill of Rights Act 1990.
- (3) NZTA must not publish a notice under **subsection (1)** without first consulting persons and organisations that NZTA considers have an interest in the NZTA-managed land to which the notice relates. 15
- (4) A notice must—
- (a) define the NZTA-managed land by a map or a description of its locality (other than just its legal description) or both; and
- (b) specify whether freedom camping is restricted or prohibited on the land and, if applicable, the restrictions that apply; and 20
- (c) state the date on which the notice comes into force.
- (5) However, where a notice contains both a map and a description and there is an inconsistency between the map and the description, the description prevails.
- 19H Public notification of freedom camping notices** 25
- (1) A freedom camping notice is published in accordance with this section if a summary of the notice—
- (a) is published in the *Gazette*; and
- (b) is published in the following newspapers: 30
- (i) in a daily newspaper circulating in each of the cities of Auckland, Wellington, Christchurch, and Dunedin; or
- (ii) if NZTA is satisfied that the notice is of local or regional interest only, in a newspaper or newspapers circulating throughout the locality or region to which the notice relates; and
- (c) complies with **subsection (2)**. 35
- (2) A summary of a freedom camping notice must—
- (a) generally describe the contents of the notice; and

- (b) specify the date on which the notice will come into force (which must be a date that is no earlier than the later of the days on which the notice is published in the *Gazette* or the newspaper under **subsection (1)(a) and (b)**); and
- (c) state that copies of the notice may be inspected and obtained at the offices of NZTA on payment of the specified amount. 5
- (3) NZTA must—
- (a) keep copies of all freedom camping notices at its national office; and
- (b) make the notices available for public inspection, without fee, at reasonable hours at NZTA’s offices; and 10
- (c) make the notices available on an Internet site maintained by or on behalf of NZTA; and
- (d) supply to any person, on request and on payment of a reasonable charge, a copy of a notice.
- 12 Section 20 amended (Offences) 15**
- (1) Before section 20(1)(a), insert:
- (aa) freedom camps in a local authority area, on conservation land, on Crown-managed land or on NZTA-managed land in breach of **section 10A, 15A, 19B or 19F**; or
- (2) In section 20(1)(g), after “conservation land”, insert “, Crown-managed land, or NZTA-managed land”. 20
- (3) In section 20(1)(h), after “conservation land”, insert “, Crown-managed land, or NZTA-managed land”.
- (4) In section 20(1)(j), after “conservation land”, insert “, Crown-managed land, or NZTA-managed land”. 25
- (5) In section 20(1)(k), after “conservation land”, insert “, Crown-managed land, or NZTA-managed land”.
- (6) In section 20(1)(m), after “conservation land”, insert “, Crown-managed land, or NZTA-managed land”.
- (7) In section 20(2), replace “or conservation land” with “, conservation land, Crown-managed land, or NZTA-managed land”. 30
- (8) In section 20(4), replace “or the Department” with “, the Department, LINZ, or NZTA”.
- 13 Section 21 amended (Strict liability offences)**
- In section 21(b), replace “or conservation land” with “, conservation land, Crown-managed land, or NZTA-managed land”. 35

**14 Section 24 amended (Offenders liable for cost of damage)**

Replace section 24(1) with:

- (1) A person who commits an offence may, in addition to, or instead of, the penalty for the offence, be ordered to pay the costs incurred by the local authority, the Department, LINZ, or NZTA in repairing any damage done to the local authority area, the conservation land, the Crown-managed land, or the NZTA-managed land concerned as a result of the offence. 5

**15 Section 28 replaced (Reminder notices)**

Replace section 28 with:

**28 Accelerated infringement notice procedure** 10

- (1) If an infringement notice under section 27 (or a copy of it) is served by delivering it to the person who appears to have committed the infringement offence, that person may choose to pay immediately the infringement fee in the manner specified in the notice.
- (2) An enforcement officer may provide particulars of an infringement notice in accordance with section 21(4) and (4A) of the Summary Proceedings Act 1957, after a period of 7 days from the date of service of the infringement notice, or a copy of the infringement notice, if— 15
- (a) the infringement fee for the offence has not by then been paid at the address specified in the notice (or immediately under **subsection (1)**); and 20
- (b) a notice requesting a hearing in respect of that offence has not by then been received at that address.
- (3) If an infringement notice has been issued and served under section 27, the Summary Proceedings Act 1957 applies as if that notice were a reminder notice served under section 21(2) of that Act, and the provisions of that Act apply, with all necessary modifications, to the alleged offence as if— 25
- (a) the reference in section 21(1)(b) to providing particulars of a reminder notice under that section were a reference to providing particulars of the infringement notice under **subsection (2)** of this section; and 30
- (b) **subsection (2)** of this section were in the place of section 21(3); and
- (c) the reference in section 21(3A) to the particulars of a reminder notice not having been provided under section 21(3) were a reference to the particulars of the infringement notice not having been provided under **subsection (2)** of this section; and 35
- (d) every reference in section 21(4), (4A), and (4B) to particulars of a reminder notice were a reference to the particulars of an infringement notice and every reference to the contents of a reminder notice were a reference to the contents of an infringement notice; and

- (e) the reference in section 21(4)(a) to parts of the reminder notice were a reference to parts of the infringement notice; and
- (f) the reference in section 21(4C) to particulars of a reminder notice were a reference to particulars of an infringement notice; and
- (g) the reference in section 21(4C) to the reminder notice were a reference to the infringement notice; and 5
- (h) the reference in section 21(5) to the verification of particulars of a reminder notice provided under section 21(3) were a reference to the verification of particulars of an infringement notice provided under **subsection (2)** of this section; and 10
- (i) the reference in section 21(6)(b) and in section 21(10)(a) to a period of 28 days after the service of a reminder notice were a reference to the period of 7 days after the service of the infringement notice; and
- (j) each reference in section 21A and section 78B to a reminder notice were a reference to an infringement notice and each reference in section 21A and section 78B to the reminder notice were a reference to the infringement notice; and 15
- (k) the references to reminder notices in the definition of defendant in section 2(1), and in section 212, and in any other relevant provisions of that Act or regulations made under that Act, were references to the infringement notice. 20

**28A Special procedure where infringement notice served on hirer of motor vehicle**

- (1) This section applies if the person who appears to have committed the infringement offence is the hirer of a motor vehicle. 25
- (2) In accordance with **section 28(1)**, an infringement notice may be served by delivering it to the person who appears to have committed the infringement offence and that person may choose to pay immediately the infringement fee in the manner specified in the notice.
- (3) If a person served with an infringement notice in accordance with **subsection (2)** does not pay immediately the infringement fee, an enforcement officer must serve a new infringement notice on the rental company with which the hirer has or had a rental service agreement. 30
- (4) Where a new infringement notice is issued in accordance with **subsection (3)** the infringement notice that was served on the hirer is deemed to have been revoked. 35

**16 Section 29 amended (Rental service agreement may provide for payment of infringement fee)**

In section 29(4), delete the definition of “**rental company**”.

- 17 Section 31 amended (Entitlement to infringement fees)**
- (1) In section 31(2), after “section 33”, insert “, by the chief executive of LINZ under **section 33A**, or by NZTA under **section 33B**”.
- (2) In section 31(3), replace “or conservation land” with “, conservation land, Crown-managed land, or NZTA-managed land”. 5
- 18 Section 32 amended (Appointment of enforcement officers by local authorities)**
- In section 32(2)(d) after “conservation land” insert “, Crown-managed land, or NZTA-managed land”; after “Director-General” insert “, the chief executive of LINZ, or NZTA, as the case may be,”. 10
- 19 Section 33 amended (Appointment of enforcement officers by Director-General)**
- In section 33(2)(d) after “local authority areas” insert “, Crown-managed land, or NZTA-managed land”; after “relevant local authority” insert “, the chief executive of LINZ, or NZTA, as the case may be,”. 15
- 20 New sections 33A and 33B inserted**
- After section 33, insert:
- 33A Appointment of enforcement officers by chief executive of LINZ**
- (1) The chief executive of LINZ may appoint persons to be enforcement officers for the purposes of this Act. 20
- (2) The chief executive of LINZ must issue warrants in writing to enforcement officers appointed under this section specifying—
- (a) the responsibilities and powers given to them; and
- (b) the infringement offences and other offences in relation to which they are appointed; and 25
- (c) the Crown-managed land in relation to which they may act; and
- (d) the local authority areas, conservation land or NZTA-managed land in relation to which they may act (being only areas in respect of which the relevant local authority, the Director-General, or NZTA, as the case may be, has consented to officers exercising enforcement powers). 30
- 33B Appointment of enforcement officers by NZTA**
- (1) NZTA may appoint persons to be enforcement officers for the purposes of this Act.
- (2) NZTA must issue warrants in writing to enforcement officers appointed under this section specifying— 35
- (a) the responsibilities and powers given to them; and

<p>(b) the infringement offences and other offences in relation to which they are appointed; and</p> <p>(c) the NZTA-managed land in relation to which they may act; and</p> <p>(d) the local authority areas, conservation land, or Crown-managed land in relation to which they may act (being only areas in respect of which the relevant local authority, the Director-General, or the chief executive of LINZ, as the case may be, has consented to officers exercising enforcement powers).</p>	<p>5</p>
<p><b>21 Section 36 amended (Enforcement officers may require certain persons to leave local authority area or conservation land)</b></p> <p>(1) In the heading to section 36, replace “or conservation land” with “, conservation land, Crown-managed land, or NZTA-managed land”.</p> <p>(2) In section 36, replace “or conservation land” with “, conservation land, Crown-managed land, or NZTA-managed land”.</p>	<p>10</p>
<p><b>22 New section 36A inserted (Power to enter and inspect)</b></p> <p>After section 36, insert:</p>	<p>15</p>
<p><b>36A Power to enter and inspect</b></p> <p>An enforcement officer who believes on reasonable grounds that a person has committed or is committing an offence against <b>section 20(1)(aa)</b> may, at any reasonable time, enter and inspect a vehicle that is being used for freedom camping to determine whether the freedom camping is being undertaken using a self-contained vehicle.</p>	<p>20</p>
<p><b>23 Section 37 amended (Enforcement officers may seize and impound certain property)</b></p> <p>In section 37(1), replace “or on conservation land”, with “, on conservation land, Crown-managed land or NZTA-managed land”.</p>	<p>25</p>
<p><b>24 Section 38 amended (Requirements relating to seizure and impoundment of boats, caravans, and motor vehicles)</b></p> <p>In section 38(d), replace “or conservation land” with “, conservation land, Crown-managed land or NZTA-managed land”.</p>	<p>30</p>
<p><b>25 Section 39 amended (Return of property seized and impounded)</b></p> <p>(1) In section 39(1), replace “or the Director-General” with “, the Director-General, the chief executive of LINZ, or NZTA”.</p> <p>(2) In section 39(2), replace “or the Director-General” with “, the Director-General, the chief executive of LINZ, or NZTA”.</p> <p>(3) In section 39(2)(b), replace “or the Department” with “, the Department, LINZ or NZTA”.</p>	<p>35</p>

- (4) In section 39(3), replace “or the Director-General” with “, the Director-General, the chief executive of LINZ, or NZTA” in each place.
- (5) In section 39(4)(a), replace “or the Director-General” with “, the Director-General, the chief executive of LINZ, or NZTA”.
- (6) In section 39(5)(b), replace “or the Director-General” with “, the Director-General, the chief executive of LINZ, or NZTA”. 5
- 26 Section 40 amended (Disposal of property seized and impounded)**
- (1) In section 40(1), replace “or the Director-General” with “, the Director-General, the chief executive of LINZ, or NZTA” in each place, replace “or the Director-General’s” with “, the Director-General’s, the chief executive of LINZ’s, or NZTA’s”, 10
- (2) In section 40(2), replace “or the Director-General” with “, the Director-General, the chief executive of LINZ, or NZTA” in each place.
- (3) In section 40(5), after “Director-General” insert “, the chief executive of LINZ or NZTA”. 15
- 27 Section 42 amended (Relationship of this Act with other enactments)**
- (1) After section 42(2), insert:
- (2A) This Act does not limit or affect the powers of the LINZ or NZTA under any other enactment.
- (2) In section 42(3) replace “or conservation land” with “, conservation land, Crown-managed land, or NZTA-managed land”. 20
- 28 Section 43 amended (Regulations)**
- In section 43, replace “the Minister of Conservation and the Minister of Local Government” with “the Minister of Conservation, the Minister for Land Information, the Minister of Transport and the Minister of Local Government”. 25
- 29 Section 45 amended (Evidence in proceedings)**
- In section 45, replace “or the Director-General” with “, the Director-General, the chief executive of LINZ, or the chief executive of NZTA”.