

Land Transport (Road Safety) Amendment Bill

Government Bill

Explanatory note

General policy statement

The Land Transport (Road Safety) Amendment Bill (the **Bill**) is an omnibus Bill introduced under Standing Order 267(1)(a). That Standing Order provides that an omnibus Bill to amend more than 1 Act may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy.

The single broad policy of the Bill is to reduce unsafe behaviour on New Zealand's roads by increasing the speed and severity of enforcement.

The public have a reasonable expectation that road safety should be maintained. This requires the New Zealand Police (the **Police**) and Waka Kotahi NZ Transport Agency (the **Agency**), as the 2 relevant enforcement agencies, to have adequate powers and tools to respond to inappropriate behaviour on the roads. In particular, this response requires adequate measures to detect inappropriate behaviour and the ability to carry out enforcement activities in a timely manner.

The Bill has 2 main objectives: to improve legislative response to fleeing drivers, and to address safety matters within the land transport system.

In response to unsafe behaviour exhibited by fleeing drivers, the Bill—

- amends the Land Transport Act 1998 to—
 - expand from 28 days to 6 months the period for which the Police may impound a vehicle for if the officer believes on reasonable grounds that the person driving the vehicle has failed to stop and remain stopped; and
 - create a new power to enable the Police to seize and impound a motor vehicle for 28 days if the driver or registered person of that vehicle fails to provide information about a fleeing driver offence and impounding the vehicle is necessary to prevent a threat to road safety; and

- increase the period of licence disqualification after a second conviction for an offence of failing to stop or to remain stopped:
- amends the Sentencing Act 2002 to create a new sentencing option to enable courts to order that a vehicle be forfeited on conviction for failing to stop or to remain stopped:
- makes consequential amendments to—
 - the Summary Proceedings Act 1957:
 - the Land Transport (Offences and Penalties) Regulations 1999:
 - the Land Transport (Storage and Towage Fees for Impounded Vehicles) Regulations 1999.

To address further unsafe behaviour and ensure rapid enforcement, the Bill also amends the Land Transport Act 1998 to—

- provide for the electronic service of notices; and
- ensure point-to-point safety cameras can be used as an enforcement tool for speeding offences; and
- provide for the automated issuing of certain infringement notices.

Departmental disclosure statement

The Ministry of Transport is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2023&no=251>

Regulatory impact statements

The Ministry of Transport produced regulatory impact statements on 26 August 2022 and 11 October 2022 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact statements can be found at—

- <https://www.transport.govt.nz/about-us/what-we-do/regulatory-impact-assessment/>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 states the Title of the Bill.

Clause 2 provides for commencement: the Act will come into force on the day after it receives the Royal assent.

Part 1

Amendments to Land Transport Act 1998

Part 1 contains amendments to the Land Transport Act 1998.

Clause 3 identifies the Land Transport Act 1998 (the **LTA**) as the principal Act amended by *Part 1*.

Clause 4 amends section 2 (interpretation) by inserting the following definitions:

- automated infringement notice system, for the purposes of *new section 139AAA* and related provisions:
- electronic address, which includes an email address:
- information system, for the purpose of the sending and service of documents by electronic means addressed to a person at their electronic address.

Clause 5 amends section 22, which provides for a driver's or rider's duties in the event of an accident involving the vehicle they were driving or riding. The information that a driver or rider must give to an enforcement officer and the owner of another vehicle, or other property, that is damaged now includes the electronic address of the driver or rider and the owner of the vehicle they were driving or riding.

Clause 6 amends section 49 by adding a cross-reference to *new sections 96AAA and 96AAB* (the new provisions that relate to the seizure and impoundment of vehicles connected with a fleeing driver offence). A fleeing driver offence is an offence under section 52A for contravening section 114—that is, failing to stop or remain stopped when required to; or, once stopped, failing to give information to an enforcement officer.

Clause 7 amends section 52A by increasing the period of licence disqualification for a second fleeing driver offence from 1 year to a period between 1 and 2 years.

Clause 8 amends section 91B by repealing subsection (5). That provision defines information system. As the amendments introduce further references to information system, the definition is being relocated to section 2 (*see clause 4*).

Clause 9 amends section 96, which provides when a vehicle may be seized and impounded for a range of offences. Seizure and impoundment of a vehicle involved in a fleeing driver offence are now provided for in *new sections 96AAA and 96AAB* (*see clause 10*). This requires consequential amendment to section 96. Other changes include—

- inserting a reference to electronic address in the provision relating to the service of a notice under section 96(2):
- replacing references to vehicle owner with references to “registered person” (that is, the person registered in relation to the vehicle under Part 17 of the LTA).

Clause 10 inserts *new sections 96AAA and 96AAB* after section 96:

- *new section 96AAA* authorises the seizure and impoundment of a vehicle if the driver fails to stop, or to remain stopped, in contravention of section 114 (*see*

also section 52A(1)(a) and (b) for offences). This new provision replaces section 96(1AB) and related provisions in section 96 that apply to that contravention. The period of impoundment is now 6 months (not the 28 days that currently applies under section 96). The related process provisions of section 96 are applied in a modified form:

- *new section 96AAB* authorises the seizure and impoundment of a vehicle if the driver contravenes section 114(3)(b) (*see* section 52A(1)(c)) or the owner (or hirer) contravenes section 118(4) (*see* section 52(6)) by not giving information, or giving false or misleading information, about a fleeing driver offence and the impoundment is necessary to prevent a serious threat to road safety. This is a new power of seizure and impoundment. The impoundment is for 28 days.

Clause 11 amends section 96A, which provides for the impoundment of vehicles used in transport services. The amendments include inserting references to electronic address in the provisions relating to the notice that the enforcement must prepare and information about the driver and the transport service operator that the driver must give to the enforcement officer.

Clause 12 amends section 97, which provides for the storage of impounded vehicles. The amendments are minor (replacing references to owner with references to registered person) and consequential (inserting a cross-reference to *new section 96AAB*). Section 97 now applies to vehicles impounded under sections 96 and *new section 96AAB*, while impoundments under *new section 96AAA* are provided for in *new section 97A*.

Clause 13 inserts *new section 97A*, which provides for the storage of vehicles impounded under *new section 96AAA*. This new section closely resembles section 97, but,—

- although the registered person is still required to pay towage and storage fees, the total fee for 6 months' storage increases the risk that storage fees will not be paid, so the new section allows the storage provider (and also the vehicle recovery service operator) to recover the fees from Waka Kotahi the New Zealand Transport Agency (the **Agency**) (or from the chief executive of the Ministry of Justice, as impoundment costs in the event of the court ordering the forfeiture or confiscation of the vehicle); and
- again due to the risk that the storage provider will need to resort to the Agency to recover fees, the new section allows the Agency and other regulatory bodies to make appropriate arrangements with vehicle recovery service (towing) operators and storage providers.

Clause 14 amends section 98, which provides for the release of impounded vehicles. As *new section 98AAA* will provide for the release of vehicles impounded under *new section 96AAA*, section 98 is amended so it applies only to 28-day impoundments (including under *new section 96AAB*).

Clause 15 inserts *new section 98AAA*, which provides for the release of vehicles impounded under *new section 96AAA*. This new section provides for those impound-

ments by applying section 98 with necessary modifications. The effect is that section 98 applies to these new impoundments, even though it expressly refers only to 28-day impoundments.

Clause 16 amends section 98A, which allows the Commissioner of Police to prohibit the sale or disposal of vehicles which, because they have been involved in an offence, are likely to be the subject of a confiscation order by the court. The amendment increases the scope of this provision so that a prohibition of sale or disposal is also justified by the likelihood of a forfeiture order under *new section 142AAB* of the Sentencing Act 2002.

Clause 17 amends section 102, which allows vehicle owners to appeal to the Police against vehicle impoundments. The amendments separate 28-day impoundments and 6-month impoundments by—

- inserting a reference to impoundments under *new section 96AAB* (28-day impoundment) in section 102(1); and
- inserting *new section 102(1A)*, which addresses impoundments under *new section 96AAA* (6-month impoundment). This new right of appeal includes a new bespoke ground of appeal relating to hardship caused by impoundment and the vehicle's release being not contrary to the interests of road safety.

Clause 18 amends section 110, which provides for the right to appeal to the District Court in cases where a vehicle has been impounded and an appeal to the Police under section 102 to release the impounded vehicle has been unsuccessful. The amendment to section 110 is consequential to the amendments to section 102: the amendment inserts a reference to the newly inserted *section 102(1A) and (1B)*.

Clause 19 amends section 113, which allows enforcement officers to direct a person on a road to give identity information. The amendment adds a reference to the person's electronic address (if they have an electronic address).

Clause 20 amends section 114, which allows an enforcement officer to signal, request, or require a driver to stop their vehicle, to require the driver to remain stopped, and to demand identity information from the driver. The amendment adds a reference to the person's electronic address (if they have an electronic address).

Clause 21 amends section 118, which allows an enforcement officer to request an owner or hirer of a vehicle to provide information identity information about the driver of a vehicle that has failed to stop or remain stopped in contravention of section 114. The amendment adds a reference to the driver's electronic address (if they have an electronic address) to section 118(6) and makes a minor language correction to section 118(4).

Clause 22 amends section 119, which authorises an enforcement officer to enter premises in specified circumstances:

- section 119(1) authorises entry on the basis of a suspicion that a person has failed to stop or remain stopped, or has failed to give information, in contravention of some provisions of section 114. An amendment to section 119(1) clarifies the provisions of section 114 that section 119 applies to:

- section 119(3) authorises entry of premises where an impounded vehicle is stored. Amendments to section 119(3) and (4) add a reference to impoundment under *new sections 96AAA and 96AAB*.

Clause 23 amends section 133, which provides for proceedings to be taken against specified persons for certain offences, including moving vehicle offences. It can be a defence if the person was not driving the vehicle and gave the enforcement authority identity information about the driver. The amendment adds a reference to the driver's electronic address (if they have an electronic address).

Clause 24 amends section 133A, which provides for proceedings to be taken against specified persons for stationary vehicle offences. It can be a defence if the person proves that another person was unlawfully in charge of the vehicle. The amendment adds a reference to the other person's electronic address (if they have an electronic address).

Clause 25 amends section 139, which provides for the issuing and service of an infringement notice by an enforcement officer. The amendments add references to service by electronic means (under section 139 and also under Summary Proceedings Act 1957) at the recipient's electronic address (if they have one). The amendments also provide for when electronic service occurs—that is, when the electronic communication first enters an information system that is outside the enforcement officer's control. (As the LTA is to contain more than 1 reference to information system, the definition of that expression has been moved from section 91B to section 2.)

Clause 26 inserts *new sections 139AAA and 139AAB*:

- *new section 139AAA* provides for an automated infringement notice system to detect the commission of an infringement offence that is a moving vehicle offence and to generate particulars of the offence, and allows the system to automatically issue an infringement notice to the offender. In addition, this new section—
 - enables an enforcement officer to verify the offence and particulars if the vehicle was being used for law enforcement or an emergency or for conveying a member of the Executive Council or other authorised person engaged on urgent public business; and
 - does not prevent a law enforcement officer from issuing or serving an infringement notice for an offence detected by an automatic infringement notice system:
- *new section 139AAB* provides for the approval of an automated infringement notice system by the Director of the Agency.

Clause 27 inserts *new section 141A*, which provides that a certificate of the Director's approval under *new section 139AAB* is sufficient evidence of the capability of an automated infringement notice system.

Clause 28 inserts *new sections 146A to 146D*:

- *new section 146A* provides that, for the purpose of proceedings relating to a speeding offence, the average speed of a vehicle as calculated by a point-to-point average speed system must be treated as the actual speed of the vehicle at the relevant location. This new section also contains—
 - a definition of point-to-point average speed system; and
 - a formula by which the system calculates a vehicle’s average speed at the relevant location:
- *new section 146B* provides how *new section 146A* operates on a stretch of road that is subject to more than 1 speed limit. This section provides that the speed limit for that purpose is the average speed limit determined by means of a formula that the section contains:
- *new section 146C* contains evidence provisions that support the use of a point-to-point average speed system in proceedings for speeding offences:
- *new section 146D* provides for the publication by the Director of Land Transport (the **Director**) of a notice relating to the capability of a point-to-point average speed system.

Clause 29 amends section 199, which requires the Agency to maintain a register of driver licences. The amendment adds a reference to the registering of a driver’s electronic address (if they have one).

Clause 30 amends section 199A, which requires the Agency to maintain a register of transport service licences. The amendment adds a reference to the registering of a transport service licence holder’s electronic address (if they have one).

Clause 31 amends section 208, which provides for the appointment of enforcement officers (other than constables). Subsection (3) allows the Agency to appoint employees as enforcement officers for specified purposes. The amendment adds a reference to *new section 139AAA(3)* to these purposes, allowing the Agency to appoint staff as enforcement officers to verify data generated by an automated infringement notice system in limited cases.

Clause 32 replaces section 210. Section 210 provides for how notices (other than infringement notices) and section 118 requests are to be served. *New section 210* does the same, but also adds a reference to notices, etc, being sent as well as given and to service by electronic means and is restructured for easier reading.

Clause 33 replaces the definition of personal information in section 233, which contains definitions for Part 17 of the LTA. The new definition includes reference to the relevant person’s electronic address (if they have one).

Clause 34 amends section 241, which enables the Secretary (the chief executive of the Ministry of Transport) to authorise persons to have access to information about persons registered in relation to vehicles and information about the vehicles. The amendment adds a reference to an authorised person’s electronic address (if they have one).

Clause 35 amends section 249, which provides for an enforcement officer to seize and impound a vehicle that has been driven while a prohibition notice under section 248 was in force. After seizing and impounding a vehicle, the enforcement officer must notify the driver and the storage provider, and the notification must include identity details of the driver. The amendment adds a reference to the driver's electronic address (if they have one).

Clause 36 amends Schedule 1 by adding *new Part 6*, which is contained in *Schedule 1* of the Bill. *New clause 24* of Schedule 1 of the LTA provides that section 52A(4), as amended by *clause 7*, applies only if the relevant first offence is committed on or after the day on which this Act comes into force.

Part 2

Amendments to other Acts

Part 2 contains amendments to the Sentencing Act 2002 and the Summary Proceedings Act 1957.

Subpart 1—Amendments to Sentencing Act 2002

Clause 37 identifies the Sentencing Act 2002 as the principal Act amended by *subpart 1* of *Part 2*.

Clause 38 amends section 128, which authorises a court to order the confiscation of a vehicle used in the commission of specified offences. The amendment replaces a reference to section 52A(1) of the LTA with a reference to section 52A(1)(c). The effect of this amendment is that section 128 no longer applies to substantive fleeing driver offences (failing to stop and failing to remain stopped), but continues to apply to a failure to give information about a fleeing driver.

Clause 39 amends section 129, which authorises a court to order the confiscation of a vehicle used in the commission of a first specified offence and a second specified offence. The amendments are the same as those made to section 128, with the effect that section 129 no longer applies to substantive fleeing driver offences (failing to stop and failing to remain stopped), but continues to apply to a failure to give information about a fleeing driver.

Clause 40 inserts *new sections 142AAA to 142AAF*, which contain a scheme for the forfeiture of vehicles used in a fleeing driver offence:

- *new section 142AAA* applies the definitions set out in section 127 to the forfeiture scheme in *new sections 142AAB to 142AAF*:
- *new section 142AAB* authorises a court to order the forfeiture of a vehicle owned by a person who has been convicted of an offence against section 52A(1)(a) or (b) of the LTA (the offence of failing to stop or failing to remain stopped). In addition, section 128(3A) to (5) applies, with all necessary modifications, to the court's ability to make a forfeiture order:

- *new section 142AAC* creates an offence (mirroring section 132A) of selling or disposing of a vehicle that is subject to a forfeiture order under *new section 142AAB*:
- *new section 142AAD* creates an offence (mirroring section 133) of removing a vehicle that has been surrendered to or seized by a bailiff or constable on the making of a forfeiture order under *new section 142AAB*:
- *new section 142AAE* creates an offence (mirroring section 136) of acquiring an interest in a motor vehicle if the offender has been prohibited from doing so under section 131(2)(a) (as applied by *new section 142AAF*). In addition, the court may order that the vehicle be confiscated:
- *new section 142AAF* applies several provisions in the current confiscation scheme to the new forfeiture scheme.

Clause 41 amends Schedule 1AA by adding *new Part 5*, which is contained in *Schedule 2* of the Bill. *New clause 16* of Schedule 1AA provides that section 129(4A), as amended by *clause 39*, applies only if the relevant first offence under section 129(1)(a) is committed on or after the day on which this Bill comes into force.

Subpart 2—Amendments to Summary Proceedings Act 1957

Clause 42 identifies the Summary Proceedings Act 1957 as the principal Act amended by *subpart 2 of Part 2*.

Clause 43 amends the definition of infringement notice in section 2 by adding a reference to an infringement offence to which *new section 139AAA* of the LTA applies.

Clause 44 amends section 100, which provides for the seizure of a motor vehicle owned by a defendant even if the vehicle has been impounded under section 96 or 96A of the LTA. In light of *new sections 96AAA and 96AAB* of the LTA, the amendment expands section 100 to refer to vehicles impounded under the LTA generally.

Clause 45 amends section 100E, which provides for the return of seized property (including a motor vehicle) if fines and costs (including impoundment costs under the LTA) are paid. In the case of a vehicle impounded under section 96 or 96A of the LTA, the vehicle cannot be released before the end of the 28-day impoundment period. The amendments modify section 110E so it also applies to impoundments under *new sections 96AAA and 96AAB* of the LTA.

Part 3

Amendments to secondary legislation

Part 3 contains amendments to—

- (a) the Land Transport (Offences and Penalties) Regulations 1999;
- (b) the Land Transport (Storage and Towage Fees for Impounded Vehicles) Regulations 1999.

Subpart 1—Amendments to Land Transport (Offences and Penalties) Regulations 1999

Clause 46 identifies the Land Transport (Offences and Penalties) Regulations 1999 as the principal regulations amended by *subpart 1 of Part 3*.

Clause 47 amends regulation 8, which provides for the form of a notice relating to the impoundment of a vehicle under section 96 of the LTA. The amendments—

- ensure that regulation 8 continues to apply to all impoundments under the LTA, despite the insertion of *new sections 96AAA and 96AAB*; and
- refer to the notice as being given to the vehicle recovery service provider as well as sent to the storage provider (consistent with the wording of section 96(2) as amended by *clause 9*).

Clause 48 amends Schedule 4, which contains the form of a vehicle seizure and impoundment notice given under section 96(2) of the LTA for fleeing driver offences and illegal street racing offences. The amendments modify the form to alternatively apply to the longer (6 months) impoundment period under *new section 96AAA* of the LTA. The form already has the effect of applying to an impoundment under *new section 96AAB* of the LTA because that new section authorises impoundment for 28 days, which is already covered by the form. Further amendments ensure that the notice served on a driver does not contain identity information about the registered person and that the notice served on a registered person, an owner, or an operator does not contain identity information about the driver.

Clause 49 amends Schedule 4A, which contains the form of a vehicle seizure and impoundment notice given under section 96(2) of the LTA for alcohol offences and driver licence offences. The amendments ensure that the notice served on a driver does not contain identity information about the registered person and that the notice served on a registered person does not contain identity information about the driver.

Subpart 2—Amendments to Land Transport (Storage and Towage Fees for Impounded Vehicles) Regulations 1999

Clause 50 identifies the Land Transport (Storage and Towage Fees for Impounded Vehicles) Regulations 1999 as the principal regulations amended by *subpart 3 of Part 3*.

Clause 51 amends regulation 3, which prescribes towage fees for impounded vehicles. The amendments ensure that the regulation applies to impoundments under *new sections 96AAA and 96AAB* of the LTA.

Clause 52 amends regulation 4, which prescribes storage fees for impounded vehicles. The amendments ensure that the regulation applies to impoundments under *new sections 96AAA and 96AAB* of the LTA.

Hon Kiritapu Allan

Land Transport (Road Safety) Amendment Bill

Government Bill

Contents

	Page
1 Title	4
2 Commencement	4
Part 1	
Amendments to Land Transport Act 1998	
3 Principal Act	4
4 Section 2 amended (Interpretation)	4
5 Section 22 amended (Driver's duties where accident occurs)	5
6 Section 49 amended (Contravention of section 97(5) or (6))	5
7 Section 52A amended (Contravention of section 114)	5
8 Section 91B amended (Ways in which warning notice or driver licence stop order or details of related fines must be served)	5
9 Section 96 amended (Vehicle seized and impounded for 28 days in certain circumstances)	5
10 New sections 96AAA and 96AAB inserted	6
96AAA Impoundment of motor vehicle used in fleeing driver offence	6
96AAB Impoundment of motor vehicle for failure to give information about fleeing driver offence	7
11 Section 96A amended (Impoundment of vehicle used in transport service)	8
12 Section 97 amended (Storage of impounded vehicles)	9
13 New section 97A inserted (Storage of vehicles impounded under section 96AAA)	9
97A Storage of vehicles impounded under section 96AAA	9
14 Section 98 amended (Release of vehicle after 28 days)	10
15 New section 98AAA inserted (Release of vehicle after 6 months)	10

Land Transport (Road Safety) Amendment Bill

	98AAA Release of vehicle after 6 months	10
16	Section 98A amended (Commissioner may prohibit sale or disposal of certain motor vehicles)	11
17	Section 102 amended (Appeal to Police against impoundment of vehicle)	11
18	Section 110 amended (Appeal against refusal of Police to direct release of impounded vehicle)	12
19	Section 113 amended (Enforcement officers may enforce transport legislation)	13
20	Section 114 amended (Power to require driver to stop and give name and address, etc)	13
21	Section 118 amended (Requirement to give information as to identity of driver or passenger)	13
22	Section 119 amended (Powers of entry)	13
23	Section 133 amended (Owner liability for moving vehicle offences and special vehicle lane offences)	13
24	Section 133A amended (Owner liability for stationary vehicle offences)	13
25	Section 139 amended (Issue of infringement notice)	13
26	New sections 139AAA and 139AAB inserted	14
	139AAA Infringement notice issued automatically	14
	139AAB Approval of automated infringement notice system	15
27	New section 141A inserted (Evidence of capability of automated infringement notice system)	16
	141A Evidence of capability of automated infringement notice system	16
28	New sections 146A to 146D inserted	16
	146A Average speed treated as actual speed	16
	146B Weighted average speed limit between 2 detection points	18
	146C Evidence relating to average speed	18
	146D Publication of matters relating to point-to-point average speed system	19
29	Section 199 amended (Agency to maintain register of driver licences)	19
30	Section 199A amended (Register of transport service licences)	19
31	Section 208 amended (Appointment of enforcement officers and dangerous goods enforcement officers)	19
32	Section 210 replaced (Service of notices)	19
	210 How notices and requests are given, served, or made	20
33	Section 233 amended (Interpretation matters applying to this Part)	20
34	Section 241 amended (Authorised access to name and address only)	21
35	Section 249 amended (Circumstances when motor vehicle may be seized and impounded)	21

Land Transport (Road Safety) Amendment Bill

36	Schedule 1 amended	21
----	--------------------	----

Part 2

Amendments to other Acts

Subpart 1—Amendments to Sentencing Act 2002

37	Principal Act	21
38	Section 128 amended (Confiscation of motor vehicle)	21
39	Section 129 amended (Confiscation of motor vehicle after subsequent offence)	21
40	New sections 142AAA to 142AAF and cross-heading inserted	21

Forfeiture of vehicles of fleeing drivers

	142AAA Interpretation of terms used in sections 142AAB to 142AAF	21
	142AAB Forfeiture of vehicle driven by fleeing driver	21
	142AAC Offence to sell or dispose of motor vehicle subject to forfeiture order	22
	142AAD Offence to remove forfeited vehicle	22
	142AAE Offender must not acquire new interest in motor vehicle for 12 months	22
	142AAF Modified application of confiscation scheme to forfeiture	23
41	Schedule 1AA amended	24

Subpart 2—Amendments to Summary Proceedings Act 1957

42	Principal Act	24
43	Section 2 amended (Interpretation)	24
44	Section 100 amended (Seizure of motor vehicles impounded under Land Transport Act 1998)	24
45	Section 100E amended (Release of property if fine and other costs paid or if certain appeals successful)	24

Part 3

Amendments to secondary legislation

Subpart 1—Amendments to Land Transport (Offences and Penalties) Regulations 1999

46	Principal regulations	25
47	Regulation 8 amended (Impoundment of motor vehicles under section 96 of Act)	25
48	Schedule 4 amended	25
49	Schedule 4A amended	25

Subpart 2—Amendments to Land Transport (Storage and Towage Fees for Impounded Vehicles) Regulations 1999

50	Principal regulations	26
51	Regulation 3 amended (Towage fees for impounded vehicles)	26
52	Regulation 4 amended (Storage fees for impounded vehicles)	26

Schedule 1	27
New Part 7 of Schedule 1 of Land Transport Act 1998 inserted	
Schedule 2	28
New Part 5 of Schedule 1AA of Sentencing Act 2002 inserted	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Land Transport (Road Safety) Amendment Act **2023**.

2 Commencement

This Act comes into force on the day after Royal assent. 5

Part 1

Amendments to Land Transport Act 1998

3 Principal Act

This Part amends the Land Transport Act 1998.

4 Section 2 amended (Interpretation) 10

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

automated infringement notice system means a device or a system of devices that—

- (a) can automatically do the following:
 - (i) detect the commission of an infringement offence that is a moving vehicle offence: 15
 - (ii) recognise that 1 or more images or sequences of images connected with the infringement offence are of sufficient quality to be used as evidence in relation to the offence:
 - (iii) recognise the registration plate of the vehicle involved in the infringement offence: 20
 - (iv) identify the registered person for the vehicle:
 - (v) identify a physical or electronic address to which an infringement notice can be issued:
 - (vi) issue an infringement notice under **section 139AAA**; and 25
 - (b) has been approved by the Director under **section 141A**
- electronic address** includes an email address
- information system**, in relation to electronic communications, means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications 30

- 5 Section 22 amended (Driver’s duties where accident occurs)**
- (1) After section 22(2)(a), insert:
- (aa) the driver’s or rider’s electronic address (if the driver or rider has an electronic address); and
- (2) After section 22(2)(b), insert: 5
- (ba) the owner’s electronic address (if the owner has an electronic address); and
- (3) After section 22(4)(a), insert: 10
- (aa) the driver’s or rider’s electronic address (if the driver or rider has an electronic address); and
- 6 Section 49 amended (Contravention of section 97(5) or (6))**
- In section 49(1)(a) and (b), replace “sections 96, 96A” with “sections 96, **96AAA, 96AAB**, 96A”.
- 7 Section 52A amended (Contravention of section 114)**
- In section 52A(4), replace “1 year” with “a period of not less than 1 year and not more than 2 years”. 15
- 8 Section 91B amended (Ways in which warning notice or driver licence stop order or details of related fines must be served)**
- Repeal section 91B(5).
- 9 Section 96 amended (Vehicle seized and impounded for 28 days in certain circumstances)** 20
- (1) Repeal section 96(1AB).
- (2) In section 96(1E) and (2), replace “(or authorises the impoundment of)” with “, or seizes and authorises the impoundment of,”.
- (3) After section 96(2)(a)(i), insert: 25
- (ia) the registered person’s electronic address (if the person has an electronic address); and
- (4) Replace section 96(2)(c) and (d) with:
- (c) if the driver has left the scene, give a copy of the notice to the registered person, if that person is present at the time of the seizure, or send a copy of the notice to that person in accordance with **subsection (2AAA)**; and 30
- (d) give or send a copy of the notice to the vehicle recovery service provider who tows or carries the impounded motor vehicle to the place where it is to be stored; and 35
- (da) give or send a copy of the notice to the storage provider who stores the motor vehicle; and

- (5) After section 96(2), insert:
- (2AAA) For the purposes of **subsection (2)(c)**, if the registered person is not present at the time of the seizure, the enforcement officer must, as soon as practicable, send a copy of the notice to the registered person—
- (a) by post addressed to that person at their last known place of residence or business, their last known postal address, or their address as recorded on the register of motor vehicles or any other register administered by the Agency; or 5
 - (b) by electronic means addressed to that person at their electronic address (if any) as recorded on the register of motor vehicles or any other register administered by the Agency. 10
- (6) After section 96(2A)(a)(ii), insert:
- (ia) electronic address (if the driver has an electronic address); and
- (7) After section 96(2A)(b)(ii), insert:
- (ia) electronic address (if the person has an electronic address); and 15
- (8) In section 96(3), replace “The owner of an impounded vehicle” with “The registered person for, or the hirer of, an impounded vehicle”.
- (9) In section 96(5), replace “seize or impound” with “seize and impound”.
- (10) In section 96(6) and (6A), replace “owner” with “registered person or hirer”.
- (11) Repeal section 96(6)(a)(iii) and (iv) and (6B). 20

10 New sections 96AAA and 96AAB inserted

After section 96, insert:

96AAA Impoundment of motor vehicle used in fleeing driver offence

- (1) An enforcement officer may seize and impound, or seize and authorise the impoundment of, a motor vehicle for 6 months if the officer believes on reasonable grounds that— 25
- (a) the person driving the vehicle has failed to stop (or remain stopped) as signalled, requested, or required under section 114 (*see* section 52A(1)(a) and (b) for the offence); and
 - (b) the vehicle— 30
 - (i) is not a stolen vehicle; and
 - (ii) has not been converted; and
 - (iii) is not a write-off; and
 - (iv) has not suffered severe damage.
- (2) If an enforcement officer seizes and impounds, or seizes and authorises the impoundment of, a motor vehicle under this section, the following provisions 35

- apply, with any necessary modifications, as if the vehicle were seized and impounded under section 96:
- (a) section 96(2) to (4A), (7), and (8):
 - (b) section 97:
 - (c) section 98 (in which the modifications include a reference to a 6-month impoundment period rather than a 28-day impoundment period). 5
- (3) A vehicle to which this section and a notice under section 96(2) relate must be released to the registered person or hirer if—
- (a) the Police have decided not to take any of the following proceedings (or if proceedings have been taken and the person against whom they are taken is acquitted): 10
 - (i) proceedings against the person who failed to stop (or remain stopped):
 - (ii) proceedings against the registered person or hirer (as applicable) of the motor vehicle who has not provided the information requested under section 118(4); and 15
 - (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. 20
- (4) A vehicle to which this section applies may be released to the registered person or hirer if the registered person or hirer (as applicable)—
- (a) was not the person driving the vehicle when the vehicle failed to stop (or remain stopped); and
 - (b) has provided the information requested under section 118(4). 25
- 96AAB Impoundment of motor vehicle for failure to give information about fleeing driver offence**
- (1) This section applies if a vehicle—
- (a) is involved in the commission of an offence against section 52A(1)(a) or (b); and 30
 - (b) has not been seized and impounded under **section 96AAA**.
- (2) An enforcement officer may seize and impound, or seize and authorise the impoundment of, a motor vehicle for 28 days if the officer believes on reasonable grounds that—
- (a) either— 35
 - (i) the driver of the vehicle failed or refused to provide information or provided false or misleading information in response to a

- demand for information made by the officer under section 114(3)(b) (*see* section 52A(1)(c) for the offence); or
- (ii) the owner or hirer of the vehicle, without reasonable excuse, failed or refused to provide information or provided false or misleading information in response to a request for information made by the officer under section 118(4) (*see* section 52(6) for the offence); and 5
- (b) impounding the vehicle is necessary to prevent a serious threat to road safety. 10
- (3) If an enforcement officer seizes and impounds, or seizes and authorises the impoundment of, a vehicle under this section, the following provisions apply, with any necessary modifications, as if the vehicle were seized and impounded under section 96: 10
- (a) section 96(2) to (4A), (6), (7), and (8):
- (b) section 97: 15
- (c) section 98.
- 11 Section 96A amended (Impoundment of vehicle used in transport service)**
- (1) After section 96A(2)(a)(i), insert:
- (ia) the driver's electronic address (if the driver has an electronic address); and 20
- (2) After section 96A(2)(a)(ii), insert:
- (ia) the transport service operator's electronic address (if the transport service operator is different from the driver and has an electronic address); and
- (3) Replace section 96A(2)(c) and (d) with: 25
- (c) if the driver has left the scene, give a copy of the notice to the registered person, if that person is present at the time of the seizure, or send a copy of the notice to that person in accordance with **subsection (2AAA)**; and
- (d) give or send a copy of the notice to the vehicle recovery service provider who tows or carries the impounded motor vehicle to the place where it is to be stored; and 30
- (da) give or send a copy of the notice to the storage provider who stores the motor vehicle; and
- (4) After section 96(2), insert: 35
- (2AAA) For the purposes of **subsection (2)(c)**, if the registered person is not present at the time of the seizure, the enforcement officer must, as soon as practicable, send a copy of the notice to the registered person—

- (a) by post addressed to that person at their last known place of residence or business, their last known postal address, or their address as recorded on the register of motor vehicles or any other register administered by the Agency; or
- (b) by electronic means addressed to that person at their electronic address (if any) as recorded on the register of motor vehicles or any other register administered by the Agency. 5
- (5) After section 96A(2A)(a)(ii), insert:
- (ia) electronic address (if the driver has an electronic address); and
- (6) After section 96A(2A)(b)(ii), insert: 10
- (ia) electronic address (if the transport service operator has an electronic address); and
- 12 Section 97 amended (Storage of impounded vehicles)**
- (1) In the heading to section 97, after “vehicles”, insert “: generally”.
- (2) In section 97(1), after “section 96”, insert “or **96AAB**”. 15
- (3) In section 97(2) and (3), replace “owner of the impounded vehicle” with “registered person for the impounded vehicle”.
- (4) Repeal section 97(2A).
- (5) In section 97(4), replace “owner of the vehicle” with “registered person for the vehicle”. 20
- (6) In section 97(6)(a), replace “owner” with “registered person” in each place.
- 13 New section 97A inserted (Storage of vehicles impounded under section 96AAA)**
- After section 97, insert:
- 97A Storage of vehicles impounded under section 96AAA** 25
- (1) A motor vehicle seized and impounded under **section 96AAA** must be stored where the enforcement officer directs.
- (2) The registered person for the impounded vehicle is liable to pay the fees and charges for towage and storage that are prescribed or assessed in the manner specified by regulations made under section 167. 30
- (3) **Subsection (2)** does not apply if—
- (a) the registered person, or a person authorised by them, has not claimed the vehicle; or
- (b) the vehicle is released under **section 96AAA(3) or (4)**.
- (4) Fees and charges under **subsection (2)** are— 35
- (a) payable to the Agency; and

- (b) recoverable from the Agency by a vehicle recovery service operator or a storage provider.
- (5) **Subsection (6)** applies if—
- (a) a court orders—
- (i) the confiscation of the vehicle under the Sentencing Act 2002; or 5
- (ii) the forfeiture of the vehicle under **section 142AAB** of that Act; and
- (b) the vehicle is sold under section 137 of the Sentencing Act 2002 (including as that provision is applied by **section 142AAE or 142AAF** of that Act). 10
- (6) In the circumstances described in **subsection (5)**, fees and charges under **subsection (2)** are recoverable by a vehicle recovery service operator or a storage provider from the chief executive of the Ministry of Justice as impoundment costs in accordance with that provision.
- (7) Any 1 or more of the following persons may enter into any arrangements they consider necessary with vehicle recovery service operators and storage providers for the payment of fees and charges under this section: 15
- (a) the Commissioner;
- (b) the Agency;
- (c) the chief executive of the Ministry of Justice: 20
- (d) a Registrar.
- (8) A person may not remove or release an impounded motor vehicle from storage unless allowed to do so under this Act.
- (9) In **subsection (7)(d)**, **Registrar** means any Registrar of the High Court or of the District Court, as the case may require, and includes a Deputy Registrar. 25

14 Section 98 amended (Release of vehicle after 28 days)

Before section 98(1), insert:

(1AAA) This section applies if a vehicle has been impounded for 28 days under section 96, **96AAB**, or 96A.

15 New section 98AAA inserted (Release of vehicle after 6 months) 30

After section 98, insert:

98AAA Release of vehicle after 6 months

- (1) This section applies if a vehicle has been impounded for 6 months under **section 96AAA**. 35
- (2) Section 98 applies, with all necessary modifications, to the impoundment of a vehicle under **section 96AAA** in the same way as it applies to a vehicle that has been impounded for 28 days under section 96, **96AAB**, or 96A.

16 Section 98A amended (Commissioner may prohibit sale or disposal of certain motor vehicles)

Replace section 98A(1) with:

- (1) This section applies if—
- (a) a person is charged with an offence under this Act or any other enactment that would, if the person is convicted of the offence, permit or require a court to order—
 - (i) the confiscation of the person’s motor vehicle under the Sentencing Act 2002; or
 - (ii) the forfeiture of the vehicle under **section 142AAB** of that Act; and
 - (b) the Commissioner believes, on reasonable grounds in the circumstances, that the court would, if the person is convicted of the offence, order that confiscation or forfeiture.

17 Section 102 amended (Appeal to Police against impoundment of vehicle)

- (1) In section 102(1), replace “An owner whose motor vehicle has been seized and impounded under section 96 or section 96A” with “A registered person whose motor vehicle has been seized and impounded under section 96, **96AAB**, or 96A”.
- (2) Replace section 102(1)(b) with:
- (b) the enforcement officer who seized the vehicle did not—
 - (i) have reasonable grounds of belief as required by section 96, **96AAB**, or 96A; or
 - (ii) comply with the notice requirements in section 96(2) (including as applied by section **96AAB(3)**) or 96A(2) (whichever applies); or
- (3) In section 102(1)(c), (d), and (h), replace “owner” with “registered person”.
- (4) Replace section 102(1)(f) and (g) with:
- (f) if section 96(1AA) or (1A) or **96AAB** applies, the registered person did not know and could not reasonably be expected to know that the operator or hirer of the vehicle would contravene section 22A(1) or (3), 22AF, 114, or 118 (whichever applies); or
 - (g) if section 96(1AA) or (1A) or **96AAB** applies, the registered person took all reasonable steps to prevent the operator or hirer of the vehicle from contravening section 22A(1) or (3), 22AF, 114, or 118 (whichever applies); or
- (5) Repeal section 102(1)(ga).
- (6) After section 102(1), insert:

- (1A) A registered person whose motor vehicle has been seized and impounded under **section 96AAA** may appeal to the Police against the seizure and impoundment on any of the following grounds:
- (a) the impounded vehicle was a stolen or converted vehicle at the time of the seizure and impoundment: 5
 - (b) the enforcement officer who seized and impounded, or seized and authorised the impoundment of, the vehicle—
 - (i) did not have reasonable grounds of belief as required by that section; or
 - (ii) did not comply with the notice requirements in section 96(2) (as applied by **section 96AAA(2)(a)**): 10
 - (c) the registered person did not know and could not reasonably be expected to know that the operator of the vehicle would contravene section 114:
 - (d) the registered person took all reasonable steps to prevent the operator of the vehicle from contravening section 114: 15
 - (e) the registered person—
 - (i) was not the person driving the vehicle when the vehicle failed to stop (or remain stopped); and
 - (ii) either—
 - (A) did not know, and could not reasonably have been expected to know, the identity of the driver; or 20
 - (B) has otherwise provided the information requested under section 118(4):
 - (f) the driver drove the vehicle in a serious medical emergency (including carrying a person who is about to give birth): 25
 - (g) release of the vehicle to the registered person is appropriate because—
 - (i) the seizure and impoundment of the vehicle have resulted or will result in—
 - (A) extreme hardship to the registered person (whether in relation to employment or otherwise); or 30
 - (B) undue hardship to a person other than the registered person (whether in relation to employment or otherwise); and
 - (ii) release of the vehicle is not contrary to the interests of road safety.
- (7) In section 102(3), after “subsection (1)”, insert “or **(1A)**”.
- (8) In section 102(3)(a), replace “owner” with “registered person” in each place. 35
- 18 Section 110 amended (Appeal against refusal of Police to direct release of impounded vehicle)**
- In section 110(1), after “subsection (1)”, insert “, **(1A)**, or **(1B)**”.

- 19 Section 113 amended (Enforcement officers may enforce transport legislation)**
- In section 113(2)(a), after “full address,”, insert “electronic address (if the person has an electronic address),”.
- 20 Section 114 amended (Power to require driver to stop and give name and address, etc)** 5
- In section 114(3)(b)(i), replace “give his or her full name, full address,” with “give their full name, full address, electronic address (if they have an electronic address),”.
- 21 Section 118 amended (Requirement to give information as to identity of driver or passenger)** 10
- (1) In section 118(4), replace “or remain stopped in contravention of section 114” with “(or remain stopped) as signalled, requested, or required under section 114”.
- (2) In section 118(6), replace “the full name and address of the driver” with “the driver’s full name, full address, and electronic address (if the driver has an electronic address)”.
- 22 Section 119 amended (Powers of entry)**
- (1) Replace section 119(1)(a)(i) with:
- (i) has failed to comply with a requirement under section 114(2) or (3) (relating to stopping a vehicle, remaining stopped, or giving information to an enforcement officer); and 20
- (2) In section 119(3), replace “section 96, 96A” with “section 96, **96AAA**, **96AAB**, 96A”.
- (3) In section 119(4) and (5), replace “section 96 or section 96A or section 123” with “section 96, **96AAA**, **96AAB**, 96A, or 123”. 25
- 23 Section 133 amended (Owner liability for moving vehicle offences and special vehicle lane offences)**
- In section 133(4)(c)(i)(B), after “telephone number”, insert “, or electronic address”. 30
- 24 Section 133A amended (Owner liability for stationary vehicle offences)**
- In section 133A(4)(c)(i)(B), replace “and telephone number” with “telephone number, or electronic address”.
- 25 Section 139 amended (Issue of infringement notice)**
- (1) Replace section 139(2)(c) and (d) with: 35
- (c) by sending it, or a copy of it, to the person who appears to have committed the infringement offence—

- (i) by post addressed to the person at their last known place of residence or business or last known postal address; or
- (ii) by electronic means addressed to the person at their electronic address (if any) as recorded on the register of motor vehicles or any other register administered by the Agency; or 5
- (d) if the person is the holder of a land transport document, by serving it, or a copy of it, on that person—
- (i) by post at the last address the person provided for service for the purposes of that land transport document; or
- (ii) by electronic means at their electronic address (if they provided an electronic address for service for the purposes of that land transport document). 10
- (2) In section 139(3)(b), replace “subsection (2)(c) or (d)” with “**subsection (2)(c)(i) or (d)(i)**”.
- (3) After section 139(3)(b), insert: 15
- (c) is sent electronically to a person under **subsection (2)(c)(ii) or (d)(ii)** must, unless the contrary is shown, be treated as having been sent to, or served on, the person at the time the electronic communication containing the notice first enters an information system that is outside the control of the enforcement officer. 20
- (4) After section 139(3), insert:
- (4) Despite section 24(1)(e) of the Summary Proceedings Act 1957, a reminder notice may be served on a person for the purposes of section 21(2) of that Act—
- (a) by sending it, or a copy of it, to the person who appears to have committed the infringement offence by electronic means addressed to the person at their electronic address (if they have an electronic address); or 25
- (b) if the person is the holder of a land transport document, by serving it, or a copy of it, on that person by electronic means addressed to the person at their electronic address (if any) as recorded on the register of motor vehicles or any other register administered by the Agency. 30

26 New sections 139AAA and 139AAB inserted

After section 139, insert:

139AAA Infringement notice issued automatically

- (1) This section applies if an automated infringement notice system has— 35
- (a) detected the commission of an infringement offence that is a moving vehicle offence; and

- (b) recognised that 1 or more images connected with the infringement offence are of sufficient quality to be used as evidence in relation to the offence; and
 - (c) recognised the registration plate of the vehicle involved in the infringement offence; and 5
 - (d) identified the registered person for the vehicle; and
 - (e) identified a physical or an electronic address to which an infringement notice can be issued.
- (2) The automated infringement notice system may automatically—
- (a) issue an infringement notice in relation to the infringement offence detected by the system; and 10
 - (b) serve the infringement notice by serving it, or a copy of it, on the registered person identified by the system—
 - (i) by post addressed to the person at—
 - (A) their usual or last known place of residence or business; or 15
 - (B) the address they specified in any application or other document under this Act or the Transport (Vehicle and Driver Registration and Licensing) Act 1986; or
 - (ii) by electronic means addressed to the person at their electronic address (if any) as recorded on the register of motor vehicles or any other register administered by the Agency. 20
- (3) **Subsection (2)** does not prevent an enforcement officer from doing either or both of the following:
- (a) issuing an infringement notice for an infringement offence detected by an automated infringement notice system: 25
 - (b) serving an infringement notice issued under **subsection (2)**.
- (4) An automated infringement notice system may be operated in a way that allows an enforcement officer to act under **subsection (3)**.

139AAB Approval of automated infringement notice system

- (1) The Director may approve an automated infringement notice system for the purposes of **section 139AAA** if satisfied that— 30
- (a) the system is capable of affirming the matters set out in **section 139AAA(1)**; and
 - (b) the system is capable of being operated in the way described in **section 139AAA(3)**; and 35
 - (c) there is an effective ongoing quality assurance process in place for auditing the capability of that system.
- (2) The Director may sign and issue a certificate of approval.

27 New section 141A inserted (Evidence of capability of automated infringement notice system)

Before section 142, insert:

141A Evidence of capability of automated infringement notice system

In proceedings relating to an infringement offence detected by an automated infringement notice system, the production of a certificate of approval (or a document purporting to be a copy of the certificate) of an automated infringement notice system purporting to be signed by the Director under **section 139AAB** is, in the absence of proof to the contrary, sufficient proof that, on the date of the alleged offence, the system was capable of—

- (a) affirming the matters set out in **section 139AAA(1)**; and
- (b) being operated in the way described in **section 139AAA(3)**.

28 New sections 146A to 146D inserted

After section 146, insert:

146A Average speed treated as actual speed

(1) In proceedings against a person for a speeding offence, the average speed of the relevant vehicle between 2 detection points on a road calculated by a point-to-point average speed system must be treated as being the speed at which the vehicle was actually travelling between those 2 detection points.

(2) The average speed of a vehicle between 2 detection points on a road is to be calculated using the following formula (and expressed in kilometres per hour rounded down to the next whole number):

$$(d \times 3.6) \div t$$

where—

d is the surveyed distance (expressed in metres and rounded down to the next whole number) between the 2 detection points

t is the period (expressed in seconds) between the time when the vehicle passes the first detection point and the time when it passes the second detection point.

(3) In this section and **sections 146B to 146D**, unless the context otherwise requires,—

accurate, in relation to data referred to in the definition of **distances**, means the data has a degree of uncertainty less than $0.01 \times DT$

data, in relation to a speeding offence detected by a point-to-point average speed system, means any 1 or more of the following:

- (a) the time of any event recorded (including the time a vehicle passed a detection point):
- (b) the position of a vehicle on a road at any given time:

- (c) the direction in which a vehicle is moving:
- (d) the characters on a vehicle's registration plate:
- (e) the average speed of a vehicle between 2 detection points:
- (f) any speed limit or speed limits between the 2 detection points:
- (g) any self-test, diagnostic, or other data about how the system is operating. 5

detection point means a point on a road at which an item of approved traffic surveillance equipment that is part of a point-to-point average speed system detects the presence of a motor vehicle

distances, in the formula in **section 146B**, means—

- (a) distances derived from existing data about the relevant length of road, if those data are accurate; or 10
- (b) distances measured for the purposes of this section by a cadastral surveyor licensed under the Cadastral Survey Act 2002 in accordance with the method—
 - (i) determined and published by the Director for measuring surveyed distance; and 15
 - (ii) modified as necessary

DT means distance travelled (expressed in metres)

element, of a point-to-point average speed system, means any 1 or more of the following: 20

- (a) the 2 items of approved vehicle surveillance equipment at the detection points:
- (b) the location of the 2 detection points:
- (c) the surveyed distance between those 2 detection points:
- (d) if only 1 speed limit applies between those 2 detection points, that speed limit: 25
- (e) if more than 1 speed limit applies between those 2 detection points,—
 - (i) those speed limits; and
 - (ii) when those speed limits apply; and
 - (iii) the location of those speed limits, including the surveyed distance over which each applies; and 30
 - (iv) the weighted average speed limit between those 2 detection points, as calculated under **section 146B** (if that calculation is practicable)

point-to-point average speed system means a system that consists of 2 items of approved vehicle surveillance equipment that have, or are associated with other equipment or software that has, the ability to calculate the average speed of a motor vehicle between 2 detection points 35

surveyed distance means the distance along a length of road that is subject to a speed limit (whether it is the distance between 2 detection points, when there is only 1 speed limit, or the distance to which each speed limit applies for the purposes of **section 146B**)—

- (a) measured for the purposes of this section by a cadastral surveyor licensed under the Cadastral Survey Act 2002 in accordance with the method determined and published by the Director after consulting with the Surveyor-General appointed under that Act; and 5
- (b) published by the Director for the purposes of this section under **section 146D**. 10

146B Weighted average speed limit between 2 detection points

- (1) This section applies if more than 1 speed limit applies between 2 detection points on a length of road along which the average speed of a vehicle is to be calculated for the purposes of **section 146A**. 15
- (2) The speed limit for the purpose of that calculation is the average weighted speed limit calculated under **subsection (3)**. 15
- (3) The average weighted speed limit for a length of road between 2 detection points is to be determined using the following formula, and expressed in kilometres per hour rounded up to the next whole number: 20

$$d_t \div ((d_1 \div s_1) + (d_2 \div s_2) + \dots (d_n \div s_n)) \quad 20$$

where—

d_t is the total surveyed distance (expressed in metres and rounded down to the next whole number) between the 2 detection points

$d_1, d_2 \dots d_n$ are the surveyed surveyed distances over which the speed limits between the 2 detection points apply 25

$s_1, s_2 \dots s_n$ are the speed limits that apply between the 2 detection points.

146C Evidence relating to average speed

- (1) This section applies to proceedings for a moving vehicle offence in which the prosecution relies on **section 146A**. 30
- (2) In those proceedings, the production of data (including electronic images) relating to the alleged speeding offence and purporting to be generated by a point-to-point average speed system is, in the absence of proof to the contrary, sufficient evidence of the accuracy of that data. 30
- (3) In those proceedings, the production of a notice published under **section 146D** describing an element of a point-to-point average speed system is, in the absence of proof to the contrary, sufficient evidence of that element. 35
- (4) In cases to which **section 146B** applies, the weighted average speed limit calculated under that section—

- (a) must be treated as the applicable speed limit for the purpose of the calculation of a vehicle's average speed under **section 146A**; and
- (b) must be treated as a speed limit in provisions under this Act (for example, Part 2 of Schedule 1B of the Land Transport (Offences and Penalties) Regulations 1999) that impose different penalties for speeding offences depending on the degree to which a speed limit is exceeded, and those provisions apply accordingly. 5
- (5) This section does not limit or affect any other evidence of the speed of a motor vehicle in proceedings for a moving offence.
- (6) In this section, unless the context otherwise requires, **electronic images** includes a sequence of electronic images. 10
- 146D Publication of matters relating to point-to-point average speed system**
- (1) The Director must publish—
- (a) the elements of a point-to-point average speed system; and
- (b) the method by which a surveyed distance is to be measured for the purpose of the operation of any point-to-point average speed system. 15
- (2) The Director must publish those matters by notice—
- (a) in the *Gazette*; and
- (b) on an Internet site maintained by the Agency.
- 29 Section 199 amended (Agency to maintain register of driver licences)** 20
- In section 199(2)(a), after “address,”, insert “electronic address (if they have an electronic address).”
- 30 Section 199A amended (Register of transport service licences)**
- (1) After section 199A(2)(c), insert:
- (ca) the holder's business or personal electronic address (if they have an electronic address): 25
- (2) After section 199A(2)(d), insert:
- (da) the business or personal electronic address of any person in control (if they have an electronic address):
- 31 Section 208 amended (Appointment of enforcement officers and dangerous goods enforcement officers)** 30
- In section 208(3)(a)(i), replace “and 139” with “139, and **139AAA(3)**”.
- 32 Section 210 replaced (Service of notices)**
- Replace section 210 with:

210 How notices and requests are given, served, or made

- (1) This section describes—
- (a) how a notice required to be given, sent, or served under this Act (other than an infringement notice) may be given, sent, or served; and
 - (b) how a request in writing under section 118 may be made. 5
- (2) The notice or request may be given, sent, served, or made by—
- (a) causing it to be delivered to the relevant person, or to be left at—
 - (i) the person’s usual or last known place of residence or business; or
 - (ii) at the address specified by the person in any application or other document under this Act or the Transport (Vehicle and Driver Registration and Licensing) Act 1986; or 10
 - (b) causing it to be sent—
 - (i) by post addressed to the person at the place or address referred to in **paragraph (a)**; or
 - (ii) by electronic means addressed to the person at their electronic address (if any) as recorded on the register of motor vehicles or any other register administered by the Agency. 15
- (3) A notice or request that is sent to a person—
- (a) by post must, unless the contrary is shown, be treated as having been given, served, or made when it would have been delivered in the ordinary course of post and, in proving the delivery, it is sufficient to prove that the letter was properly addressed and posted: 20
 - (b) by electronic means must, unless the contrary is shown, be treated as having been given, served, or made at the time the electronic communication first enters an information system that is outside the control of the person giving or serving the notice or making the request and, in proving the sending, it is sufficient to prove that the electronic communication was properly addressed and sent. 25

33 Section 233 amended (Interpretation matters applying to this Part)

In section 233(1), replace the definition of **personal information** with: 30

personal information means the following information about a person registered or previously registered in respect of a motor vehicle:

- (a) their name:
- (b) their physical address:
- (c) their electronic address (if they have an electronic address): 35
- (d) if the person is an individual, their date of birth and driver licence number:
- (e) any other information about the person that is on the register

- 34 Section 241 amended (Authorised access to name and address only)**
In section 241(1), replace “names and addresses” with “names, addresses, and electronic addresses (if any)”.
- 35 Section 249 amended (Circumstances when motor vehicle may be seized and impounded)** 5
After section 249(2)(b)(i), insert:
(ia) the electronic address of the driver (if the driver has an electronic address); and
- 36 Schedule 1 amended** 10
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 other Acts

- Subpart 1—Amendments to Sentencing Act 2002 15
- 37 Principal Act**
This subpart amends the Sentencing Act 2002.
- 38 Section 128 amended (Confiscation of motor vehicle)**
In section 128(1)(b), replace “52A(1)” with “52A(1)(c)”.
- 39 Section 129 amended (Confiscation of motor vehicle after subsequent offence)** 20
In section 129(1)(a), replace “52A(1)” with “52A(1)(c)”.
- 40 New sections 142AAA to 142AAF and cross-heading inserted**
After section 142, insert:
- Forfeiture of vehicles of fleeing drivers* 25
- 142AAA Interpretation of terms used in sections 142AAB to 142AAF**
The definitions set out in section 127 apply, with all necessary modifications, to **sections 142AAB to 142AAF**.
- 142AAB Forfeiture of vehicle driven by fleeing driver**
- (1) This section applies if a person is convicted of an offence against section 52A(1)(a) or (b) of the Land Transport Act 1998. 30

- (2) The court may make an order under **subsection (3)** if satisfied that, at the time of the conviction, the offender or a substitute for the offender owns or has an interest in the motor vehicle that was used in the commission of the offence.
- (3) The court may order that the motor vehicle be forfeited to the Crown.
- (4) Section 128(3A) to (5) applies, with any necessary modifications, to the making of a forfeiture order under this section. 5

142AAC Offence to sell or dispose of motor vehicle subject to forfeiture order

- (1) This section applies if a motor vehicle—
- (a) is subject to a forfeiture order under **section 142AAB(3)** or a confiscation order under **section 142AAE(4)**; and 10
 - (b) has not yet been surrendered to, or seized by, a Registrar, bailiff, or constable.
- (2) A person who sells or disposes of the motor vehicle or any part of the motor vehicle commits an offence and is liable on conviction to a fine not exceeding \$2,000. 15

142AAD Offence to remove forfeited vehicle

A person who removes or attempts to remove a motor vehicle surrendered to or seized by a bailiff or constable under section 132 (as modified by **section 142AAF**) from the custody of that bailiff or constable, or from the custody of the Registrar of the court (without the approval of the Registrar), commits an offence and is liable on conviction to a fine not exceeding \$200. 20

142AAE Offender must not acquire new interest in motor vehicle for 12 months

- (1) This section applies if—
- (a) a court makes an order for the forfeiture of a motor vehicle under **section 142AAB**; or 25
 - (b) a court has made an order under section 131(2)(a) (as applied by **section 142AAF**) prohibiting an offender from acquiring a motor vehicle for 12 months.
- (2) The offender must not, within 12 months after the date of the order, acquire any interest in any motor vehicle. 30
- (3) A person who acquires any interest in a motor vehicle in contravention of **subsection (2)** commits an offence and is liable on conviction to a fine not exceeding \$500.
- (4) If a court convicts a person of an offence against this section, then instead of, or in addition to, imposing a fine, the court may order that the motor vehicle concerned be confiscated. 35

- (5) If a court orders the confiscation of a motor vehicle under **subsection (4)**, sections 129EA, 130, 131 to 135, 136A, 137 (except section 137(3)(g)), and 138 to 142 (as applied and modified by **section 142AAF**) apply accordingly.

142AAF Modified application of confiscation scheme to forfeiture

- (1) If a court orders the forfeiture of a motor vehicle under **section 142AAB**, the provisions specified in **subsection (2)** apply, with all necessary modifications, to the order, the motor vehicle, the offender and other persons, and in all other respects, in the same way as they apply if a court orders the confiscation of a vehicle under section 128 or 129. 5
- (2) The following provisions apply: 10
- (a) sections 129B to 129D (relating to written cautions given to persons with interest in motor vehicles involved in offences):
 - (b) sections 129E and 129EA (relating to appeals against confiscation):
 - (c) section 130 (court may order declaration of ownership to be completed):
 - (d) sections 130A and 131 (relating to the effect of any disposal of a motor vehicle or ownership or other interest in it): 15
 - (e) sections 132, 134, and 135 (relating to the enforcement of a confiscation order):
 - (f) section 136A (Registrar must apply for deregistration of motor vehicle subject to confiscation and destruction order): 20
 - (g) section 137 (except section 137(3)(g)) and sections 138 to 141C (relating to the sale of confiscated motor vehicles):
 - (h) section 142 (order may be cancelled on application by bona fide purchaser).
- (3) Modifications to the application of the provisions specified in **subsection (2)** include the following: 25
- (a) a reference to the confiscation of a motor vehicle, or an order for the confiscation of a motor vehicle, under section 128 must be read as a reference to the forfeiture of a motor vehicle, or an order for the forfeiture of a motor vehicle, under **section 142AAB**: 30
 - (b) any other reference to the confiscation of a motor vehicle must be read as a reference to the forfeiture of a motor vehicle:
 - (c) a reference to an offence specified in section 128(1) must be read as a reference to an offence against section 52A(1)(a) or (b) of the Land Transport Act 1998 (as referred to in **section 142AAB(1)**): 35
 - (d) any reference to an offender in connection with an offence specified in section 128 or 129 must be read as a reference to an offender in connection with an offence against section 52A(1)(a) or (b) of the Land Transport Act 1998 (as referred to in **section 142AAB(1)**):

(e)	any other reference to section 128 must be read as a reference to section 142AAB :	
(f)	any reference to any section specified in subsection (2) must be read as a reference to that section as applied and modified by this section.	
41	Schedule 1AA amended In Schedule 1AA,— (a) insert the Part set out in Schedule 2 of this Act as the last Part; and (b) make all necessary consequential amendments. Subpart 2—Amendments to Summary Proceedings Act 1957	5
42	Principal Act This subpart amends the Summary Proceedings Act 1957.	10
43	Section 2 amended (Interpretation) In section 2, definition of infringement notice , paragraph (g), after “139”, insert “or 139AAA ”.	
44	Section 100 amended (Seizure of motor vehicles impounded under Land Transport Act 1998) In section 100(1), delete “section 96 or 96A of”.	15
45	Section 100E amended (Release of property if fine and other costs paid or if certain appeals successful)	
(1)	In section 100E(1)(b), after “96”, insert “, 96AAA, 96AAB ,”.	20
(2)	In section 100E(4),— (a) delete “section 96 or 96A of”: (b) replace “28-day period for which the vehicle would otherwise be required to be impounded under that Act” with “impoundment period”.	
(3)	In section 100E(6), replace “28-day period for which the motor vehicle would otherwise be required to be impounded under section 96 or 96A of that Act” with “impoundment period”.	25
(4)	After section 100E(7), insert:	
(8)	In subsections (4) and (6), impoundment period means,— (a) for a vehicle impounded under section 96, 96AAB , or 96A of the Land Transport Act 1998, the 28-day period for which the vehicle would otherwise be required to be impounded: (b) for a vehicle impounded under section 96AAA of the Land Transport Act 1998, the 6-month period for which the vehicle would otherwise be required to be impounded.	30 35

Part 3

Amendments to secondary legislation

Subpart 1—Amendments to Land Transport (Offences and Penalties) Regulations 1999

- | | | |
|-----------|--|----|
| 46 | Principal regulations | 5 |
| | This subpart amends the Land Transport (Offences and Penalties) Regulations 1999. | |
| 47 | Regulation 8 amended (Impoundment of motor vehicles under section 96 of Act) | |
| (1) | In the heading to regulation 8, delete “ under section 96 of Act ”. | 10 |
| (2) | In regulation 8, replace “and to the storage provider under section 96 of the Act” with “and to the vehicle recovery service provider and the storage provider under section 96 (including as applied by sections 96AAA and 96AAB) of the Act”. | |
| 48 | Schedule 4 amended | 15 |
| (1) | In Schedule 4, form, Part 1, above “Driver’s full name:”, insert:
<i>[Include only in notice served on driver]</i> | |
| (2) | In Schedule 4, form, Part 1, above “Registered person’s full name:”, insert:
<i>[Include only in notice served on registered person, owner, or operator]</i> | |
| (3) | In Schedule 4, form, Part 1, in the text under the heading “ Advice to driver or operator or owner or registered person ”, revoke paragraph (d). | 20 |
| (4) | In Schedule 4, form, Part 1, after the heading “ The vehicle is seized and impounded for 28 days ”, insert:

Advice to registered person
I am seizing and impounding, or seizing and authorising the impoundment of, the motor vehicle described below for 6 months because I believe, on reasonable grounds, that the vehicle was driven on a road while the driver failed to stop or to remain stopped in the circumstances referred to in section 96AAA of the Land Transport Act 1998 (the Act).

The vehicle is seized and impounded for 6 months. | 25 |
| (5) | In Schedule 4, form, Part 2, paragraph 4(d) and (e), replace “section 96(1A), (1AA), or (1AB)” with “section 96(1A) or (1AA) or 96AAA ”. | 30 |
| (6) | In section 4, form, Part 2, paragraph 4(f), replace “section 96(1AB)” with “section 96AAB ”. | |
| 49 | Schedule 4A amended | 35 |
| (1) | In Schedule 4A, form, Part 1, above “Driver’s full name:”, insert: | |

[Include only in notice served on driver]

- (2) In Schedule 4A, form, Part 1, above “Registered person’s full name:”, insert:
[Include only in notice served on registered person]

Subpart 2—Amendments to Land Transport (Storage and Towage Fees
for Impounded Vehicles) Regulations 1999 5

50 Principal regulations

This subpart amends the Land Transport (Storage and Towage Fees for Impounded Vehicles) Regulations 1999.

51 Regulation 3 amended (Towage fees for impounded vehicles)

- (1) In regulation 3(1) and (2), delete “section 96, 96A, or 122 of”. 10
(2) In regulation 3(3), replace “section 102(1)(b)” with “section 102(1)(b), **(1A)(b)**, or **(1B)**”.

52 Regulation 4 amended (Storage fees for impounded vehicles)

- (1) In regulation 4(1), delete “section 96, 96A, or 122 of”.
(2) After regulation 4(1), insert: 15
(1A) The owner of a vehicle that is seized and impounded under section 96, **96AAB**, 96A, or 122 of the Act must pay the charges specified in subclause (1) for each of the 28 days of the impoundment.
(1B) The owner of a vehicle that is seized and impounded under **section 96AAA** of the Act must pay the charges specified in subclause (1) for each of 182 days. 20
(3) In regulation 4(2),—
(a) replace “subclause (1)” with “subclauses (1) to **(1B)**”:
(b) replace “section 96 or 96A” with “section 96, **96AAA**, **96AAB**, or 96A”.
(4) In regulation 4(3),—
(a) replace “subclause (1)” with “subclauses (1) to **(1B)**”: 25
(b) replace “section 102(1)(a) or section 102(1)(b)” with “section 102(1)(a) or (b) or **(1A)(a) or (b)**”.

Schedule 1
New Part 7 of Schedule 1 of Land Transport Act 1998 inserted

s 36

Part 7	
Provisions relating to Land Transport (Road Safety) Amendment Act 2023	5
26 Increased penalty for second offence under section 52A	
Section 52A(4), as amended by the Land Transport (Road Safety) Amendment Act 2023, applies only if the relevant first offence is committed on or after the day on which that Act comes into force.	10

Schedule 2

New Part 5 of Schedule 1AA of Sentencing Act 2002 inserted

s 41

Part 5

Provisions relating to Land Transport (Road Safety) Amendment Act 2023 5

16 Timing of operation of section 129(4A)

Section 129(4A) applies only if the relevant first offence under section 129(1)(a) is committed on or after the day on which the Land Transport (Road Safety) Amendment Act **2023** comes into force.

10