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Legislative Statement for the Regulatory Systems (Transport) Amendment Bill

Presented to the House of Representatives

in accordance with Standing Order 272

Introduction

1. The objective of the Regulatory Systems (Transport) Amendment Bill (the Bill) is to maintain the effectiveness and efficiency of the regulatory system established by transport legislation, and to respond to and reduce the chance of regulatory failure.
2. The Bill will achieve this objective by addressing transport regulatory duplication, gaps, errors, and inconsistencies within transport legislation; ensuring that regulators have the effective tools needed to keep the transport regulatory system up to date and relevant; and removing unnecessary compliance costs from the transport system.
3. The Bill is an omnibus bill, and primarily amends the Land Transport Act 1998, Maritime Security Act 2004, Maritime Transport Act 1994 and the Railways Act 2005. The Bill includes other minor amendments to the Civil Aviation Act 1990, Government Rounding Powers Act 1989, Land Transport Management Act 2003, Port Companies Act 1988, Road User Charges Act 2012, Ship Registration Act 1992, Shipping Act 1987, and the Submarine Cables and Pipelines Protection Act 1996.

Background

4. The Bill is the first in a series of regulatory Bills to ensure that transport legislation is fit-for-purpose and supports a modern and effective regulatory system.

Provisions of the Regulatory Systems (Transport) Amendment Bill

5. Key provisions in the Bill will:
 - a) *Provide for the creation of transport instruments.* The Bill will enable the Minister of Transport (or the Governor-General, in the case of Regulations) to delegate accountability for specified aspects of Rules or Regulations to a named lower-level authority through the creation of transport instruments. This will provide a more efficient way to update detailed or frequently changing requirements.

In response to recommendations of the Transport and Infrastructure Committee (the Committee) the Bill provides that a transport instrument is part of, and enabled by, the Rule or Regulation that provides for it, and that a transport instrument can only be made for the purpose of that Rule or Regulation. The transport instrument provisions contain an appropriateness test where the Minister (or specific regulator in the case of emergency

rules) must be satisfied that the subject matter is appropriate to be included in a transport instrument. The Regulations Review Committee will be able to scrutinise the Rule or Regulation that empowers the instrument, and the instrument itself.

- b) *Clarify and modernise the powers of exemption from Regulations and Rules made under key land and maritime Acts.* The Director of the relevant transport agency will retain the power to grant exemptions, but the Bill will:
- clarify the existence of class exemptions (exempting a group of persons, vessels, or things from complying with a specified requirement of a regulation or rule)
 - clearly define the process for creating and publishing exemptions
 - clarify the power to revoke, amend, or replace exemptions
 - specify that exemptions may, but are not required to, include expiry dates.

On the recommendation of the Committee, the Bill specifies that there is no right to appeal to the District Court about a decision relating to a class exemption. The amendment recognises that decisions relating to class exemptions will be subject to judicial review, and that class exemptions will be disallowable instruments and therefore may be scrutinised by the Regulations Review Committee.

- c) *Increase the board sizes of transport agencies.* The Board of Waka Kotahi, New Zealand Transport Agency will increase from at least 6 and no more than 8 members, to at least 7 and no more than 9 members. The Boards of the Civil Aviation Authority and Maritime New Zealand will increase from 5 members, to at least 5 members and no more than 7 members. The amendments are necessary for voting, workload, succession planning, and recruitment purposes.
- d) *Increase the maximum fines allowed in Regulations made under the Maritime Transport Act 1994.* This amendment will ensure that the maximum fines for maritime transport offences are consistent with the equivalent penalties for land and air transport offences. The maximum allowable fine will increase from \$5,000 to \$10,000 for an individual and from \$30,000 to \$50,000 for a body-corporate. This will improve proportionality, effectiveness, and consistency across fines for offences in all transport modes. The Bill will not change the specific offence penalties currently set out in maritime Regulations.
- e) *Increase the time period a vehicle can be impounded to collect evidence after a serious accident or incident.* The Bill increases the time period a vehicle can be impounded from 7 days to 10 working days, to allow sufficient time for Police inspectors to properly examine and process evidence.
- f) *Make the Chatham Islands Council a regional council under Part 3A of the Maritime Transport Act 1994.* This amendment will allow the Chatham Islands Council to develop and enforce critical requirements for maritime and navigation safety, including appointing a harbourmaster, and making and enforcing navigation bylaws.

Conclusion

6. The amendments in the Bill are designed to ensure the transport regulatory system remains up to date and fit for purpose.