



Land Transport (Wheel Clamping) Amendment Act 2019

Public Act 2019 No 70
Date of assent 21 November 2019
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Land Transport (Wheel Clamping) Amendment Act 2019.
- 2 Commencement**
This Act comes into force on the 42nd day after the date on which it receives the Royal assent.
- 3 Principal Act**
This Act amends the Land Transport Act 1998 (the **principal Act**).

4 New Part 7A inserted

After section 98B, insert:

Part 7A

Immobilising devices applied to parked motor vehicles

98C Interpretation

In this Part,—

immobilising device means a wheel clamp or other device that is intended to immobilise a motor vehicle or restrict or impede its movement

operator means a person who has control over an immobilising device

parking place means a place on a road on which a person is able to park their motor vehicle

prescribed amount means the amount prescribed in regulations made under section 167(1)(md), but if no regulations are made, the prescribed amount is \$100 (inclusive of GST).

98D Immobilising devices applied to parked motor vehicles

- (1) This section applies if an operator applies an immobilising device to a motor vehicle parked in a parking place, unless—
 - (a) the parking place is on a road under the control of an enforcement authority who may issue infringement notices for parking offences under this Act; or
 - (b) the operator's actions are authorised by or under an enactment.
- (2) The operator—
 - (a) must not require the person in charge of the motor vehicle to pay a fee (relating to the removal of the immobilising device or any other matter) that exceeds the prescribed amount; and
 - (b) may require the fee to be paid before the immobilising device is removed; and
 - (c) must, when requested by the person in charge of the motor vehicle, remove, or arrange for the removal of, the immobilising device—
 - (i) as soon as is reasonably practicable after the fee is paid; or
 - (ii) if there is no fee, at the direction of the person in charge of the motor vehicle.
- (3) The operator must be reasonably available to respond to a request by the person in charge of the motor vehicle relating to the removal of the immobilising device.

- (4) A person who contravenes subsection (2)(a) or (c) commits an offence and is liable on conviction to a fine not exceeding \$3,000, in the case of an individual, or \$15,000, in the case of a body corporate.
- (5) If the operator fails to comply with subsection (2)(c) or fails to comply with subsection (3) after the person in charge of the motor vehicle has made reasonable efforts to contact the operator, the person in charge of the motor vehicle—
 - (a) may remove or arrange for the removal of the immobilising device from the motor vehicle; and
 - (b) is not under any civil or criminal liability for the removal if it causes as little damage to the immobilising device as is reasonably possible.
- (6) This section does not of itself authorise an operator to apply an immobilising device to a motor vehicle parked in a parking place.

98E Enforcement of section 98D and related matters

- (1) For the purpose of enforcing section 98D, and without limiting section 113, an enforcement officer may remain in a parking place to—
 - (a) direct an operator to remove an immobilising device from a motor vehicle within a specified time; and
 - (b) remove an immobilising device from a motor vehicle or arrange for its removal.
- (2) A person may enter and remain in a parking place for the purpose of removing an immobilising device from a motor vehicle if an enforcement officer or the person in charge of the motor vehicle has arranged in accordance with this section or section 98D for the person to remove the device.
- (3) In considering whether an operator has complied with section 98D(3) and without limiting the generality of that section, regard must be had to any criteria prescribed in regulations.
- (4) To avoid doubt, section 98D(4) does not prevent a matter from being brought before the Disputes Tribunal established under section 4 of the Disputes Tribunal Act 1988 for the exercise of that tribunal’s jurisdiction under that Act.
- (5) In any proceedings before a Disputes Tribunal where an operator claims an amount in respect of a dispute to which section 98D applies, no more than the prescribed amount may be claimed.
- (6) Nothing in subsection (5) affects proceedings before a Disputes Tribunal relating to any damage caused to an immobilising device as a result of its removal from a motor vehicle.

5 Section 116 amended (Enforcement of directions)

In section 116(1), replace “113 or section 115” with “98E, 113, or 115”.

6 Section 167 amended (Regulations)

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

- (md) prescribing, for the purpose of section 98D(2)(a), the maximum amount that may be charged by an operator:
- (me) prescribing criteria for the purpose of considering whether an operator has complied with section 98D(3):

Legislative history

4 April 2019	Introduction (Bill 123–1)
9 April 2019	First reading and referral to Transport and Infrastructure Committee
1 October 2019	Reported from Transport and Infrastructure Committee (Bill 123–2)
5 November 2019	Second reading
6 November 2019	Committee of the whole House
19 November 2019	Third reading
21 November 2019	Royal assent

This Act is administered by the Ministry of Transport.