

LAND TRANSPORT LAW REFORM BILL (NO. 2)

EXPLANATORY NOTE

THIS Bill makes a number of miscellaneous amendments to the following Acts:

- (a) The Transport (Vehicle and Driver Registration and Licensing) Act 1986;
- (b) The Transport Act 1962;
- (c) The Land Transport Act 1993;
- (d) The Transport Services Licensing Act 1989;
- (e) The Transit New Zealand Act 1989;
- (f) The Road User Charges Act 1977.

The main areas of amendment are as follows:

(a) *Organisational structure*

The statutory responsibilities for certain transport matters are clarified, and more specific provision is made for delegations and authorisations by the Secretary in respect of the Secretary's various functions and powers.

Among other things, the amendments deal with the administration of the Land Transport Fund, which at present is essentially the statutory responsibility of the Secretary but is administered by the Land Transfer Safety Authority under delegated powers.

The new provisions relating to delegations and authorisations will also facilitate management of the motor vehicles register.

(b) *New speed-limit setting procedure*

Various amendments set the scene for the introduction of new speed-limit setting procedures under transport legislation.

Under the present system, speed limits are generally set by or under—

- (i) Section 52 of the Transport Act 1962; and
- (ii) Regulation 21 of the Traffic Regulations 1976; and
- (iii) Bylaws made by local authorities and by the Minister of Transport under section 72 of the Transport Act 1962.

The proposed system continues to allow controlling authorities (local authorities, Transit New Zealand) to fix speed limits, but this will be done in accordance with rules made by the Minister under sections 5 and 6 of the Land Transport Act 1993.

The change-over to the new provisions will take effect from a date to be fixed by Order in Council, to allow for the time required to set the new rules in place. Existing speed limits will continue in force until superseded by limits

fixed under the new rules.

(c) *Changes to the motor vehicle registration system*

A number of amendments are made to Part I of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 with the aim of streamlining the administration of the motor vehicle registration system.

(d) *Some extension of enforcement powers in relation to the transport of hazardous substances*

Amendments to the Transport Act 1962 allow for—

- (i) Increased enforcement powers in relation to the transport of hazardous substances by rail; and
- (ii) The making of orders requiring persons convicted of an offence against the hazardous substances provisions of the Act to attend hazardous substances courses.

(e) *Removal of cross-references to specific regulations*

A number of clauses propose the mitigation or removal of problems arising from specific cross-referencing between the various transport Acts and regulations.

The aim is to allow a progressive updating of the regulations without the need to constantly amend specific cross-references within definitions and Schedules in the Acts.

(f) *Miscellaneous*

A number of minor technical amendments are made to the Road User Charges Act 1977.

Clause by Clause Analysis

PART I

AMENDMENTS TO TRANSPORT (VEHICLE AND DRIVER REGISTRATION AND LICENSING) ACT 1986

This Part amends the Transport (Vehicle and Driver Registration and Licensing) Act 1986. The amendments relate mainly to the manner in which changes in ownership of registered motor vehicles are to be dealt with, and all come into force on the date on which the Bill receives the Royal assent.

Clause 3 amends the definition of the term “Registrar” in section 2 of the Act to include within the definition persons to whom the Register has delegated any of his or her powers, duties, or functions.

Clauses 4 to 9 amend sections 8, 13, 15, 20, 22, and 34 of the Act to allow the Secretary for Transport to authorise persons to issue registration plates, certificates of registration, and motor vehicle licences, and to receive notifications of changes of ownership.

Authorisations under the various sections can be given to persons other than employees of the Ministry, and are envisaged as more appropriate than full delegations to cover “front-desk” registration and licensing functions.

Clause 7 (2) also repeals section 20 (2) of the Act, which currently contains regulation-making powers in relation to changes in the registered ownership of motor vehicles. These powers are now transferred to the new *section 35A* substituted by *clause 10* of the Bill, to gather all the regulation-making powers specific to Part I of the Act in a single section.

Clause 10 repeals the existing section 35A of the Act, which contains regulation-making powers specific to Part I of the Act, and substitutes a new section that—

- (a) Includes the provisions relating to changes of motor vehicle ownership that were formerly contained in section 20 (2) of the Act; and
- (b) Contains a number of new provisions that are generally directed towards a streamlining of the motor vehicle registration system.

The existing section 35A (a) is expanded to allow for the exemption of persons or classes of persons from particular requirements of the Act relating to changes in registered ownership, including the payment of prescribed fees.

The new section 35A (h) provides for the making of regulations authorising the Registrar to register a change of ownership notwithstanding the failure of one or other of the parties to deliver the required notice under section 20 (1) or section 22 (1) of the Act.

The new section 35A (i) allows for discounts to be given on the prescribed fees payable on change of ownership of a registered motor vehicle.

Clause 11 inserts a new section 36A into the Act that allows the Secretary to waive or allow an exemption from or discount on any fee payable in respect of the supply of information from the motor vehicle register, where the Secretary considers that it would be commercially or otherwise advantageous to the Crown to do so.

Clause 12 amends section 51A of the Act, which provides for delegations of the Secretary's functions and powers to persons outside the Ministry, to clarify that delegations may be made to a body corporate as well as to a natural person.

PART II

AMENDMENTS TO TRANSPORT ACT 1962

This Part amends the Transport Act 1962 (and also the Public Works Act 1981) in relation to—

- (i) The new speed-limit setting procedure; and
- (ii) The enforcement of the provisions of the Act relating to hazardous substances; and
- (iii) The updating of cross-references to specific regulations in the Schedule to the Act.

The Part will generally come into force on the date the Bill receives the Royal assent, but certain of the speed-limit related clauses will come into force on a date to be fixed by Order in Council.

Clause 14 inserts definitions of the terms “controlling authority”, “speeding offence”, and “fire brigade” into section 2 of the Act.

The first 2 definitions are relevant to the new speed-limit setting procedure.

The definition of “fire brigade” is relevant to the existing section 53 of the Act, which among other things exempts fire brigade drivers from speed limits in certain situations. The new definition specifically includes defence fire brigades and industrial fire brigades (which are excluded from the equivalent definition in the Fire Service Act 1975), to ensure that they receive the benefit of the section 53 exemption.

Clause 15 amends the definition of “stationary vehicle offence” in section 41A of the Act to remove cross-references to specific regulations.

Clause 16 repeals section 52 of the Act, which currently imposes the 50 kilometre an hour speed limit in built-up areas, and substitutes a new general speed-limit offence that reflects the new speed-limit setting procedures.

The clause also repeals the existing saving provision in section 52A of the Act, and substitutes a new section that preserves the effect of all existing speed limits until they are superseded by limits set under the new procedures.

Clause 17 amends section 53 of the Act, which exempts emergency service vehicles from compliance with speed limits in certain situations, to insert a reference to the new speed-limit rules to be made under the Land Transport Act 1993, and to extend the exemption for fire brigade vehicles to cover other emergencies as well as fires.

Clause 18 amends section 70E of the Act to insert definitions of the terms “hazardous substances enforcement officer”, “premises”, and “rail service operator” for the purposes of the new sections 70IA and 70K inserted by clauses 20 and 21 of the Bill.

Clause 19 amends section 70H of the Act to allow a Court to order a person convicted of an offence against the hazardous substances provisions of the Act to attend and complete a hazardous substances course.

Clause 20 fills a gap in the Act by inserting a new section 70IA that gives enforcement officers the power to go onto railway land in order to enforce the hazardous substance provisions of the Act in relation to goods transported by rail. The powers are similar to those provided by clause 94 of the Hazardous Substances and New Organisms Bill currently before the House of Representatives.

Only enforcement officers who are specifically appointed by warrant by the Director or the Commissioner of Police may exercise inspection powers under the section.

Clause 21 inserts a new section 70K into the Act to provide for the appointment of hazardous substance enforcement officers to exercise the inspection powers given by the new section 70IA in relation to rail transport.

Clause 22 amends section 72 of the Act, which provides for the making of bylaws relating to roads by the Minister of Transport and local authorities, to limit that power to the Minister in the case of bylaws setting speed limits.

The setting of speed limits by local authorities will in future be carried out in the context of the new rules to be made under the Land Transport Act 1993.

Clause 23 amends section 77 of the Act, the general regulations section, to remove from subsection (1)(p) the authorisation for the Minister to set speed limits between 50 and 100 kilometres an hour on particular roads.

Regulations may still be made under that provision to set particular speed limits for particular classes of vehicle.

Clause 24 inserts a new section 199c that will allow the Second Schedule and Schedule 2A to the Act to be amended by Order in Council, insofar as those Schedules list references to particular regulations.

Clause 25 amends section 243 of the Public Works Act 1981 by removing the regulation-making powers relating to the control of motorways.

PART III

AMENDMENTS TO LAND TRANSPORT ACT 1993

This Part amends the Land Transport Act 1993 to—

- (a) Provide the framework for the new speed-limit setting procedures; and
- (b) Prevent the arising of technical redundancies, and preserve access rights to the Government Superannuation Fund, in the event that the administration of the Land Transfer Fund shifts from the Land Transport Safety Authority to another body.

Clause 27 amends section 2 of the Act to define the term “controlling authority”. The clause also amends the definition of “Land Transport Register” (which register is within the responsibility of the Land Transport Safety Authority), to exclude the motor vehicle register kept under Part I of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 (which register will now be fully within the responsibility of the Secretary for Transport).

Clause 28 amends section 4 (6) of the Act to take account of the new speed-limit offence provision in *section 52* of the Transport Act 1962.

Clause 29 amends section 5 of the Act, which gives the Minister power to make rules relating to safety and licensing, by inserting a new *paragraph (ca)* that in effect forms the framework for the new speed-limit setting procedure. Rules made under the new paragraph may authorise controlling authorities to set maximum and minimum speed limits for roads under their control, and may prescribe criteria, requirements, and procedures to be complied with when setting speed limits.

Such rules may also authorise the Director to change or modify the application of any speed limit that does not comply with the prescribed criteria, requirements, or procedures.

Clause 30 amends section 6 of the Act to allow the making of rules in relation to controlling authorities, and the specification of the requirements of systems and procedures to be used in setting speed limits.

Clause 31 inserts a new *section 37A* into the Act that prevents the arising of technical redundancies and preserves access rights to the Government Superannuation Fund in the event that the administration of the Land Transport Fund is transferred from the Land Transport Safety Authority to another body.

The clause can be brought into force by Order in Council.

PART IV

AMENDMENTS TO TRANSPORT SERVICES LICENSING ACT 1989

This Part amends the Transport Services Licensing Act 1989.

Clause 33 inserts a new *section 66A* into the Act that will allow the Second Schedule to the Act to be amended by Order in Council, insofar as that Schedule lists references to particular regulations. The new provision is in substantially the same terms as the new *section 199c* of the Transport Act 1962 proposed by *clause 24* of the Bill.

PART V

AMENDMENTS TO TRANSIT NEW ZEALAND ACT 1989

This Part amends the Transit New Zealand Act 1989.

Clause 35 amends section 102 (5) of the Act, which relates to refunds of fuel excise duty.

At present, the power to approve refunds is split between Transit New Zealand and the Registrar. The amendment proposes to simplify the refund approval process by transferring Transit New Zealand’s current approval power to the Register.

PART VI

AMENDMENTS TO ROAD USER CHARGES ACT 1977

This Part makes a number of miscellaneous amendments to the Road User Charges Act 1977.

Clause 37 (1) substitutes in section 2 of the Act a new definition of “Registrar” that includes references to persons to whom the Registrar has delegated any function or power.

Subclause (2) amends the definition of “weight” to align it with the definition of the same term in the Transport Act 1962, which refers to weighing devices approved by the Land Transport Safety Authority rather than by the Minister of Transport.

Clause 38 amends section 23 of the Act, which is the general offence provision, to clarify that each separate breach of a licence will constitute a separate offence.

Clause 39 amends section 23D of the Act, which provides for delegations, to clarify that the powers, duties, and functions under the Act of the chief executive of the Ministry of Transport can be delegated to a body corporate as well as to a natural person.

Hon. Maurice Williamson

LAND TRANSPORT LAW REFORM (NO. 2)

ANALYSIS

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A BILL INTITULED

An Act to amend various enactments relating to land transport

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Land Transport Law Reform Act (No. 2) 1995. 5

(2) Except as provided in sections 13 (3) and 26 (2) of this Act, this Act shall come into force on the day on which it receives the Royal assent.

PART I 10

AMENDMENTS TO TRANSPORT (VEHICLE AND DRIVER
REGISTRATION AND LICENSING) ACT 1986

2. Part to be read with Transport (Vehicle and Driver Registration and Licensing) Act 1986—This Part of this Act shall be read together with and deemed part of the Transport (Vehicle and Driver Registration and Licensing) Act 1986* (in this Part of this Act referred to as the principal Act). 15

*1986, No. 6

Amendments: 1987, No. 107; 1988, No. 171; 1989, No. 78; 1992, No. 110; 1995, No. 45

3. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “Registrar” (as substituted by section 32 (1) of the State-Owned Enterprises Act 1986), and substituting the following definition: 20

“‘Registrar’ means the Secretary, and includes, where appropriate,—

“(a) Any person to whom the Secretary has delegated any of the powers, duties, or functions of the Registrar under this Act: 25

“(b) Any person for the time being authorised by the Secretary to exercise or perform any of the powers, duties, or functions of the Registrar under this Act.”. 30

(2) The State-Owned Enterprises Act 1986 is hereby consequentially amended by repealing so much of the Third Schedule as relates to section 2 (1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986.

4. Issue of registration plates and certificates of registration—(1) Section 8 (1) of the principal Act is hereby 35

amended by inserting, after the words “the Registrar”, the words “, or a person authorised in that behalf under **subsection (6)** of this section,”.

5 (2) Section 8 of the principal Act is hereby further amended by adding the following subsection:

“(6) The Secretary may authorise any person (whether or not employed in the Ministry of Transport) to issue registration plates and certificates of registration under this section, and any such authorisation may—

10 “(a) Include within the authorisation any employees or agents of the person principally authorised:

“(b) Specify the manner in which the authority is to be exercised:

15 “(c) Also be expressed to apply for the purposes of issuing substitute registration plates and duplicates of certificates of registration and duplicate personalised plates under section 15 of this Act.”

5. Issue and display of licences—(1) Section 13 (1) of the principal Act is hereby amended by inserting, after the words
20 “the Registrar,”, the words “or a person authorised in that behalf under **subsection (6)** of this section,”.

(2) Section 13 of the principal Act is hereby further amended by adding the following subsection:

25 “(6) The Secretary may authorise any person (whether or not employed in the Ministry of Transport) to issue licences for motor vehicles under this section, and any such authorisation may—

“(a) Include within the authorisation any employees or agents of the person principally authorised:

30 “(b) Specify the manner in which the authority is to be exercised:

“(c) Also be expressed to apply for the purposes of issuing substitute licences under section 15 of this Act.”

6. Replacement certificates of registration, licences, and registration plates—Section 15 (3) of the principal Act
35 (as substituted by section 4 (1) of the Transport (Vehicle and Driver Registration and Licensing) Amendment Act 1988) is hereby amended by inserting, after the words “The Registrar”, the words “, or any person appropriately authorised in that
40 behalf under **section 8 (6) (c)** or **section 13 (6) (c)** or **section 34 (2) (c)** of this Act,”.

7. Notification of change of ownership of motor vehicle—(1) Section 20 (1) of the principal Act is hereby amended by inserting, after the words “give to the Registrar”, the words “or to a person authorised by the Secretary in that behalf”.

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(2) Section 20 of the principal Act is hereby further amended by repealing subsection (2).

(3) Section 13 of the Transport (Vehicle and Driver Registration and Licensing) Amendment Act 1992 is hereby consequentially repealed.

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(4) The Transport (Vehicle and Driver Registration and Licensing) Amendment Act 1992 is hereby further amended by repealing section 14 (2).

8. Particulars required to be supplied by persons acquiring ownership—Section 22 (1) of the principal Act (as substituted by section 14 of the Transport (Vehicle and Driver Registration and Licensing) Amendment Act 1992) is hereby amended by omitting the words “, on the form referred to in section 20 of this Act”, and substituting the words “or to a person authorised by the Secretary in that behalf, on a form provided by the Registrar”.

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9. Issue of trade plates and trade licences—(1) Section 34 of the principal Act is hereby amended by inserting, after the words “the Registrar”, the words “, or a person authorised in that behalf under subsection (2) of this section”.

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(2) Section 34 of the principal Act is hereby further amended by adding the following subsection:

“(2) The Secretary may authorise any person (whether or not employed in the Ministry of Transport) to issue trade plates or trade licences under this section, and any such authorisation may—

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“(a) Include within the authorisation any employees or agents of the person principally authorised:

“(b) Specify the manner in which the authority is to be exercised:

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“(c) Also be expressed to apply for the purposes of issuing substitute plates or substitute licenses under section 15 of this Act.”

10. Regulations—The principal Act is hereby amended by repealing section 35A, and substituting the following section:

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“35A. The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- 5 “(a) Exempting or authorising the Secretary to exempt any motor vehicle or person or any specified category or class of motor vehicles or persons from—
- “(i) Any specified requirements of this Part of this Act or of any regulations made under this Part of this Act:
- 10 “(ii) Any prescribed fees:
- “(b) Prescribing fees for the purposes of this Part of this Act or the method by which such fees are to be assessed:
- “(c) Providing for the refund or waiver of any such fee, in whole or in part, in any specified class of cases:
- 15 “(d) Authorising the Registrar to refund or waive payment of any such fee, in whole or in part, in any specified case:
- “(e) Prescribing the obligations of the seller and the buyer, and the functions of the Registrar, where there is a change in the registered ownership of a registered motor vehicle:
- “(f) Providing for the appointment, functions, and duties of agents for the purposes of effecting a change in the registered ownership of a registered motor vehicle:
- 25 “(g) Prescribing or authorising the Secretary to prescribe the form of certificates of registration for the purposes of this Part of this Act:
- “(h) Authorising the Registrar to enter particulars of a change of registered ownership on the register, notwithstanding the failure of any party to comply with the requirements of section 20 (1) or section 22 (1) of this Act, and prescribing the circumstances in which such particulars may be entered:
- 30 “(i) Providing for discounts to be granted in respect of the prescribed fee payable where a change in the registered ownership of a registered motor vehicle occurs.”
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40 **11. Exemption, waiver, or discount for fees or charges relating to supply of information**—The principal Act is hereby amended by inserting, after section 36, the following section:

“36A. Notwithstanding anything in section 19 of this Act, or in any regulations made under **section 35A** or section 48 of this

Act, the Secretary may waive, or allow an exemption from or discount on, any fee or charge payable under this Part of this Act by any person or class of persons in respect of the supply of information from a register, where the Secretary considers that to do so would be commercially or otherwise advantageous to the Crown.” 5

12. Delegation of Secretary’s functions or powers to persons outside Ministry—Section 51A of the principal Act (as inserted by section 35 (1) of the Land Transport Act 1993) is hereby amended by adding the following subsection: 10

“(8) In this section, ‘person’ includes a body corporate, but does not include an unincorporated body of persons.”

PART II

AMENDMENTS TO TRANSPORT ACT 1962

13. Part to be read with Transport Act 1962—(1) This Part of this Act shall be read together with and deemed part of the Transport Act 1962* (in this Part of this Act referred to as the principal Act). 15

(2) Subject to subsection (3) of this section, this Part of this Act shall come into force on the day on which this Act receives the Royal assent. 20

(3) The provisions of sections 14 (3), 15, 16, 17 (1), 22, 23, and 25 of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council, and different dates may be appointed for different provisions. 25

*R.S. Vol. 16, p. 659

Amendments: 1985, No. 126; 1985, No. 194; 1987, No. 96; 1988, No. 139; 1988, No. 170; 1989, No. 77; 1989, No. 158; 1990, No. 135; 1992, No. 48; 1992, No. 67; 1992, No. 108; 1995, No. 44

14. Interpretation—(1) Section (2) (1) of the principal Act is hereby amended by inserting, after the definition of the term “Commissioner”, the following definition:

“‘Controlling authority’, in relation to any road, means the authority, body, or person having control of the road, whether under Part IV of the Transit New Zealand Act 1989 or Part XXI of the Local Government Act 1974 or under any other enactment or rule of law; and includes any person acting under and within the terms of any delegation or authorisation given by a controlling authority.” 30 35

(2) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term “farmer”, the following definition:

“‘Fire brigade’ includes a volunteer fire brigade, a defence fire brigade, and an industrial fire brigade (as those terms are defined in section 2 of the Fire Service Act 1975):”.

5 (3) Section 2(1) of the principal Act is hereby further amended by repealing the definition of the term “speeding offence”, and substituting the following definition:

“‘Speeding offence’ means an offence which consists solely of exceeding any limit of speed fixed by or

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under—

“(a) This Act or any regulations made under this Act; or

“(b) Any bylaw made under section 72 of this Act; or

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“(c) Any ordinary rule or emergency rule made under Part II of the Land Transport Act 1993:”.

15. Owner liability for stationary vehicle offences—

(1) Section 41A(1) of the principal Act (as inserted by section 8 of the Transport Amendment Act (No. 3) 1992) is hereby

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amended by repealing paragraph (b) of the definition of the term “stationary vehicle offence”.

(2) Section 41A(1) of the principal Act (as so inserted) is hereby amended by adding to the definition of the term “stationary vehicle offence” the following paragraph:

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“(c) Any offence against any regulations made under this Act that is declared by such regulations to be a stationary vehicle offence for the purposes of this definition:”.

16. New sections substituted—(1) The principal Act is hereby amended by repealing sections 52 and 52A (as inserted by section 9(1) of the Transport Amendment Act 1989), and substituting the following sections:

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“52. **Speed limits**—Subject to section 53 of this Act, no person shall drive any motor vehicle at a speed exceeding that

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fixed for the relevant circumstances and locality—
“(a) By a controlling authority in accordance with any ordinary rule or emergency rule made under Part II of the Land Transport Act 1993; or

“(b) By the Director under any such rule; or

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“(c) By a Minister of the Crown by bylaw made under section 72(1)(j) of this Act; or

“(d) By or under any provision of this Act (including section 52A) or any other Act or any rule or regulation relating to temporary speed limits.

“52A. **Saving of existing speed limits**—(1) All speed limits fixed by any Act, regulation, bylaw, or notice in the *Gazette* before the date on which section 16 of the Land Transport Law Reform Act (No. 2) 1995 comes into force shall continue to have effect in relation to any road or locality to which they applied before that date until superseded in respect of that road or locality by a speed limit fixed on or after that date by—

“(a) A controlling authority in accordance with any ordinary rule or emergency rule made under Part II of the Land Transport Act 1993; or

“(b) The Director under any such rule; or

“(c) A Minister of the Crown by bylaw made under section 72 (1) (j) of this Act.”

(2) Section 9 (1) of the Transport Amendment Act 1989 is hereby consequentially repealed.

17. Exemption from speed limits of police, traffic officers, and ambulance and fire brigade drivers—

(1) Section 53 of the principal Act is hereby amended by inserting, before the word “bylaw”, the words “rule or”.

(2) Section 53 of the principal Act is hereby further amended by inserting in paragraph (c), after the word “fire”, the words “or other emergencies”.

18. Definition of “hazardous substance”, etc.—

(1) Section 70E (1) of the principal Act is hereby amended by omitting the expression “sections 70F to 70H”, and substituting the expression “sections 70F to 70K”.

(2) Section 70E (1) of the principal Act is hereby further amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Hazardous substance enforcement officer’, or ‘enforcement officer’, means a person appointed by warrant under section 70K of this Act:

“‘Premises’ includes any vehicle:

“‘Rail service operator’ has the same meaning as in section 2 (1) of the Transport Services Licensing Act 1989.”

19. Drivers to have licence with hazardous substance endorsement—(1) Section 70H of the principal Act (as inserted by section 16 (1) of the Transport Amendment Act

1989) is hereby amended by inserting, after subsection (2), the following subsections:

5 “(2A) Where a person is convicted of the offence specified in subsection (1) of this section, the Court may, whether or not it imposes any other penalty or makes any other order in respect of the offence, order that person to attend and complete a hazardous substances course approved by the Director under section 48 (2)(e) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 within such time and on such conditions as may be specified in the order.

10 “(2B) A person who attends a hazardous substances course pursuant to an order under **subsection (2A)** of this section is liable to pay the same fees as the person would pay if he or she attended and completed the course otherwise than pursuant to
15 the order.”

20. Power to inspect rail service vehicles—The principal Act is hereby amended by inserting, after section 70I (as inserted by section 33 of the Transport Amendment Act (No. 3) 1992), the following section:

20 “70IA. (1) Any hazardous substance enforcement officer may at any reasonable time go on, into, under, and over any premises (except a dwelling) for the purpose of inspection to determine whether or not the requirements of sections 70F and 70G of this Act are being complied with in relation to any rail
25 service vehicle or any railway line.

“ (2) For the purposes of **subsection (1)** of this section, an enforcement officer (or any person assisting the enforcement officer) may—

30 “(a) Take samples of any substance; and
“(b) Open containers or packages (including secured or sealed containers or packages) to inspect the contents; and

“(c) Inspect any documents or other records relating to the obligations imposed under this Act.

35 “(3) Where a hazardous substance enforcement officer has good cause to suspect that, in respect of any rail service vehicle or the driver of any rail service vehicle, there has been a breach of section 70F of this Act, the enforcement officer may, by direction given to the driver or person in charge of the
40 vehicle, direct that—

“(a) The vehicle not be moved; or
“(b) The vehicle be moved to a place of safety approved by the enforcement officer in consultation with the rail service operator and kept stopped at that place—

until the enforcement officer is satisfied that the breach has been rectified.

“(4) Nothing in **subsection (3)** of this section authorises an enforcement officer to stop a train in motion.

“(5) Every person commits an offence and is liable on conviction to a fine not exceeding \$5,000 who—

“(a) Without reasonable excuse, obstructs an enforcement officer in the exercise of the officer’s powers under **subsection (2)** of this section; or

“(b) Fails to comply with or does any act in breach of a direction given by an enforcement officer under **section (3)** of this section; or

“(c) Whether or not he or she is a person to whom the direction is given, knowingly moves any rail service vehicle in breach of any direction given under **subsection (3)** of this section.

“(6) Every enforcement officer exercising any of the powers conferred under this section shall, at the time of exercising that power, and thereafter on request, produce—

“(a) Evidence of that person’s appointment as an enforcement officer; and

“(b) Evidence of that person’s identity.

“(7) An enforcement officer may, if specifically authorised to do so by the Director or the Commissioner, take any person onto the premises to assist the officer with the inspection.

“(8) Nothing in this section shall limit or affect the privilege against self incrimination.”

21. Director and Commissioner of Police may appoint hazardous substance enforcement officers—The principal Act is hereby amended by inserting, after section 70J (as inserted by section 33 of the Transport Amendment Act (No. 3) 1992), the following section:

“70K. (1) The Director may, by warrant, appoint any person as an enforcement officer to enforce the requirements of sections 70F and 70G of this Act in respect of any rail service vehicle or any railway line.

“(2) The Commissioner of Police may, by warrant appoint any person as an enforcement officer to enforce the requirements of sections 70F and 70G of this Act in respect of any rail service vehicle or any railway line.

“(3) There shall be appointed under this section only such persons as, in the opinion of the Director or the Commissioner (as the case may be), are qualified by knowledge or experience

to undertake enforcement of the functions specified in the warrant of appointment.

5 “(4) Each enforcement officer shall be supplied by the Director or the Commissioner with a warrant which specifies the functions that the officer is required to undertake.

“(5) The Director or the Commissioner (as the case may be) may at any time revoke a warrant appointing a person as an enforcement officer.”

10 **22. Bylaws as to use of roads**—Section 72 (1) (j) of the principal Act is hereby amended by omitting the word “Fixing”, and substituting the words “In the case of Ministers of the Crown only, fixing”.

15 **23. Regulations**—Section 77 (1) (p) of the principal Act (as substituted by section 18 of the Transport Amendment Act 1966) is hereby amended by repealing subparagraphs (i) and (ii) (as inserted section 26 (4) of the Transport Amendment Act 1987).

24. Schedules referring to offences may be amended by Order in Council—The principal Act is hereby amended by inserting, after section 199B, the following section:

20 “199c. (1) The Governor-General may from time to time, by Order in Council, amend the Second Schedule and Schedule 2A to this Act—

25 “(a) By omitting any reference to a regulation or bylaw that has been revoked, and, if appropriate, substituting a reference to the corresponding new regulation or bylaw:

“(b) By amending any reference to a regulation or bylaw for the purpose of updating that reference:

30 “(c) By adding any reference to a new regulation or bylaw:

“(d) By omitting any Part of either of those Schedules that relates only to regulations or bylaws, and substituting a new Part or Parts:

35 “(e) By omitting the whole of either of those Schedules, or both, and substituting a new Schedule or Schedules, but only to the extent that any substantive differences between the new and former Schedules relate only to regulations or bylaws.”

Amendment to Public Works Act 1981

25. Amendment to Public Works Act 1981—Section 243 (1) of the Public Works Act 1981 is hereby amended by repealing paragraphs (a) and (c).

PART III

5

AMENDMENTS TO LAND TRANSPORT ACT 1993

26. Part to be read with Land Transport Act 1993—

(1) This Part of this Act shall be read together with and deemed part of the Land Transport Act 1993* (in this Part of this Act referred to as the principal Act).

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(2) Except as provided in section 31 (2) of this Act, this Part of this Act shall come into force on the day on which it receives the Royal assent.

*1993, No. 88

Amendment: 1995: No. 43

27. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “Authority”, the following definition:

15

“ ‘Controlling authority’ has the same meaning as in section 2 (1) of the Transport Act 1962.”

(2) Section 2 (1) of the principal Act is hereby further amended by inserting in the definition of the term “Land Transport Register”, after the words “Transport (Vehicle and Driver Registration and Licensing) Act 1986”, the words “(other than Part I of that Act)”.

20

28. Power of Minister to make ordinary rules—Section 4 of the principal Act is hereby amended by inserting, at the beginning of subsection (6), the words “Without derogating from the provisions of any other enactment,”.

25

29. Rules relating to safety and licensing—Section 5 of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph:

30

“(ca) Rules authorising controlling authorities to set maximum speeds or minimum speeds of vehicles or of specified classes of vehicles in respect of roads or parts of roads, which rules may—

“(i) Prescribe criteria, requirements, and procedures to be complied with by controlling authorities when setting speed limits:

35

“(ii) Authorise the Director to change, or modify the application of, any speed limit that does not

comply with the prescribed criteria, requirements, or procedures:”.

5 **30. Rules relating to general matters**—(1) Section 6 (a) of the principal Act is hereby amended by inserting, after subparagraph (viii), the following subparagraph:

“^(viiiia) Controlling authorities:”.

(2) Section 6 (b) of the principal Act is hereby amended by adding the following subparagraph:

10 “(vii) The specification of the requirements of systems and procedures to be used in the exercise of any power given to any person under any rule:”.

15 **31. Transfer provisions for certain employees engaged in duties relating to Land Transport Fund**—(1) The principal Act is hereby amended by inserting, after section 37, the following section:

“37A. (1) This section applies to any person (referred to in this section as a transferee) who—

20 “(a) As an employee of the Authority, is or was engaged principally in duties relating to the administration of the Land Transport Fund established under section 8 of the Transit New Zealand Act 1989; and

25 “(b) Becomes or is offered the opportunity to become an employee or director of any company, partnership, or person (in this section referred to as the employer) to which the responsibility for the administration of the Land Transport Fund has been or is transferred.

30 “(2) No transferee shall be entitled to any payment, benefit, or compensation, whether for redundancy or otherwise, by reason only of the transferee ceasing to be employed by the Authority if—

35 “(a) The transferee has been or is offered terms and conditions of employment that are similar in overall effect to those of the transferee with the Authority; and

“(b) The employer has agreed to treat the transferee’s service with the Authority as if it were service with the employer and as if it were continuous; and

40 “(c) The duties of the transferee are similar in overall effect to those of the transferee with the Authority or the transferee is willing to accept alternative duties.

“(3) Any transferee who, immediately before transfer, was a contributor to the Government Superannuation Fund under

the Government Superannuation Fund Act 1956 shall, for the purposes of that Act, be deemed to be employed in the Government service so long as that person continues to be employed with, or be a director of, the employer.

“(4) Subject to the Government Superannuation Fund Act 1956, nothing in **subsection (3)** of this section shall entitle a transferee to become a contributor to the Government Superannuation Fund after that transferee has ceased to be a contributor. 5

“(5) For the purpose of applying the Government Superannuation Fund Act 1956 in accordance with **subsection (3)** of this section, the term ‘controlling authority’, in relation to a transferee, means the employer.” 10

(2) This section shall come into force on a date to be appointed by the Governor-General by Order in Council. 15

PART IV

AMENDMENTS TO TRANSPORT SERVICES LICENSING ACT 1989

32. Part to be read with Transport Services Licensing Act 1989—This Part of this Act shall be read together with and deemed part of the Transport Services Licensing Act 1989* (in this Part of this Act referred to as the principal Act). 20

*1989, No. 74

Amendments: 1990, No. 123; 1992, No. 28; 1992, No. 69; 1992, No. 109; 1995, No. 47

33. Schedules referring to offences may be amended by Order in Council—The principal Act is hereby amended by inserting, after section 66, the following section:

“66A. (1) The Governor-General may from time to time, by Order in Council, amend the Second Schedule to this Act— 25

“(a) By omitting any reference to a regulation that has been revoked, and, if appropriate, substituting a reference to the corresponding new regulation:

“(b) By amending any reference to a regulation for the purpose of updating that reference: 30

“(c) By adding any reference to a new regulation:

“(d) By omitting any Part of that Schedule that relates only to regulations, and substituting a new Part or Parts:

“(e) By omitting the whole of the Schedule and substituting a new Schedule, but only to the extent that any substantive differences between the new and former Schedules relate only to regulations.” 35

PART V

AMENDMENTS TO TRANSIT NEW ZEALAND ACT 1989

5 **34. Part to be read with Transit New Zealand Act 1989**—This Part of this Act shall be read together with and deemed part of the Transit New Zealand Act 1989* (in this Part of this Act referred to as the principal Act).

*1989, No. 75

Amendments: 1990, No. 122; 1991, No. 57; 1992, No. 70; 1995, No. 42

35. Procedure for obtaining refund—Section 102 (5) of the principal Act is hereby amended by omitting the word “Authority”, and substituting the word “Registrar”.

10

PART VII

AMENDMENTS TO ROAD USER CHARGES ACT 1977

15 **36. Part to be read with Road User Charges Act 1977**—This Part of this Act shall be read together with and deemed part of the Road User Charges Act 1977† (in this Part of this Act referred to as the principal Act).

†R.S. Vol. 21, p. 759

Amendments: 1988, No. 46; 1989, No. 79; 1992, No. 114; 1995, No. 46

20 **37. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “Registrar” (as substituted by section 2 (3) of the Road User Charges Amendment Act 1988), and substituting the following definition:

“‘Registrar’ means the chief executive, and includes, where appropriate,—

25 “(a) Any person to whom the chief executive has delegated any of the powers, duties, or functions of the Registrar under this Act:

“‘(b) Any person for the time being authorised by the chief executive to exercise or perform any of the powers, duties, or functions of the Registrar under this Act.’”.

30 (2) Section 2 (1) of the principal Act is hereby further amended by omitting from the definition of the term “weight” (as substituted by section 2 (2) of the Road User Charges Amendment Act 1986) the words “Minister of Transport” where they twice occur, and substituting in each case the
35 words “Land Transport Safety Authority of New Zealand”.

(3) Section 2 (3) of the Road User Charges Amendment Act 1988 is hereby consequentially repealed.

38. Offences—Section 23 of the principal Act is hereby amended by adding the following subsection:

“(8) Where a person breaches the requirements of a licence in more than one particular, each such breach shall, to the extent that it constitutes an offence against this Act, constitute a separate offence.”

39. Delegation of chief executive’s functions or powers to persons outside Ministry—Section 23D of the principal Act (as inserted by section 35 (1) of the Land Transport Act 1993) is hereby amended by adding the following subsection:
“(8) In this section, the term ‘person’ includes a body corporate, but does not include an unincorporated body of persons.”