

TRANSPORT AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Transport Act 1962 (the principal Act) and the Summary Proceedings Act 1957. Clauses 2 (2) to (5), 7, 8, and 15 to 18 are based on recommendations contained in the 1979 interim and final reports of the Road Safety Committee.

Clause 1 relates to the Short Title and commencement. *Clauses 2 (2) to (5), 7, 8, and 15 to 18* (which relate to the matters recommended by the Road Safety Committee) come into force on a date to be appointed by Order in Council.

Subclauses (1) and (2) of clause 3 are deemed to have come into force on 1 April 1980—see *clause 3*.

Clauses 4 and 6 (1) and (2) come into force on 1 April 1981.

Clause 6 (3) and (4) come into force on the day that the section they amend comes into force.

All other clauses come into force on the day on which the Bill receives the Governor-General's assent.

Clause 2 amends the definitions section of the principal Act.

Clause 3 amends the motor vehicle indemnity surcharge provisions of the principal Act to provide for the situation where there are no prescribed amounts of indemnity surcharge. At present the principal Act requires that an indemnity surcharge of an amount prescribed by regulations be paid before an annual licence can be issued for a motor vehicle.

Subclauses (1) and (2) are deemed to have come into force on 1 April 1980 as the regulations prescribing the amounts of indemnity surcharge were revoked by an Order in Council passed during that month.

Clause 4 amends section 17 of the principal Act (which relates to applications for details of registers of motor vehicles) to provide that fees relating to such applications shall be prescribed by the Minister of Transport by notice in the *Gazette*. At present the fees are specified in the section.

Clause 5 amends section 18 of the principal Act (which relates to notification of change of ownership of a motor vehicle) to provide a maximum fine of \$500 for failure to comply with the section. At present the maximum fine is \$20 for every day during which the failure continues.

Clause 6 amends section 26 of the principal Act (which relates to drivers' licences) to provide that fees relating to such licences shall be prescribed by the Minister by notice in the *Gazette*. At present the fees are specified in the section.

Clauses 7 and 8 repeal the speeding infringement, parking infringement, and infringement offence provisions of the principal Act, and insert new sections 42, 42A, and 43.

The proposed new section 42 relates to owner liability for parking offences and provides that proceedings for a parking offence may be taken against any of the following persons, namely the person who allegedly committed the offence, any person who at the time of the alleged offence was registered as the owner or one of the owners of the vehicle involved in the offence, and any person who at the time of the alleged offence was lawfully entitled to possession of the vehicle.

It shall be a defence to proceedings taken against a person for a parking offence if the person proves that an infringement fee has been paid in respect of the offence or that another person has been ordered to pay an amount in respect of the offence under the Summary Proceedings Act 1957.

It shall be a defence to proceedings taken against an owner, or person entitled to possession, of a vehicle for a parking offence if he proves that he was not entitled to possession of the vehicle, or another person was unlawfully in charge of the vehicle, at the time the offence was committed, and he has done everything reasonably possible to comply with all requests of the enforcement authority to supply information regarding the person who committed the offence.

The proposed new section 42A provides that where an officer has reason to believe that an infringement offence specified in the new Second Schedule to the principal Act has been committed, the officer may issue an infringement notice or the user of the vehicle may be proceeded against under the Summary Proceedings Act 1957. The new section provides that an officer may attach an infringement notice to a vehicle, or deliver an infringement notice to a person, or send an infringement notice to a person by post. Where an infringement notice has been issued and the infringement fee has not been paid within 21 days of the date the notice was delivered or posted to the person, proceedings may be taken under the Summary Proceedings Act 1957 in respect of the offence. The amounts of infringement fees are set out in the new Second Schedule to the principal Act. The new section prescribes the particulars that must be included in an infringement notice.

The proposed new section 43 states who is entitled to the infringement fees paid.

Clause 9 amends section 68B of the principal Act (which relates to powers of constables and traffic officers) to provide that in certain circumstances a constable or traffic officer may enter, or authorise another person to enter, a vehicle for the purpose of moving it or preparing it for movement.

The clause also inserts new provisions to the effect that—

- (a) Any person who is authorised by a constable or traffic officer to enter or move a vehicle may do so, but shall do everything reasonably necessary to ensure that the vehicle is not damaged in the course thereof; and
- (b) Every person who has possession of a vehicle as a result of its being moved by a constable or traffic officer commits an offence if he fails to deliver possession of the vehicle forthwith after being requested to do so by a person who produces satisfactory evidence to the effect that he is entitled to possession thereof.

Clause 10 adds a new paragraph (c) to section 68D of the principal Act, which relates to the jurisdiction of traffic officers.

The new paragraph (c) empowers a local authority traffic officer to exercise his powers under the breath-alcohol and blood-alcohol offence provisions of the Act on a road outside his local authority area, where he has good cause to suspect that such an offence has been committed by the driver of a motor vehicle within his local authority area.

Clause 11 amends section 69B of the principal Act (which relates to overloading infringements) by increasing the limit for infringement fees (which are set by the Minister by notice in the *Gazette*) to \$1,000. The present limit is \$500.

Clause 12 inserts a new subsection (2) in section 77 of the principal Act (which relates to regulations). The new subsection empowers the making of regulations for the purpose of regulating the fitting, inspection, and repair of alternative fuel systems, and the use of vehicles fitted with such systems. An alternative fuel system is defined as a fuel storage and conducting system that is used to provide liquid petroleum gas, compressed natural gas, or any other pressurised liquid or gaseous fuel (other than petrol or diesel) for the purposes of propulsion of a vehicle.

The new subsection authorises the delegation to the Secretary for Transport of the powers of approving alternative fuel systems, authorising persons to fit, inspect, and repair such systems, and exempting persons from the regulations.

Clause 13 amends section 116 of the principal Act (which relates to the making of applications for transport licences) to provide that applications for temporary licences may be made orally.

Clause 14 amends section 199 of the principal Act (which relates to regulations) to provide that regulations may empower the Minister of Transport to fix, by notice in the *Gazette*, amounts of fees payable under the regulations. At present the fees must be specified in the regulations.

Amendments to Summary Proceedings Act 1957

Clause 15 inserts new definitions in section 2 of the Summary Proceedings Act 1957.

Clause 16 inserts a new section 21 in the Summary Proceedings Act 1957. The new section provides that proceedings for a minor traffic offence may be commenced either in accordance with the usual procedures or by the informant filing in a Court a notice of traffic prosecution. A minor traffic offence is defined as an offence against Parts II to V of the Transport Act 1962, or against any regulation or bylaw made thereunder, or against any regulation or bylaw made under any other enactment and relating to the use of vehicles or parking places or transport stations, that is punishable on summary conviction by a fine of any amount not exceeding \$500 and that is not punishable by imprisonment.

The new section provides that a copy of a notice of traffic prosecution may be served on a person at any time (whether before or after the notice is filed in a Court). Where a copy of such a notice is served on a person before the notice is so filed, the informant shall ensure that the notice is filed, or a letter to the effect that the matter will not be proceeded with is sent to the person, within 21 days after the service of the copy on the person.

The new section prescribes the contents of a notice of traffic prosecution, and provides that if a defendant wishes to deny the alleged offence or to appear before the Court for any purpose he shall send to the Registrar of the Court written advice to that effect by a date specified in the notice (being a date not earlier than 35 days after the date of service).

If a defendant pleads guilty or does not send written advice to the Court as mentioned above, a District Court Judge may, on the basis of the notice of traffic prosecution, deal with the person as if he had appeared before a Court and pleaded guilty (except that a person dealt with in this way may not be disqualified from holding a driver's licence).

If the defendant wishes to deny the alleged offence or wishes to appear before the Court for any purpose or if a District Court Judge so directs, a notice of time and place of hearing shall be posted to the defendant and subsequent proceedings shall be had on the notice of traffic prosecution as if it were an information.

Clause 17 makes amendments that are consequential upon *clause 16*.

Clause 18 inserts a new section 78A in the Summary Proceedings Act 1957. The new section provides that where in proceedings for a minor traffic offence the Court would, but for this section, convict the person, the Court shall not do so but instead shall order that the person pay such fines and Court costs as the Court thinks fit and (where the offence is a parking offence) any applicable towage fee.

The clause also amends section 101 of the Summary Proceedings Act 1957 to provide that a person cannot be imprisoned for failure to pay a fine or other amount relating to a minor traffic offence. The clause also makes a consequential amendment to the Wanganui Computer Centre Act 1976.

Hon. Mr McLachlan

TRANSPORT AMENDMENT

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6. Fees for drivers' licences	14. Fees payable under regulations
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42. Owner liability for parking offences	15. Interpretation
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A BILL INTITULED

An Act to amend the Transport Act 1962

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title and commencement—(1) This Act may be cited as the Transport Amendment Act 1980, and shall be read together with and deemed part of the Transport Act 1962* (hereinafter referred to as the principal Act).

*Reprinted 1974, Vol. 3, p. 2489
Amendments: 1975, Nos. 4, 106; 1976, Nos. 126, 152; 1977, Nos. 3, 27;
1978, Nos. 3, 25, 46; 1979, Nos. 17, 120

(2) Sections 2 (except subsection (1)), 7, 8, 15 to 18 of, and the Schedule to, this Act shall come into force on a date to be fixed by the Governor-General by Order in Council. For the purposes of this subsection, one or more Orders in Council may be made bringing different provisions of this Act into force on different dates. 5

(3) Subsections (1) and (2) of section 3 of this Act shall be deemed to have come into force on the 1st day of April 1980.

(4) Sections 4, 6 (1) and 6 (2) of this Act shall come into force on the 1st day of April 1981. 10

(5) Subsections (3) and (4) of section 6 of this Act shall come into force in accordance with the provisions of those subsections.

(6) Subject to subsections (2) to (5) of this section, this Act shall come into force on the day on which it receives the Governor-General's assent. 15

2. Interpretation—(1) Section 2 (1) of the principal Act (as substituted by section 2 (1) of the Transport Amendment Act 1972 and amended by section 2 (2) of the Transport Amendment Act 1973) is hereby further amended by inserting, after the definition of the term “agricultural trailer”, the following definition: 20

“‘Alternative fuel system’ means a fuel storage and conducting system that is used to provide liquid petroleum gas, compressed natural gas, or any other pressurised liquid or gaseous fuel (other than petrol or diesel) for the purposes of propulsion of a vehicle:” 25

(2) Section 2 (1) of the principal Act (as so substituted) is hereby further amended by repealing the definition of the term “enforcement authority”, and substituting the following definition: 30

“‘Enforcement authority’, in relation to an infringement offence or an overloading infringement, means— 35

“(a) The Department, in the case of an alleged infringement offence or overloading infringement detected by an officer of the Department:

“(b) The local authority, in the case of an alleged infringement offence or overloading infringement detected by an officer of a local authority:” 40

(3) Section 2 (1) of the principal Act (as so substituted) is hereby further amended by repealing the definition of the term “infringement offence” (as inserted by section 10 (2) of the Transport Amendment Act 1974), and substituting the following definition: 45

“‘Infringement offence’ has the meaning assigned to it in section 42A (1) of this Act:”.

(4) Section 2 (1) of the principal Act (as so substituted) is hereby further amended by inserting, in the appropriate
5 alphabetical order, the following definitions:

“‘Officer’ means an officer of the Department or of a local authority; and includes a traffic officer:

“‘Parking offence’ has the meaning assigned to it in section 42 (1) of this Act:

10 “‘Towage fee’, in respect of a parking offence, means an amount specified as the towage fee in respect of that offence by the Secretary by notice in the *Gazette*; and, for the purposes of this definition, the Secretary may prescribe different towage fees in
15 respect of offences involving different areas, times, or vehicles:”.

(5) Section 2 (1) of the principal Act (as so substituted) is hereby further amended by repealing the definitions of the terms “parking infringement”, “parking-infringement notice”,
20 “speeding infringement” (as substituted by section 2 (4) of the Transport Amendment Act 1974), “speeding-infringement fee”, and “speeding-infringement notice”.

3. Motor vehicle indemnity surcharges—(1) Sections 7 (1) (c), 7 (2) (b), 11 (4), 12 (2), 12 (3), and 22 (4) of
25 the principal Act (as amended by section 8 of the Transport Amendment Act 1973) are hereby further amended by inserting, after the words “indemnity surcharge under Part VIA of this Act”, the words “(if any)”.

(2) Section 90L of the principal Act (as inserted by section
30 7 of the Transport Amendment Act 1973) is hereby amended—

(a) By omitting from subsection (1) the words “in respect of that motor vehicle prescribed”, and substituting the words “(if any) prescribed in respect of that
35 motor vehicle”:

(b) By inserting in subsection (2), after the words “prescribed indemnity surcharge”, the words “(if any)”.

(3) Where there is no indemnity surcharge prescribed in respect of a motor vehicle pursuant to Part VIA of the principal Act at the time of issue of a licence for the vehicle under
40 section 14 of the principal Act (whether before or after the commencement of this Act), failure to pay such a surcharge on, or at any time before or after, application for the licence shall not render the licence, or the issue thereof, invalid.

4. Details of registers to be supplied to applicants—Section 17 of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby further amended—

- (a) By omitting from subsection (1) the expression “20 cents”, and substituting the words “an amount prescribed by the Minister by notice in the *Gazette*”:
- (b) By omitting from subsection (2) the expression “10 cents”, and substituting the words “an amount prescribed by the Minister by notice in the *Gazette*”.

5. Notification of change of ownership of motor vehicle—Section 18 (11) of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby further amended by omitting the words “\$20, and, in the case of failure to comply with any such provision, to a further fine not exceeding \$20 for every day on which the vehicle has been used while that failure continues”, and substituting the expression “\$500”.

6. Fees for drivers’ licences—(1) Section 26 of the principal Act (as amended by section 7 of the Decimal Currency Act 1964 and section 5 of the Transport Amendment Act 1964 and section 5 of the Transport Amendment Act 1966) is hereby further amended—

- (a) By omitting from subsection (1) the words “a fee of 50 cents”, and substituting the words “the prescribed fee”:
- (b) By omitting from subsection (9) the words “\$1, which shall be additional to the fee prescribed by”, and substituting the words “the prescribed amount, which shall be additional to the fee referred to in”:
- (c) By omitting from subsection (11A) the words “such fee, not exceeding the sum of 25 cents, as is prescribed in the regulations, which shall be additional to the fee prescribed by subsection (1) of this section”, and substituting the words “the prescribed fee, which shall be additional to the fee referred to in subsection (1) of this section”.

(2) Section 26 of the principal Act (as so amended) is hereby further amended by repealing subsection (12), and substituting the following subsection:

- “(12) In this section,—
- “‘Licensing year’ means a period of 12 months ending with the 30th day of June in any year;
 - “‘Prescribed’, in relation to a fee or an amount, means prescribed by the Minister by notice in the *Gazette*.”

(3) Section 26 of the principal Act (as substituted by section 3 of the Transport Amendment Act 1971) is hereby amended as from the commencement of the day on which that section as so substituted comes into force—

5 (a) By omitting from subsection (1) the words “a fee of 50 cents”, and substituting the words “the prescribed fee”:

(b) By omitting from subsection (9) the words “prescribed by subsection (1) of this section, a testing fee of \$1.75”, and substituting the words “referred to in subsection (1) of this section, a testing fee of the prescribed amount”.

(4) Section 26 of the principal Act (as so substituted) is hereby further amended as from the commencement of the day on which that section as so substituted comes into force by adding the following subsection:

“(11) In this section, the term ‘prescribed’, in relation to a fee or an amount, means prescribed by the Minister by notice in the *Gazette*.”

20 (5) Section 29 of the principal Act (as substituted by section 3 of the Transport Amendment Act 1971 and amended by section 5 of the Transport Amendment Act 1974) is hereby further amended—

(a) By omitting from paragraph (e) the words “and prescribing the fees for the issue of those licences;”:

25 (b) By omitting from paragraph (f) the words “and prescribing the fees for those licences;”.

7. New provisions relating to parking and infringement offences—The principal Act is hereby amended by repealing sections 42, 42A, and 43, and the heading preceding section 42, and substituting the following sections:

“42. **Owner liability for parking offences**—(1) In this section,—

35 “‘Parking offence’ means parking in any portion of a road in breach of any Act or regulation, or of any bylaw made under the authority of section 72 of this Act:

“‘Proceedings’ means proceedings under the Summary Proceedings Act 1957, and includes the issue of an infringement notice under section 42A of this Act.

40 “(2) Proceedings for a parking offence may be taken against any one or more of the following persons:

“(a) The person who allegedly committed the offence:

45 “(b) Any person who, at the time of the alleged offence, was registered as the owner, or one of the owners, of the vehicle involved in the offence in a register kept under section 16 of this Act:

- “(c) Any person who, at the time of the alleged offence, was lawfully entitled to possession of the vehicle involved in the offence (whether jointly with any other person or not)—
 whether or not (in the case of a person referred to in paragraph (b) or paragraph (c) of this subsection) the person is an individual or was the driver, person in charge, or user of the vehicle at the time the alleged offence was committed. 5
- “(3) Subject to subsection (5) of this section, in any proceedings taken against a person pursuant to paragraph (b) or paragraph (c) of subsection (2) of this section it shall be conclusively presumed that— 10
- “(a) The person was the driver, person in charge, and user of the vehicle at the time of the alleged offence (whether or not the person is an individual); and accordingly 15
- “(b) The acts or omissions of the driver, person in charge, or user of the vehicle at that time were the acts or omissions of the first-mentioned person.
- “(4) It shall be a defence to proceedings taken under the Summary Proceedings Act 1957 against a person for a parking offence if the person proves that— 20
- “(a) An infringement notice has been issued in respect of the offence and the infringement fee specified in the notice has been paid to the enforcement authority before the commencement of the proceedings; or 25
- “(b) Another person has been ordered to pay an amount in respect of the offence pursuant to section 78A of the Summary Proceedings Act 1957. 30
- “(5) It shall be a defence to proceedings taken under the Summary Proceedings Act 1957 against a person pursuant to paragraph (b) or paragraph (c) of subsection (2) of this section if the person proves that—
- “(a) At the time the alleged offence was committed— 35
- “(i) He was not lawfully entitled to possession of the vehicle (either jointly with any other person or severally); or
- “(ii) Another person was unlawfully in charge of the vehicle; and 40
- “(b) Forthwith after becoming aware of the alleged offence he advised the enforcement authority that, at the

time the offence was committed, he was not lawfully entitled to possession of the vehicle or another person unlawfully had charge of the vehicle, as the case may be; and

5 “(c) He has done everything reasonably possible on his part to comply with all requests of the enforcement authority to supply to the authority information regarding the person lawfully entitled to possession, or who was in charge, of the vehicle at
10 the time of the alleged offence.

“(6) This section shall have effect notwithstanding anything to the contrary in any Act or rule of law.

“Infringement Offences

“42A. **Infringement offences**—(1) In this Act, the term
15 ‘infringement offence’ means an offence specified in the Second Schedule to this Act.

“(2) Where a traffic officer has reason to believe that the user of a vehicle has committed an infringement offence, or an officer has reason to believe that the user of a vehicle has
20 committed a parking offence that is an infringement offence,—

“(a) The user of the vehicle may be proceeded against for the alleged offence under the Summary Proceedings Act 1957; or

25 “(b) The traffic officer or officer may issue an infringement notice in respect of the alleged offence.

“(3) Any officer may do any one or more of the following things:

30 “(a) Attach an infringement notice, or a copy thereof, to the vehicle to which the notice relates:

“(b) Deliver an infringement notice, or a copy thereof, personally to a person:

“(c) Send an infringement notice, or a copy thereof, to a person by post addressed to him at his last known or usual place of residence or business.
35

“(4) Where—

“(a) An infringement notice has been issued; and

40 “(b) The infringement fee specified in the notice has not been paid to the enforcement authority within 21 days of the date the notice, or a copy thereof, was delivered, or sent, to a person liable in respect of the alleged offence in accordance with paragraph (b) or paragraph (c) of subsection (3) of this section—

proceedings may be taken under the Summary Proceedings Act 1957 in respect of the alleged offence as if an infringement notice had not been issued.

“(5) Every infringement notice shall be in a form prescribed by the Minister, by notice in the *Gazette*, and shall contain the following particulars: 5

“(a) Such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and

“(b) In the case of a speeding offence, the prescribed limit of speed and the speed at which it is alleged the user was travelling at the time of the alleged offence, and the number of demerit points that will be recorded under this Act in respect of the user if the infringement fee is paid; and 10 15

“(c) In the case of an infringement offence (other than a speeding offence) in respect of which a scale of infringement fees is prescribed having regard to the extent of the alleged offence, the extent of the infringement offence alleged; and 20

“(d) The amount of the infringement fee specified in respect of that offence in the Second Schedule to this Act; and

“(e) The address of the place at which the infringement fee may be paid; and 25

“(f) A summary of the provisions of subsections (4) and (7) of this section; and

“(g) In the case of an alleged infringement offence that is a parking offence, a summary of the provisions of section 42 of this Act; and 30

“(h) Where the notice, or a copy thereof, is sent to a person by post, the date the notice or copy is posted; and

“(i) Such other particulars as the Minister thinks fit.

“(6) The Minister may prescribe a form of infringement notice to be used in respect of infringement offences that are parking offences, and a different form of infringement notice to be used in respect of other infringement offences. Every notice given by the Minister under this section shall be deemed to be a regulation for the purposes of the Regulations Act 1936, and prima facie evidence of the notice may be given in all Courts and in all legal proceedings in the manner specified in section 5 of that Act. 35 40

“(7) It shall be a defence to proceedings taken under the Summary Proceedings Act 1957 for an infringement offence if the defendant proves that an infringement notice has been issued in respect of that offence and the infringement fee
5 specified in the notice has been paid to the enforcement authority before the commencement of the proceedings.

“(8) In any proceedings taken against a person under the Summary Proceedings Act 1957 for an infringement offence for which an infringement notice has been issued, it shall be
10 presumed, unless the contrary is proved, that—

“(a) The notice, or a copy thereof, has been delivered personally to the person, or sent to him by post addressed to him at his last known or usual place
15 of residence or business; and

“(b) The infringement fee specified in the notice has not been paid to the enforcement authority within 21 days of the date the notice, or copy, was so
20 delivered or sent.

“(9) Where an infringement fee is paid to an enforcement
20 authority—

“(a) Where the enforcement authority is not the Department, the authority shall send to the Secretary such particulars of the infringement and of the payment as the Secretary requires; and

“(b) Sections 44 to 51 of this Act shall apply as if the
25 person to whom the infringement notice, or a copy thereof, was delivered or sent had been convicted of the infringement offence on the date on which the payment is made.

30 “43. **Entitlement to infringement fees**—All infringement fees received by an enforcement authority under section 42A of this Act shall be paid into the Public Account to the credit of the Consolidated Account:

“Provided that—

35 “(a) The enforcement authority shall be entitled to retain such portion of the fees as represents towage fees recovered; and

“(b) In addition to the amount specified in paragraph (a)
40 of this proviso, the enforcement authority shall be entitled to retain such portion of the fees as the Minister of Finance from time to time approves as being the expenses of the enforcement authority in respect of enforcement relating to infringement offences and the collection of the fees; and

“(c) For the purposes of paragraph (b) of this proviso, the Minister of Finance may approve different portions for different enforcement authorities and different categories of infringement offences.”

8. Amendments, repeals, and revocations consequential upon section 7—(1) Section 194A of the principal Act (as inserted by section 27 (1) of the Transport Amendment Act 1968) is hereby repealed. 5

(2) The following enactments are hereby consequentially repealed: 10

(a) Section 27 of the Transport Amendment Act 1968:

(b) Section 21 of the Transport Amendment Act (No. 2) 1969:

(c) Section 21 of the Transport Amendment Act 1970:

(d) Section 7 of the Transport Amendment Act 1971: 15

(e) Section 5 of the Transport Amendment Act 1972:

(f) Sections 2 (4), 9, and 10 of the Transport Amendment Act 1974:

(g) The Transport Amendment Act (No. 2) 1975:

(h) The Transport Amendment Act (No. 2) 1979. 20

(3) The Transport Amendment Act Commencement Order 1971 is hereby consequentially revoked.

(4) The following notices are hereby consequentially revoked:

(a) The Transport (Speeding Infringements) Notice 1974: 25

(b) The Transport (Speeding Infringements) Notice 1974, Amendment No. 1:

(c) The Transport (Speeding Infringements) Notice 1974, Amendment No. 2: 30

(d) The Transport (Parking Infringements) Notice 1975:

(e) The Transport (Parking Infringements) Notice 1975, Amendment No. 2.

(5) Section 30 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby 35 consequentially amended by omitting from subsection (4) the words “subsection (9) of section 42 or” and the words “or subsection (8) of section 194A”.

(6) Section 44 (1) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby 40 amended by inserting, after the words “section 69B of this Act”, the words “or an offence, other than a speeding offence, in respect of which an infringement notice has been issued under section 42A of this Act”.

(7) Section 67 (1) of the principal Act (as substituted by section 11 (1) of the Transport Amendment Act 1971) is hereby consequentially amended by omitting the words “or of any parking infringement within the meaning of section 194A of this Act” and the words “in the case of an offence”.

(8) The principal Act (as amended by section 29 (2) of the Road User Charges Act 1977) is hereby further amended by inserting, after the First Schedule, the Second Schedule set out in the Schedule to this Act.

10 **9. Powers of constables and traffic officers to move vehicles**—(1) Section 68B of the principal Act (as inserted by section 8 (1) of the Transport Amendment Act (No. 2) 1967) is hereby amended by repealing paragraph (c) of subsection (1), and substituting the following paragraph:

15 “(c) If the constable or traffic officer believes on reasonable grounds that a vehicle on a road causes an obstruction in the road or to any vehicle entrance to any property or that the removal of the vehicle is desirable in the interests of road safety or for the
20 convenience or in the interests of the public,—

“*(i)* Enter, or authorise another person to enter, the vehicle for the purpose of moving it or preparing it for movement; and

25 “*(ii)* At the expense of the owner, move, or authorise another person to move, the vehicle to any place of safety:”.

(2) Section 68B of the principal Act (as so inserted) is hereby further amended by adding the following subsections:

30 “(4) Any person who is authorised by a constable or traffic officer to—

“*(a)* Enter a vehicle for the purpose of moving it or preparing it for movement; or

35 “*(b)* Move a vehicle to a place of safety—
may do so, but shall do everything reasonably necessary to ensure that the vehicle is not damaged in the course thereof.

“*(5)* Any person who—

“*(a)* Has possession of a vehicle as a result of its being moved under subsection (1) (c) of this section; and

40 “*(b)* When requested to do so by a person who produces satisfactory evidence to the effect that he was lawfully entitled to possession of the vehicle immediately before it was moved, fails to deliver possession of the vehicle to that person forthwith—

45 commits an offence against this Act, and is liable to a fine not exceeding \$1,000.”

10. Jurisdiction of traffic officers—Section 68D of the principal Act (as inserted by section 8 (1) of the Transport Amendment Act (No. 2) 1967) is hereby amended by adding the following paragraph:

“(c) A traffic officer who is not an officer of the Department shall be entitled to exercise any power or authority conferred on a traffic officer by, or for the purposes of, sections 57A to 58F of this Act on any road, where he has good cause to suspect that an offence against section 58 of this Act has been committed by the driver or person in charge of a motor vehicle on a road that is under the control of the local authority or other authority by which he has been appointed as a traffic officer.”

11. Overloading infringement fees—Section 69B (3) of the principal Act (as substituted by section 9 (1) of the Transport Amendment Act 1970) is hereby amended by omitting the expression “\$500”, and substituting the expression “\$1,000”.

12. Regulations relating to alternative fuel systems—Section 77 of the principal Act (as amended by section 26 (1) (b) of the Road User Charges Act 1977) is hereby further amended by adding the following subsection:

“(2) Without limiting the general power to make regulations conferred by section 199 of this Act, regulations may be made under that section for the purpose of regulating the fitting, inspection, or repair of alternative fuel systems, or components thereof, in vehicles, and the use of vehicles fitted with such systems, and, without limiting the generality of the foregoing provisions, for all or any of the following purposes:

“(a) Prohibiting the fitting in any vehicle, or in any vehicle of a specified class, of an alternative fuel system, or a component thereof, that has not been approved for that purpose by the regulations or the Secretary (either specifically or as a system or component of a class of systems or components so approved):

- 5 “(b) Prohibiting the fitting in any vehicle, or in any
vehicle of a specified class, of an alternative fuel
system, or a component thereof, or the inspection
or repair of such a system or component, by a
person who has not been authorised for that
purpose by the regulations or the Secretary (either
personally or as a member of a class of persons
so authorised):
- 10 “(c) Requiring the inspection, at specified times, of
alternative fuel systems fitted in vehicles, or
vehicles of a specified class; providing for the
issue by specified persons of certificates to the
effect that an alternative fuel system is in a safe
and efficient working condition; and prohibiting
15 the use of a vehicle where such an inspection
has not been made or such a certificate has not
been issued:
- 20 “(d) Approving, or empowering the Secretary to approve
(by notice in the *Gazette*), on such terms and
conditions as are specified in the regulations or
as the Secretary thinks fit, alternative fuel systems,
and components thereof, and classes of such
systems and components, for the purposes of fitting
in vehicles:
- 25 “(e) Authorising, or empowering the Secretary to authorise
(by notice in the *Gazette*), on such terms and
conditions as are specified in the regulations or
as the Secretary thinks fit, persons, or classes of
persons, to fit, inspect, or repair alternative fuel
30 systems or components thereof:
- 35 “(f) Exempting, or empowering the Secretary to exempt
(by notice in the *Gazette*), on such terms and
conditions as are specified in the regulations or
as the Secretary thinks fit, any person or vehicle,
or class of persons or vehicles, from any of the
provisions of regulations made for the purposes
specified in this subsection:
- 40 “(g) Empowering the Secretary to revoke or vary (by
notice in the *Gazette*), in whole or in part, any
approval, authorisation, or exemption given by
him pursuant to regulations made for the purposes
specified in this subsection, or the terms and
conditions relating thereto.”

13. Application for transport licence to be forwarded to Secretary for Transport—(1) Section 116 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Except as provided in subsection (4) of this section, every application for a transport licence shall be in the prescribed form and shall, unless the Minister otherwise directs, be forwarded to the Secretary for Transport, accompanied by the prescribed fee.” 5

(2) Section 116 (4) of the principal Act is hereby amended 10 by adding the words “and any application so made may be made either orally or in the prescribed form”.

14. Fees payable under regulations—Section 199 (1) (a) of the principal Act is hereby amended by inserting, after the words “the amount of the fees”, the words “(or providing 15 that the amount of the fees shall be prescribed by the Minister by notice in the *Gazette*)”.

Amendments to Summary Proceedings Act 1957

15. Interpretation—(1) Section 2 (1) of the Summary Proceedings Act 1957 is hereby amended by repealing the 20 definitions of the terms “defendant” and “informant”, and substituting the following definitions:

“‘Defendant’ means any person charged with an offence; and includes—

“(a) Any person against whom an order is 25 sought in proceedings commenced by way of complaint; and

“(b) Any person on whom a notice of prosecution has been served pursuant to section 20A of this Act; and 30

“(c) Any person on whom a notice of traffic prosecution has been served pursuant to section 21 of this Act:

“‘Informant’ means the person by whom an information is laid; and includes— 35

“(a) In respect of any charge where an information has not been laid, the person responsible for bringing the charge; and

“(b) A person who files a notice of prosecution pursuant to section 20A (2) of this Act; and 40

“(c) A person who files a notice of traffic prosecution pursuant to section 21 (1) of this Act.”.

(2) Section 2 (1) of the Summary Proceedings Act 1957 is hereby further amended by inserting, after the definition of the term "indictable offence", the following definition:

5 "Minor traffic offence' means an offence against any of the provisions of Parts II to V of the Transport Act 1962, or against any regulation or bylaw made under that Act, or against any regulation or bylaw made under any other enactment and relating to the use of vehicles or parking places
10 or transport stations, that is punishable on summary conviction by a fine of any amount not exceeding \$500 and that is not punishable by imprisonment:".

16. Summary procedure for minor traffic offences—The Summary Proceedings Act 1957 (as amended by section 7
15 (1) of the Summary Proceedings Amendment Act 1973 and section 4 (1) of the Summary Proceedings Amendment Act 1976) is hereby further amended by inserting, after section 20A, the following section:

20 "21. (1) Subject to the provisions of this section but notwithstanding any other provision of this Act, proceedings under this Act for a minor traffic offence may be commenced either in accordance with section 12 of this Act or by the informant filing in a Court a notice of traffic prosecution.

25 "(2) A copy of a notice of traffic prosecution may be served on a person at any time (whether before or after the notice is filed in a Court). Where a copy of a notice of traffic prosecution is served on a person before the notice is filed in a Court, the informant shall ensure that either—

30 "(a) The notice is so filed; or
 "(b) A letter to the effect that the matter will not be proceeded with is delivered to the person, or sent to him at his last known or usual place of residence or business—

35 not later than the end of the 21st day after the day the copy is served.

 "(3) Where a notice of traffic prosecution is filed in a Court, every person who serves or has served a copy of the notice on a person for the purposes of this section shall ensure that the date of service and the date specified in the copy
40 in accordance with subsection (5) of this section is notified to the Registrar of the Court—

 "(a) Forthwith after service, if the copy is served after the notice is filed in the Court; or

 "(b) In any other case, when the notice is so filed.

“(4) A notice of traffic prosecution shall be in the prescribed form and shall—

“(a) Specify the date and nature of the alleged offence; and

“(b) Contain a summary of the facts on which the informant base his allegation that an offence has been committed, being a summary that is sufficient to fairly inform the defendant of the allegations against him; and 5

“(c) State the name and location of the Court to which written advice or notice is to be given under subsection (5) or subsection (6) of this section; and 10

“(d) State whether proof of the offence could or would result— 15

“(i) In the defendant being disqualified from holding or obtaining a driver’s licence; or

“(ii) In demerit points being recorded under the Transport Act 1962 in respect of the defendant; and 20

“(e) Inform the defendant of the effect of the provisions of subsections (5) to (8) of this section; and

“(f) Contain such other matters as the informant considers relevant to the alleged offence or the imposition of a penalty; and 25

“(g) Set out the full name of the informant and, for the purposes of subsection (10) of this section, the capacity in which he is acting; and

“(h) Be signed by the informant who shall certify that he believes that he has just cause for his allegation and that, to the best of his knowledge and belief, his summary of the facts and the other particulars relating to the offence or to the defendant are true and correct; and 30

“(i) Contain such other information or advice as may be required by or pursuant to this Act, or for the purposes of this section. 35

“(5) If a defendant wishes to deny that he committed (or, in the case of a parking offence, is liable in respect of) the alleged offence or wishes to appear before the Court for that or any other purpose he shall deliver, or send by post, to the Registrar of the Court written advice to that effect by a date specified in the copy of the notice of traffic prosecution 40

served upon him, being a date not earlier than 35 days after the date of service. Any such advice shall be sufficient for the purposes of this section if, however expressed, it indicates the defendant's wishes.

5 “(6) The defendant may plead guilty in accordance with section 41 of this Act and may, when giving notice in writing in accordance with that section,—

“(a) State matters which he wishes the Court to take into consideration:

10 “(b) Make submissions with regard to the appropriate penalty.

“ (7) If a defendant pleads guilty in accordance with section 41 of this Act or does not send written advice to the Registrar of the Court in accordance with subsection (5) of this
15 section, a District Court Judge may, on the basis of the summary of facts contained in the notice of traffic prosecution, deal with the person as if he had appeared before a Court and pleaded guilty:

“Provided that a District Court Judge who deals with a
20 defendant under this subsection may not disqualify him from holding or obtaining a driver's licence.

“ (8) If the defendant indicates in accordance with subsection (5) of this section that he wishes to deny that he
25 committed, or is liable in respect of, the alleged offence or that he wishes to appear before the Court for that or any other purpose or if in any case a District Court Judge so directs, a notice of time and place of hearing, in the prescribed form, shall be posted to the defendant at his last known or usual place of residence or business by a Registrar, and sub-
30 sequent proceedings shall be had on the notice of traffic prosecution as if it were an information and as if the notice of time and place of hearing were a summons that had been served on the defendant.

“ (9) Sections 14, 16, 17, 18, 34, 36, 71, 75, 204, 205,
35 and 208 of this Act, Part IV of this Act, and the Costs in Criminal Cases Act 1967, and the Wanganui Computer Centre Act 1976 shall apply, with such modifications as are necessary, to every notice of traffic prosecution filed under subsection (1) of this section as if it were an information.

40 “ (10) A notice of traffic prosecution may be filed under subsection (1) of this section only by—

“ (a) A member of the Police:

“ (b) A traffic officer within the meaning of the Transport Act 1962:

“(c) A person acting in the course of his official duties as an officer or employee of any of the State Services, a local authority, a public body, or a statutory Board:

“(d) Any other class of person approved for the time being for the purposes of this section by notice in the *Gazette*. Any such approval may be conditional or may apply only in respect of specified offences or classes of offences. 5

“(11) Every certificate given by an informant under subsection (4) (h) of this section shall be deemed to be a statement for the purposes of section 111 of the Crimes Act 1961 (which relates to false statements) notwithstanding that it is not required to be made before any person. 10

“(12) Subject to the provisions of any other enactment, where an order is made under section 78A (1) of this Act following proceedings under this section the entry in Criminal Records relating to that order and the summary of facts contained in the notice of traffic prosecution shall be open to inspection by the public. 15 20

“(13) Any 2 or more Justices may exercise the powers conferred on a District Court Judge by this section in any case where the minor traffic offence with which the defendant is charged is one in respect of which a Court presided over by a Justice or 2 or more Justices would have jurisdiction if a summons to the defendant were issued in the first instance.” 25

17. Amendments consequential upon section 16—

(1) Section 12 (1) of the Summary Proceedings Act 1957 (as amended by section 7 (2) of the Summary Proceedings Amendment Act 1973) is hereby further amended by omitting the words “, subject to section 20A of this Act,” and substituting the words “, subject to sections 20A and 21 of this Act.”. 30

(2) Section 20A of the Summary Proceedings Act 1957 (as inserted by section 7 (1) of the Summary Proceedings Amendment Act 1973) is hereby amended— 35

(a) By inserting in subsection (9), after the words “Costs in Criminal Cases Act 1967”, the words “, and the Wanganui Computer Centre Act 1976”: 40

(b) By adding to subsection (12) the words “; but does not include a minor traffic offence”.

(3) Section 75 of the Summary Proceedings Act 1957 is hereby amended by repealing subsection (1A) (as inserted by section 3 of the Summary Proceedings Amendment Act 1968 and amended by section 7 (3) of the Summary Proceedings Amendment Act 1973), and substituting the following subsection:

“(1A) Where a registered letter has been used for the service on a defendant of any summons, copy of a notice of prosecution under section 20A of this Act, or copy of a notice of traffic prosecution under section 21 of this Act, or a notice of time and place of hearing has been posted to a defendant under section 21 of this Act, and on the hearing of the matter the defendant has been convicted or, as the case may be, an order has been made against him, in his absence, a District Court Judge or the Registrar (not being a constable) shall, if he is satisfied that the defendant did not receive the summons or notice or copy of the notice:

- “(a) Grant a rehearing of the matter and set it down for hearing at a later date; and
- “(b) Issue another summons, or require another copy of the notice to be served on the defendant, or require a copy of the notice of time and place of hearing to be served on the defendant, as the case may be; and, in any such case, the summons or copy shall not be served by registered letter.”

(4) The following enactments are hereby consequentially repealed:

- (a) Section 3 of the Summary Proceedings Amendment Act 1968:
- (b) Subsections (2) and (3) of section 7 of the Summary Proceedings Amendment Act 1973.

18. Special provisions relating to minor traffic offences—

- (1) The Summary Proceedings Act 1957 is hereby amended by inserting, after section 78, the following section:
- “78A. (1) Notwithstanding any other provision of this Act or any other Act, where in proceedings for a minor traffic offence the Court would, but for this subsection, convict the person of the offence, the Court shall not convict the person but instead shall order that the person pay—
- “(a) Such fine (if any) as the Court thinks fit; and

“(b) Where the offence is a parking offence and expenses have been incurred by an enforcement authority in respect of the movement or proposed movement of the vehicle under section 68B (1) (c) of the Transport Act 1962 (whether or not the vehicle is in fact moved), the amount of the appropriate towage fee; and 5

“(c) Such costs relating to the proceedings as the Court thinks fit.

“(2) Every reference in this Act or the Transport Act 1962 or any other Act or in a regulation or bylaw to conviction for an offence shall, in relation to a minor traffic offence, be deemed to be a reference to the making of an order under subsection (1) of this section in respect of that offence. 10 15

“(3) Where a person is ordered to pay a towage fee under subsection (1) of this section, the amount of the fee recovered from that person shall be paid to the enforcement authority that incurred the towage expenses.

“(4) In this section, the terms ‘enforcement authority’, ‘parking offence’, and ‘towage fee’ have the meanings assigned to them in section 2 (1) of the Transport Act 1962.” 20

(2) Section 85 (1) of the Summary Proceedings Act 1957 (as substituted by section 12 of the Summary Proceedings Amendment Act 1973) is hereby amended by omitting the words “If the Court”, and substituting the words “Subject to section 101 (2) of this Act, if the Court”. 25

(3) Section 101 of the Summary Proceedings Act 1957 (as substituted by section 12 of the Summary Proceedings Amendment Act 1973) is hereby amended by inserting, before the words “Subject to”, the expression “(1)”. 30

(4) Section 101 of the Summary Proceedings Act 1957 (as so substituted) is hereby further amended by adding, as subsection (2), the following subsection:

“(2) A District Court Judge shall not direct the issue of a warrant of commitment under section 100 of this Act or sentence the defendant to any form of detention under this Part of this Act for non-payment of a fine, towage fee, or costs ordered to be paid in proceedings for a minor traffic offence.” 35 40

(5) The Schedule to the Wanganui Computer Centre Act 1976 is hereby amended by omitting from the column headed “Description” the words “convictions for” where they occur in relation to the subject “Demerit points”.

SCHEDULE

Section 8 (8)

NEW SECOND SCHEDULE TO PRINCIPAL ACT

“SECOND SCHEDULE
INFRINGEMENT OFFENCES AND FEES

PART I

PARKING OFFENCES

Offence	Infringement fee (In addition to any towage fee—see below)
Any parking offence involving parking on a road in breach of a local authority bylaw in excess of a period fixed by a meter or otherwise, where the excess time is—	
Not more than 30 minutes	\$4 or such lesser amount as is fixed by the local authority
More than 30 minutes but not more than 1 hour	\$7 or such lesser amount fixed as aforesaid
More than 1 hour but not more than 2 hours	\$10 or such lesser amount fixed as aforesaid
More than 2 hours but not more than 4 hours	\$15 or such lesser amount fixed as aforesaid
More than 4 hours	\$17 or such lesser amount fixed as aforesaid
Any other parking offence	\$20

Towage fee: Where expenses are incurred by an enforcement authority in respect of the movement or proposed movement of the vehicle involved in the offence under section 68B (1) (c) of this Act (whether or not the vehicle is in fact moved) the infringement fee shall be the total of the amount specified above in respect of the offence and the amount of the appropriate towage fee.

PART II
SPEEDING OFFENCES

Offence	Infringement fee \$
Any speeding offence, where the speed exceeds the speed limit by—	
Not more than 10 kilometres an hour	10
More than 10 kilometres an hour but not more than 15 kilometres an hour	20
More than 15 kilometres an hour but not more than 20 kilometres an hour	30
More than 20 kilometres an hour but not more than 25 kilometres an hour	50
More than 25 kilometres an hour but not more than 30 kilometres an hour	60
More than 30 kilometres an hour but not more than 35 kilometres an hour	80
More than 35 kilometres an hour but not more than 40 kilometres an hour	100

PART III
OFFENCES AGAINST TRAFFIC REGULATIONS 1976

Offence against Regulation	Brief description of offence	Infringement fee \$
4 (3)	Failure to drive within a lane	25
6	Failure to comply with lane-usage arrows	25
9 (1) (a)	Failure to stop at a stop sign	25
15 (1) (b), (c)	Failure to signal turn or move to right or left	25
18 (1)	Failure to comply with signals given by traffic lights	25
19 (2)	Towing without required lights	25
28 (1)	Excessive emission of smoke or vapour	25
29 (1)	Excessively noisy vehicle	25
29 (6)	Unreasonable use of warning device	25
30 (1)	Failure to wear securely fastened seat belt	25
31 (1)	Failure to wear securely fastened safety helmet	25
37 (2)	Driving without required lights	25
37 (5)	Failure to display red light on parked goods-service vehicle	25
40	Riding abreast	15
42 (3) (a), (c)	Failure to display red light and reflector on cycle or power cycle	15
44	Careless riding of cycle or power cycle	15
	Any offence involving a cycle or power cycle not specified above	15

SCHEDULE—continued

Offence against Regulation	Brief description of offence	Infringement fee \$
51 to 56	Any offence committed by a pedestrian	10
58 (1) (c)	Motor cycle not equipped with required headlamp	25
60 (1)	No rearward-facing side lamps	15
69 (1)	Vehicle not equipped with required warning device	15
71 (1)	Using worn or damaged tyre	25
71 (2)	Using smooth tyre	25
73 (3)	Driving with obscured windscreen	25
74 (1)	Operating vehicle without rear-vision mirror	25
78 (1)	Operating vehicle without required seat belts	25
78 (4)	Motor cycle not provided with adequate footrests	25
81	Operating vehicle without required exhaust system and silencer	25
85 (1)	Operating vehicle without current warrant or certificate of fitness	25
85 (5)	Operating vehicle not up to warrant or certificate of fitness standard	25

PART IV

OTHER OFFENCES

Enactment offended against	Brief description of offence	Infringement fee \$
Section 7 (1) Transport Act 1962	Using, or permitting to be used, on a road an unlicensed motor vehicle or a motor vehicle that does not have registration plates or a licence affixed in the prescribed manner	25
Section 25 (1) (a) Transport Act 1962	Driving without holding a licence of the required class	25
Regulation 3B (2) Motorways Regulations 1950	Making U-turn on a motorway	25
Regulation 9, Motor Vehicles Registra- tion and Licensing Regulations 1965	Failure to display licence	25