

## TRAFFIC INFRINGEMENT OFFENCES BILL (NO. 2)

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### EXPLANATORY NOTE

THIS Bill deals with the matters that were the subject of Recommendations 1, 3, 4, 5, and 6 of the Commission of Inquiry into the Administration of the District Court at Wellington.

The Bill amends the Transport Act 1962, the Summary Proceedings Act 1957, and the Wanganui Computer Centre Act 1976, and it is proposed at the appropriate stage to seek the leave of the House to divide the Bill into its component parts for final enactment as separate Bills.

This Bill is similar to the Traffic Infringement Offences Bill that was introduced in December 1983 and referred to the Statutes Revision Committee. That Bill was reported back to the House from that Committee on the last day of the previous session of Parliament and lapsed with the close of that session.

The principal changes from the Bill as introduced in 1983 are:

- (a) The commencement date is changed from 1 September 1984 to 1 April 1985 (*clause 1*):
- (b) In addition to the matters specified in the Bill introduced in 1983, applications for registration and annual licensing of motor vehicles will have to specify the name of the owner and such particulars as the Registrar may require in relation to the vehicle (*clauses 3 and 4*):
- (c) In addition to the matters specified in the Bill introduced in 1983, notifications of change of ownership of motor vehicles will have to include the name and address of the person selling or disposing of the vehicle and the occupation of the new owner (*clause 5*):
- (d) It will be an offence to knowingly supply any false information in respect of any application for registration or an annual licence or any notification of change of ownership of a motor vehicle. In the Bill introduced in 1983 the offences only related to false names and addresses (*clause 6*):
- (e) Words are added to the new subsection (4) to section 42A of the Transport Act 1962 to make it clear that proceedings may be commenced in respect of alleged traffic infringement offences where the infringement fee has been paid after the expiry of the 2-month period allowed for the payment of that fee (*clause 8*):
- (f) Specific provision is made that it is not a defence to proceedings for an infringement offence that the infringement fee was paid after the expiry of the 2-month period allowed for the payment of the fee, even where the proceedings were commenced after the infringement fee was paid (*clause 9*):

- (g) The present offence of altering a mileage recorder so as to reduce the mileage recorded is extended, and the maximum penalty is increased (*clause 10*).

*Clause 1* deals with the Short Title and commencement. The commencement date is 1 April 1985.

## PART I

### AMENDMENTS TO TRANSPORT ACT 1962

*Clause 2* provides that this Part is to be read as part of the Transport Act 1962.

*Clauses 3 and 4* amend sections 9 and 12 of the principal Act which relate to applications for registration and annual licences for motor vehicles.

A new feature is the requirement that the application must specify the address of the owner's place of residence or business within New Zealand, and his New Zealand postal address, if it is different from the address of his place of residence or business.

*Clause 5; Subclause (1)* substitutes a new section 18 (1) in the principal Act which differs in minor respects from the existing provision as a result of changes made by this Bill. The seller or person disposing of a vehicle is responsible for notifying the change of ownership of a vehicle, irrespective of whether or not he is the registered owner, and must be identified in the notification.

*Subclause (2)* imposes on any person acquiring ownership of a motor vehicle an obligation to give the person selling or disposing of it his full name, the address of his place of residence or business within New Zealand, and his New Zealand postal address, if it is different from the address of his place of residence or business.

*Clause 6* deals with Recommendation 5 of the Commission of Inquiry.

*Subclause (1)* creates offences relating to the knowingly giving of false or misleading information in or for the purpose of applications for registration or licensing of the vehicle, or notifications of changes of ownership.

*Subclause (2)* provides that informations in respect of those offences may be laid at any time within 2 years after the date of the offence.

It is intended to make appropriate amendments to the Motor Vehicles Registration and Licensing Regulations 1965 (Reprinted S.R. 1979/13) to come into force on 1 April 1985, following the amendments made by *clauses 3 to 6*.

*Clauses 7 and 9* deal with part of Recommendation 1 of the Commission of Inquiry.

At present, if an infringement fee is paid within 21 days of the date of the infringement notice, no proceedings may be taken in respect of the alleged offence. If payment is made outside that period, but before proceedings are commenced, then section 42A (7) provides that it is a defence to the proceedings if the defendant proves that the payment has been made. Casey J. in *Mogridge v Ministry of Transport* (M. No. 186/82, High Court, Christchurch, 26 May 1982) held that payment of the fee after the commencement of proceedings for the offence was of no effect.

The Commission of Inquiry noted that the present system caused difficulties because often neither the person paying the fee nor the person receiving it know whether or not proceedings have been commenced.

The effect of these clauses is that the defence that the infringement fee has been paid is only available if the fee has been paid before the end of the 2-month period that commences with the date on which the notice is attached to the vehicle or delivered or posted to any person liable for the alleged offence, whichever occurs first.

It will be no defence that the fee may have been paid after the expiry of the 2-month period, even if it was paid before the proceedings were commenced.

*Clause 8* also deals with part of Recommendation 1 of the Commission of Inquiry. At present, proceedings may be taken in respect of an infringement offence if the infringement fee has not been paid within 21 days of the date on which the infringement notice was delivered personally or posted to a person liable in respect of the alleged offence. This amendment extends that period to 2 months and provides that it commences with the date on which the notice is attached to the vehicle, or delivered or posted to any person liable for the alleged offence, whichever occurs first.

The clause also makes it clear that proceedings under the Summary Proceedings Act 1957 cannot be commenced during the 2-month period.

*Clause 10* carries forward and extends an offence at present set out in section 9 (6) (b) of the Transport Act 1962 which is repealed by *clause 3* of this Bill.

The maximum penalty for the offence, which relates to alterations to a vehicle or distance recorder with the intention of causing a false record of the distance travelled by the vehicle to be shown or recorded, is increased from \$200 to \$1,000.

At present, the offence is confined to alterations to mileage recorders so as to reduce the mileage recorded on them. The new offence relates to alterations to a distance recorder or a vehicle with the intention of causing a false reading to be shown or recorded.

## PART II

### AMENDMENTS TO SUMMARY PROCEEDINGS ACT 1957

*Clause 11* provides that this Part is to be read as part of the Summary Proceedings Act 1957.

*Clause 12; Subclause (1)*: This subclause removes the procedure whereby a copy of a notice of traffic prosecution may be served before it is filed in Court. It substitutes a requirement that the notice must be filed in a Court before it is served, and requires that if the notice is served by someone who is not an officer of the Court, a constable, or a traffic officer, proof of the service must be given to the Court by affidavit as soon as practicable.

*Subclause (2)* deals with Recommendation 4 of the Commission of Inquiry though in slightly different terms. The Commission of Inquiry recommended reduction of the minimum period that must be allowed for a defendant to notify the Court that he wishes to deny an alleged minor traffic offence from 35 days to 10 days after the service of the notice of traffic prosecution.

The effect of *subclause (2)* is to reduce that minimum period from 35 days to 14 days.

*Clause 13* deals with part of Recommendation 3 of the Commission of Inquiry. It provides for the service of notices of traffic prosecution by ordinary post to an address given by the owner in applying for registration or licensing of the vehicle, or in connection with its change of ownership. At present, if service is effected by post then the service must be by registered post.

*Clause 14* also deals with part of Recommendation 3 of the Commission of Inquiry. The effect of the clause is that where service of a notice of traffic prosecution is effected by post, or a notice of time and place of hearing is posted to a defendant, and an order is made against him in his absence, the defendant must be granted a hearing if he makes a statutory declaration that he did not receive the notice of traffic prosecution or the notice of time and place of hearing and specifies an address at which service of those notices may be made. The address must be a postal address unless the defendant declares that there is no suitable postal address, and specifies an address at which he will accept personal service of the notices.

### PART III

#### AMENDMENTS TO WANGANUI COMPUTER CENTRE ACT 1976

*Clause 15* provides that this Part is to be read as part of the Wanganui Computer Centre Act 1976.

*Clauses 16 and 17* deal with Recommendation 6 of the Commission of Inquiry. At present, Departments may make information held in the Wanganui computer system available to Departments and other persons, but if they do so in a form capable of use in another computer then, by virtue of section 27 (1) of the Act, the other computer could be considered to form part of the Wanganui computer system.

The effect of these amendments is that Departments will be able to make information available on tapes or discs that can be read by another computer without that computer becoming part of the Wanganui computer system.

The particular application of this provision in the context of the Commission of Inquiry's recommendations is that local authorities with traffic enforcement functions will be able to be given, in computer form, details of proceedings and ancillary matters such as the non-service of notices.

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Hon. R. W. Prebble

## TRAFFIC INFRINGEMENT OFFENCES (NO. 2)

### ANALYSIS

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### A BILL INTITULED

**An Act to amend the Transport Act 1962, the Summary Proceedings Act 1957, and the Wanganui Computer Centre Act 1976 relating to administration and proceedings in respect of traffic infringement offences**

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

1. **Short Title and commencement**—(1) This Act may be cited as the Traffic Infringement Offences Act (No. 2) 1984.  
(2) This Act shall come into force on the **1st day of April 1985**.

## PART I

## AMENDMENTS TO TRANSPORT ACT 1962

**2. Sections to be read with Transport Act 1962**—This section and the next 8 succeeding sections shall be read together with and deemed part of the Transport Act 1962\* (in those sections referred to as the principal Act). 5

\*Reprinted 1974, Vol. 3, p. 2489

Amendments: 1975, No. 4; 1976, No. 126; 1977, No. 3; 1978, Nos. 3, 46; 1979, No. 17; 1980, No. 96; 1982, Nos. 4, 10, 105; 1983, Nos. 2, 33, 35

**3. Application for registration of motor vehicle**—  
(1) Section 9 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection: 10

“(1) Every application for the registration of any motor vehicle shall be made by or on behalf of the owner to a Deputy Registrar, on a form provided by the Registrar, and shall specify—

“(a) The name of the owner: 15

“(b) The address of the owner’s place of residence or place of business within New Zealand:

“(c) The owner’s postal address within New Zealand, if that address differs from the address given under paragraph (b) of this subsection: 20

“(d) Such particulars relating to the vehicle as may be required by the Registrar as indicated on the form.”

(2) Section 9 of the principal Act is hereby further amended by repealing subsections (5) and (6).

**4. Application for licence for motor vehicle**—Section 12 25  
of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Every application for a licence for any motor vehicle shall be made by or on behalf of the owner to a Deputy Registrar, on a form provided by the Registrar, and shall specify— 30

“(a) The name of the owner:

“(b) The address of the owner’s place of residence or place of business within New Zealand:

“(c) The owner’s postal address within New Zealand, if that address differs from the address given under paragraph (b) of this subsection: 35

“(d) Such particulars relating to the vehicle as may be required by the Registrar as indicated on the form.”

**5. Notification of change of ownership of motor vehicle**—(1) Section 18 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Within 7 days after the sale or other disposition of any registered motor vehicle the person selling or otherwise disposing of it shall, on a form provided by the Registrar, give to a Deputy Registrar— 5

“(a) Notice of the fact and date of the sale or other disposition: 10

“(b) The name of the registered owner of the vehicle:

“(c) The name and address of the person selling or otherwise disposing of the vehicle:

“(d) The distance recorded on the distance recorder (if any) of the vehicle at the time of the sale or other disposition: 15

“(e) The name, occupation, and addresses of the new owner as given under **subsection (2A)** of this section:

“(f) Such other particulars relating to the vehicle as may be required by the Registrar as indicated on the form.” 20

(2) Section 18 of the principal Act is hereby further amended by inserting, after subsection (2), the following subsection:

“(2A) Every person who acquires ownership of a motor vehicle shall give to the person selling or otherwise disposing of it, on the form referred to in **subsection (1)** of this section, his full name and occupation and— 25

“(a) The address of his place of residence or place of business within New Zealand; and

“(b) His postal address within New Zealand, if that address differs from the address given under **paragraph (a)** of this subsection.” 30

(3) Section 18 of the principal Act is hereby further amended by repealing paragraph (b) of subsection (6), and substituting the following paragraph:

“(b) The distance recorded on the distance recorder (if any) of the vehicle as stated in the notice of sale or other disposition of the motor vehicle; and” 35

**6. Offences relating to giving of name and address of owner of motor vehicle**—The principal Act is hereby amended by inserting, after section 18, the following section: 40

“18A. (1) Every person commits an offence and is liable on conviction to a fine not exceeding \$1,000 who,—

“(a) In or for the purposes of any application under section 9 of this Act for the registration of a motor vehicle; 45  
or

“(b) In or for the purposes of any application under section 12 of this Act for a licence for any motor vehicle; or

“(c) In or for the purposes of any notification under section 18 of this Act of the change of ownership of a motor vehicle; or

“(d) In or for the purposes of giving his name or an address under **section 18 (2A)** of this Act,—

knowingly supplies to a Deputy Registrar, or to any person who is to make any application or notification under any of those sections, any false or misleading information.

“(2) Notwithstanding section 14 of the Summary Proceedings Act 1957, an information in respect of any offence against this section may be laid at any time within 2 years from the time when the matter of the information arose.”

### **7. Defence to proceedings for parking offence—**

Section 42 (4) of the principal Act (as substituted by section 7 of the Transport Amendment Act 1980) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) The infringement fee specified in an infringement notice issued in respect of the offence has been paid to the enforcement authority before the date on which, by virtue of **section 42A (4)** of this Act, proceedings could be taken under the Summary Proceedings Act 1957 in respect of the offence; or”.

### **8. Period within which infringement fee may be paid—**

Section 42A of the principal Act (as substituted by section 7 of the Transport Amendment Act 1980) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Where an infringement notice has been issued, proceedings may not be taken under the Summary Proceedings Act 1957 in respect of the alleged offence unless the infringement fee specified in the notice has not been paid to the enforcement authority within 2 months after the date on which the notice, or a copy thereof, was—

“(a) Attached to the vehicle to which it relates; or

“(b) Delivered personally or sent in accordance with subsection (3) (c) of this section to any person liable in respect of the alleged offence—



whichever occurred first; and such proceedings may be commenced on the day after the expiry of that 2-month period or any later date permitted under that Act, notwithstanding that the infringement fee may have been paid after the expiry  
5 of that 2-month period.”

**9. Infringement offences**—Section 42A of the principal Act (as so substituted) is hereby further amended by repealing subsection (7), and substituting the following subsections:

“(7) It shall be a defence to proceedings taken under the  
10 Summary Proceedings Act 1957 for an infringement offence if the defendant proves that the infringement fee specified in an infringement notice issued in respect of the offence has been paid to the enforcement authority before the date on which, by virtue of **subsection (4)** of this section, proceedings could be  
15 taken under the Summary Proceedings Act 1957 in respect of the offence.

“(7A) It shall not be a defence to proceedings taken under the Summary Proceedings Act 1957 for an infringement offence that the infringement fee specified in an infringement notice  
20 issued in respect of the offence has been paid after the date on which, by virtue of **subsection (4)** of this section, proceedings could be taken under the Summary Proceedings Act 1957 in respect of the offence, irrespective of whether or not the proceedings had been commenced when the payment was  
25 made.”

**10. Offence relating to distance recorder**—The principal Act is hereby amended by inserting, after section 192A (as inserted by section 15 (1) of the Transport Amendment Act (No. 2) 1967), the following section:

30 “192B. Every person commits an offence and is liable on conviction to a fine not exceeding \$1,000 who, with intent to cause a false record of the distance travelled by any vehicle to be shown or recorded, makes any alteration to the distance recorder or to the vehicle.”

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## PART II

### AMENDMENTS TO SUMMARY PROCEEDINGS ACT 1957

**11. Sections to be read with Summary Proceedings Act 1957**—This section and the next 3 succeeding sections shall be read together with and deemed part of the Summary  
40 Proceedings Act 1957\* (in those sections referred to as the principal Act).

\*R.S. Vol. 9, p. 583

Amendments: 1982, Nos. 47, 131, 158

**12. Summary procedure for minor traffic offences—**(1) Section 21 of the principal Act (as inserted by section 16 of the Transport Amendment Act 1980) is hereby amended by repealing subsections (2) and (3), and substituting the following subsections: 5

“(2) A copy of a notice of traffic prosecution may be served on a person at any time after the notice has been filed in a Court.

“(3) Where a copy of a notice of traffic prosecution is served by any person other than an officer of the Court, a constable, 10 or a traffic officer within the meaning of the Transport Act 1962, the person who serves the notice shall, as soon as practicable thereafter, give proof of service of the notice by affidavit to the Court in which the notice was filed.”

(2) Section 21 of the principal Act (as so inserted) is hereby 15 further amended by omitting from subsection (5) the expression “35 days”, and substituting the expression “14 days”.

**13. Service of notice of traffic prosecution—**  
(1) Section 24 (1) of the principal Act is hereby amended by adding to paragraph (c) the expression “; or”, and inserting, 20 after that paragraph, the following paragraph:

“(d) In the case of a notice of traffic prosecution, by being sent to him by letter sent by ordinary post addressed to him at his last known or usual place of residence or business, or to any address given by him under 25 **section 9 (1), section 12 (1), or section 18** of the Transport Act 1962.”

(2) Section 24 (3) of the principal Act (as substituted by section 2 (2) of the Summary Proceedings Amendment Act 1968) is hereby amended by inserting, after the expression 30 “paragraph (c)”, the expression “or **paragraph (d)**”.

(3) Section 25 (2) of the principal Act is hereby amended by inserting, after the word “registered”, the words “or ordinary”.

**14. Hearing to be granted where service by post not effective—**(1) The principal Act is hereby amended by 35 inserting, after section 78A (as inserted by section 18 (1) of the Transport Amendment Act 1980), the following section:

“78B. (1) Where a registered or ordinary letter has been used for the service on a defendant of a copy of a notice of traffic prosecution under section 21 of this Act, or a notice of time 40 and place of hearing has been posted to a defendant under

subsection (5) of that section, and an order has been made under section 78A (1) of this Act against the defendant in his absence, a District Court Judge or the Registrar (not being a constable) shall, subject to **subsection (2)** of this section, on the application of the defendant,—

- 5 “(a) Grant a hearing of the matter and set it down for hearing at a later date; and
- 10 “(b) Require another copy of the notice of traffic prosecution or a copy of the notice of time and place of hearing, or both, to be served on the defendant; and, in any such case the notice or notices shall be served by posting them by ordinary post to any address specified by the defendant in a declaration made by him under **subsection (2) (a)** of this section, or by
- 15 personal service on the defendant.

“**(2)** No rehearing shall be granted under **subsection (1)** of this section unless a statutory declaration made by the defendant declaring that he did not receive the copy of the notice of traffic prosecution or did not receive the notice of time and

20 place of hearing, or both; and—

- “**(a)** Specifying an address at which he will accept service by post of another copy of the notice of traffic prosecution or of the notice of time and date of the hearing; or
- 25 “**(b)** Declaring that there is no suitable address at which service by post of those notices may be effected, and specifying an address at which he will accept personal service of either or both of those notices.

“**(3)** Where a hearing has been granted under **subsection (1)** of this section, the order made under section 78A (1) of this Act in respect of the offence shall immediately cease to have effect.”

(2) Section 75 (1A) of the principal Act (as substituted by section 17 (3) of the Transport Amendment Act 1980) is hereby

35 amended—

- (a) By omitting the words “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”;
- 40 (b) By omitting from paragraph (b) the words “or require a copy of the notice of time and place of hearing to be served on the defendant,”.

## PART III

## AMENDMENTS TO WANGANUI COMPUTER CENTRE ACT 1976

**15. Sections to be read with Wanganui Computer Centre Act 1976**—This section and the **next 2 succeeding** sections shall be read together with and deemed part of the Wanganui Computer Centre Act 1976\* (in those sections referred to as the principal Act). 5

\*1976, No. 19

Amendments: 1977, No. 83; 1979, No. 118; 1980, No. 52; 1983, No. 122

**16. Distribution of information**—The principal Act is hereby amended by inserting, after section 27A (as inserted by section 3 of the Wanganui Computer Centre Amendment Act 1983), the following section: 10

“27B. Subject to section 27 of this Act and any recommendation or direction given under that section, any Department that may make any information available to any other Department or person under the authority of section 27 (5) (b) of this Act may make that information available on tapes or discs that are capable of being read by or through a computer installation.” 15

**17. Consequential amendment**—Section 27 (1) of the principal Act is hereby amended by inserting, after the word “section”, the words “and **section 27B** of this Act”. 20