

# **Land Transport Amendment Bill**

Government Bill

As reported from the Transport and Industrial Relations  
Committee

## **Commentary**

### **Recommendation**

The Transport and Industrial Relations Committee has examined the Land Transport Amendment Bill and recommends that it be passed with the amendments shown.

### **Introduction**

The Land Transport Amendment Bill makes a number of changes to the transport legislation framework.

It amends the Land Transport Act 1998 (the principal Act), the Transport Services Licensing Act 1989 and subordinate legislation, the Transport Act 1962 and the Boilers, Lifts, and Cranes Act 1950.

The amendments to these Acts contained in the bill apply principally to the following:

- driver licensing
- serious traffic offenders
- disqualified drivers
- transport service licensing
- permissible work time and logbook requirements
- vehicle impoundment.

The amendments we recommend to the bill are designed to create a safer environment for all road users including those who work as drivers and those who use passenger transport.

## **Passenger transport services**

### **Prohibition on serious offenders**

The bill prohibits those convicted on or after the commencement of this Act of specified serious offences including murder, serious sexual offences and serious violent offences from holding or applying for a passenger endorsement on their driver licence.

We considered whether this should be extended to persons convicted of these offences before the commencement of this Act.

We received advice that extending the provision was not inconsistent with the principle against retroactive penalties contained in section 26 of the New Zealand Bill of Rights Act 1990.

In making the majority recommendation that the prohibition should cover all persons convicted of a specified serious offence at any time on, before, or after, the commencement of the Act, we balanced the competing interests of drivers in the passenger industry, with existing convictions, with public safety and public confidence in the passenger service industry.

We gave serious consideration to whether those convicted of serious offences before the commencement of the bill should be able to appeal against the prohibition from holding a passenger endorsement. While a prohibition from carrying passengers rules out this form of employment, they will be allowed to undertake other employment involving driving. The majority believes public safety is of such importance that it is essential that people convicted of very serious offences should not hold passenger endorsements.

We also recommend an amendment to capture equivalent offences committed overseas.

The Green Party strongly supports improving safety for taxi passengers and preventing unsuitable people from holding passenger endorsements. However, the Green Party is concerned at the permanent and retrospective exclusions created by new clause 29A. Under this clause someone who committed a serious offence in their teens, served their time and has then led a blameless life for 20 or 30 years will lose their taxi licence with no possibility of reinstatement. The

Green Party is uncomfortable with the potential for injustice, especially when there is no evidence that such a blanket prohibition delivers a significant improvement in safety compared with alternatives. There is a wide range of options between the status quo and the provisions of the bill as supported by the majority. The Green Party would prefer that clause 29A was qualified to allow such a person to hold a passenger endorsement where the Director is satisfied that there is no risk to public safety now or in the foreseeable future from the person concerned. This is a very high test and places heavy onus on the Director, who would err on the side of caution. Failure to include even such a restrictive exemption provision means that we are elevating taxi driving to a status well above such sensitive areas as early childhood education in terms of the standards we impose on those involved. In the Green Party's view, the main result will be to penalise a small number of individuals who have long since been rehabilitated while doing little to improve the safety of taxi passengers overall.

New Zealand First is concerned there is no appeal provision whatsoever for current drivers including those who might have been driving for many years and have subsequently led a responsible life and their crime is known to the public.

All members of the committee recommend that further consideration be given to this matter.

### **Mental illness**

The bill as introduced contained a specific reference to mental illness in the "fit and proper person" test. As mental illness is already covered by the medical assessment, we recommend that the words "mental illness" be removed from the bill.

### **Taxis and visually-impaired passengers**

We recognise that blind and visually-impaired people often rely on taxis for transportation. Names and photo identification must currently be displayed. However blind and low-vision passengers do not benefit from this information.

We consider that vision-impaired passengers are just as entitled to safety as all other passengers. Accordingly, we recommend an amendment to clause 14 to require holders of transport service licences to carry the name of the approved taxi organisation, the taxi number, and the approved taxi organisation's telephone number for

complaints in Braille in their vehicles. We believe the provision of a means of identification will address concerns that visually-impaired passengers do not have the same rights to safety as other passengers.

### **Taxi signage**

The majority considers that the taxi signage of one company should not closely resemble that of another taxi company. If a driver of a particular company commits a transgression, the majority believes the company should be instantly recognisable, in order to promote informed customer choice, and facilitate possible prosecution of the appropriate taxi company or driver, should offending occur. In the interests of safety, the majority recommends an amendment to clause 14 to reflect the importance of distinctive taxi signage in the recognition of reputable taxi companies.

The amendment the majority recommends would allow the Director to approve a taxi organisation only if satisfied that its signage is sufficiently distinguishable from that of any other approved taxi organisation operating in the same area.

New Zealand National does not support the inclusion of this provision in transport legislation. Signage issues are already dealt with in competition law.

### **Exclusion of courtesy vehicles from “passenger transport service”**

We consider that courtesy vehicles provide an important service in helping patrons to return home safely from clubs and events. This need is perhaps even more important in rural areas.

We therefore recommend an amendment to clause 4 to ensure that courtesy vehicles are excluded from the definition of “passenger service”. Consequently, they will not fall within the transport service licensing regime. We believe certain requirements of the regime, such as passenger endorsements on licences, restrictions on working hours, and logbooks, would impose compliance costs that would outweigh the benefits of courtesy services in reducing drink driving.

We emphasise the “hire or reward” element of the definition of “passenger services”. Where a passenger is obliged to pay a fee in order to use transportation, it is no longer a courtesy vehicle. Nevertheless, we accept that donations, which are purely voluntary and in no way a condition of carriage, may be offered by passengers.

During our consideration of the exclusion of courtesy vehicles from the definition of passenger service, we gave serious thought to whether drivers of these vehicles should be subject to a fit and proper person test. Had courtesy vehicles been included in the definition of “passenger service”, this test would have applied. Concern was raised that drivers may have substantial day-time driving commitments, which should disqualify them from offering a designated passenger service such as a courtesy vehicle.

Additionally, we note that such a test may be of benefit where a driver of a courtesy vehicle has previously been refused a passenger endorsement and may not be considered fit to carry passengers. We recognise that a mandatory fit and proper person test might increase the safety afforded to passengers. We would therefore encourage providers of courtesy vehicles to develop in-house policies to screen drivers of courtesy vehicles.

#### **Limited licences for driving a passenger service vehicle**

We recommend an amendment to clause 49 to allow a passenger service driver to apply for a limited licence to work in a passenger service where licence suspension was as a result of demerit point accumulation.

We consider this proposal will address concerns that professional drivers faced with extreme hardship should be able to apply for limited licences allowing them to work in a passenger service while still offering protection to the public.

#### **Chain of responsibility**

The Road Transport Forum suggested to us that the chain of responsibility should be extended to include all appropriate transport offences where a third party has influence over a transport task. It was asserted that on occasion offences such as exceeding driving hours or the carriage of excess weight may be strongly influenced by persons beyond the immediate operational management sphere.

We consider that it is necessary to widen the scope of behaviours that will incur sanctions as chain-of-responsibility offences. In the event that a person either directly or indirectly contributes to the committing of an offence, they become liable. We feel this will provide a strong deterrent effect to people who influence others (either knowingly, or in circumstances where they should reasonably know) to commit offences.

Additionally, we recommend amendments to the bill to extend the chain-of-responsibility offences for commercial vehicles to include breaches of vehicle weight limits, speeding and, to a limited extent, load security. When offences are committed in any of these three areas, they have grave implications for safety. We wish to recognise that such offences are not always solely the responsibility of the driver or operator, but may be due to influences exerted on them by others, which we are determined to discourage.

## **Work time and logbook requirements**

### **Alternative fatigue management schemes**

We recommend an amendment to clause 15 to require that the Director must be satisfied that an applicant for a fatigue-management scheme has consulted with the representatives of the drivers. This responds to concerns raised by submitters.

As an employee is likely to be strongly affected by an alternative fatigue management scheme that may vary the work time restrictions or rest time requirements, we consider a rigorous consultation process involving employees' representatives is essential.

### **Limits on work time**

We recommend an amendment to clause 15 to specifically detail the maximum hours of work allowable per day and the maximum working hours allowable before taking a 24-hour break. We maintain that placing the core driving hours in primary legislation will provide drivers with greater protection. We do not consider that placing these restrictions in rules is appropriate.

The rules will, however, add detail to the core hours stated in the legislation and will allow for variations, providing some flexibility. More importantly, developing the rule will require extensive consultation with stakeholders as to the nature of any supplementary requirements.

### **Mandatory disqualification**

We recommend that clause 33 be amended to specify mandatory licence disqualification for exceeding, by more than two hours, 70 hours work time in a working week. Mandatory licence disqualification for exceeding, by more than one hour, 13 hours work time in a working day will remain.

We consider that the one-hour tolerance in the bill as introduced is insufficient time to take account of successive incidents that may combine to cause a breach over the course of a working week. Mandatory disqualification could then create unjustified hardship when circumstances might not be within a driver's control.

### **Emergency service vehicle driver exemption**

We recommend an amendment to clause 15 to exempt emergency service drivers from work time and logbook provisions when they are responding to emergencies.

The New Zealand Professional Firefighters Union submitted that drivers work long shifts, but driving itself is only incidental to the work of a firefighter. We recognise that while fatigue needs to be managed, emergency service drivers need to be able to attend priority calls. We accordingly recommend that drivers of an ambulance service, fire brigade, or rural fire party who are proceeding to or returning from an incident attended in response to a priority call specified in the rules, be exempt from the work time and logbook requirements, to allow them to carry out their work effectively.

### **Offences relating to work time and logbooks**

Clause 33 inserts a new part 6B into the principal Act which relates in part to the failure to keep or produce records relating to work time and logbook requirements. The bill as introduced provided for a fine of not more than \$25,000 for failure or refusal to provide records relating to work time, or logbooks.

We understand that where the appropriate records are not produced, further investigation into possible breaches of work time restrictions is practically impossible.

In the light of this, we considered whether in such circumstances an operator's transport service licence should be suspended until records are submitted. On balance, we believe that increasing the maximum fine to \$100,000 will be a sufficient deterrent to deliberately withholding records. We recognise that some transport operators may legitimately be unable to produce records and a suspension would unjustifiably cause significant financial loss or commercial hardship.

**Disqualification or suspension of transport service drivers**

We recommend an amendment to clause 37, which gives the Director of Land Transport discretion to specify the particular transport service to which a driving prohibition applies.

We consider that this would allow someone who has been prohibited from working as a passenger service driver to continue driving in a goods service, for example. We recognise the hardship caused by the disqualification or suspension of a transport service driver and consider it preferable to allow these drivers the possibility of driving goods service vehicles.

**Goods service vehicle**

We spent a substantial amount of time considering licensing and work time requirements for drivers and operators of commercial goods vehicles.

Currently, a goods service licence is required for the carriage of goods for hire or reward, regardless of weight, or for carrying goods in a motor vehicle with a gross laden weight of 6,000 kilograms or more, regardless of whether hire or reward is involved.

Driving hours restrictions currently apply to all drivers of goods service vehicles and all drivers on class 2 to 5 licences (for vehicles above 4,500 kilograms). Logbooks are required of drivers of goods service vehicles over 3,500 kilograms.

The bill as introduced proposes the removal of the requirement for operators of commercial vehicles under 6,000 kilograms gross laden weight from holding a goods service licence; we have no problem with this, but we recommend an amendment to the bill, so that the status quo regarding work time requirements is retained. While we understand that this imposes compliance costs and that work time restrictions are not easily enforced when logbooks are not required, we consider such restrictions to be necessary. Work time requirements will mean that breaches of time restrictions can be checked through company records following an accident or incident.

Without work time requirements, we foresee drivers being compelled to work longer hours. This would be unsafe for these drivers and others on the roads.

Although we accept that a vehicle of greater weight is likely to cause greater damage in a crash, it stands to reason that any person who drives long hours is subject to fatigue and potentially more prone to

involvement in crashes. Transport service vehicles with a gross laden weight of up to 3,500 kilograms (primarily courier vans) already have a higher crash rate than licensed and unlicensed vehicles between 3,500 and 6,000 kilograms.

### **Low-speed vehicle technology**

Several submitters brought to our attention the need to clarify the licensing and driving requirements for increasingly popular low-speed vehicle technology.<sup>1</sup> The soundness of this regime is being called into question regarding vehicles such as electric power-assisted cycles. Currently, any vehicle powered by a motor, no matter how small the motor, is a “motor vehicle”. The vehicle must accordingly be registered and display a registration plate. The driver of the “motor vehicle” must also be licensed. While these devices are not currently banned from public roads, it is very difficult to operate them on public roads in full compliance with the law. Clause 4 exempts a vehicle from the specified requirements for motor vehicles when it has a maximum power output not exceeding 200 watts.

We were interested in the legislation applied to these types of vehicles in comparable jurisdictions. The 200-watt power limit for low-powered vehicles, as proposed in the bill, is in line with Australian rules which are currently under review. We believe that the 200-watt limit proposed is too low for New Zealand’s terrain.

The majority recommends an amendment to clause 4 to specify that vehicles with a maximum power output of not more than 300 watts should not be considered motor vehicles. They would then be exempt from driver and vehicle licensing and driving requirements.

In addition, the majority recommends providing the Director of Land Transport with flexibility to vary this wattage for specified classes of vehicles. The Director should have discretion to decide that a vehicle with a maximum power output between 300 and 600 watts, may be suitably exempt from the definition of motor vehicle. The Director should, however, in the interests of safety be able to impose certain conditions on the operation of a particular vehicle or type of vehicle.

New Zealand National believes that 600 watts is a more realistic cut-off point.

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<sup>1</sup> Appendix 2 contains examples of these types of low-powered vehicles.

### **Substitution of community-based sentences**

Clause 40 as introduced amends section 94 of the Act, which allows the substitution of community-based sentences in place of a mandatory licence disqualification, restricting the application of section 94 to a relatively small group of disqualified drivers who have accumulated multiple disqualifications for driving while disqualified but have no other recent convictions for serious road safety offences.

A submitter argued that clause 40 is too restrictive in its focus. It would remove this provision from being able to be used as a rehabilitative mechanism for repeat drink-drivers who can be encouraged to seek assessment and treatment prior to their court hearing. If they are able to demonstrate to the court that they have been successfully rehabilitated, they can request the court to substitute a community-based sentence instead of a disqualification so that they are able to retain their employment.

We consider that the use of the provision to facilitate rehabilitation has merit and therefore recommend an amendment to clause 40 to effectively retain the status quo of section 94 of the Act, but extend its scope to include disqualified drivers who are caught in a cycle of disqualified driving but have no other recent convictions for serious road safety offences, without limiting its application to a wider group.

### **Towage fees**

We consider that if a person commits a traffic offence, costs related to the towage of his or her vehicle should, as far as possible, be paid by that person and not subsidised by ratepayers. Accordingly we recommend an amendment to clause 81 to more specifically allow for the setting of distance-related towage fees.

The Auckland City Council submitted that the maximum permitted towage fees do not completely cover the fees charged by towage contractors. The Council pays the balance of fees incurred.

### **Superseded photographic driver licences**

We recommend an amendment to the bill so driver licences must be surrendered to the Director when superseded.

This will address concerns raised by the hospitality industry that learner and restricted licences are used by minors to gain entry to licensed establishments, or outlets selling alcohol. We understand

the hospitality industry has some responsibility for ensuring that alcohol is not sold to under-age persons, and consider that this amendment will assist them considerably by decreasing the pool of redundant driver licences that may be altered for improper use by minors.

## **Appendix 1**

### **Committee process**

The Land Transport Amendment Bill was referred to the committee on 29 June 2004. The closing date for submissions was 11 August 2004. We received and considered 46 submissions from interested groups and individuals. We heard 25 submissions at hearings in Auckland and Wellington. Hearing evidence took 6 hours 14 minutes and consideration took 11 hours 23 minutes.

We received advice from the Ministry of Transport, Land Transport New Zealand (formerly the Land Transport Safety Authority) and the New Zealand Police. We received a briefing from the Office of the Auditor-General on the taxi industry.

### **Committee membership**

Hon Mark Gosche (Chairperson)

Gerry Brownlee (Deputy Chairperson until 12 August 2004)

Peter Brown

Deborah Coddington

Lianne Dalziel

Helen Duncan

Dr Wayne Mapp (Deputy Chairperson from 13 August 2004)

Lynne Pillay

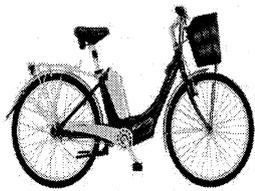
Mike Ward

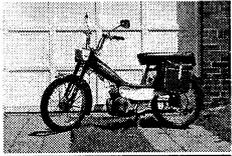
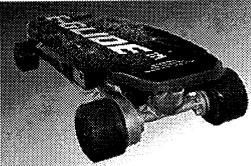
Hon Maurice Williamson

Paul Adams (non-voting member)

**Appendix 2**

**Low-speed vehicle technology**

Power output	Vehicle Type	Driver Requirements	Vehicle Requirements	Examples
<p>Less than 300W</p>	<p>Wheeled recreational device</p>	<p>No cycle helmet required.</p> <p>Driver licence not required.</p> <p>May be used in cycle lanes.</p> <p>May be used on a foot path with care</p>	<p>Does not have to be registered and licensed.</p> <p>Does not require a Warrant of Fitness.</p>	<p><u>Electric Scooter</u></p> 
<p>Between 300W and 600W and determined by the Director not to be a "motor vehicle"</p> <p>Max speed 30 km/h approx</p>	<p>Bicycle</p>	<p>Cycle helmet required.</p> <p>Driver licence not required.</p> <p>May be driven in cycle lanes.</p> <p>Must not be used on a foot path.</p>	<p>Must have lights if used at night.</p> <p>Must have rear reflector and pedal reflectors.</p> <p>Must have brakes on both wheels.</p> <p>Does not have to be registered and licensed.</p> <p>Does not require a Warrant of Fitness.</p>	<p><u>Electric power-assisted cycle</u></p> 

<p>Less than 300W</p> <p>Max speed 25 km/h</p>	<p>Wheeled recreational device</p>	<p>No cycle helmet required.</p> <p>Driver licence not required.</p> <p>May be used in cycle lanes.</p> <p>May be used on a foot path with care</p>	<p>Does not have to be registered and licensed.</p> <p>Does not require a Warrant of Fitness.</p>	<p><u>Electric Skateboard</u></p> 
<p>Between 600W and 2kW</p>	<p>Moped</p>	<p>Motor cycle helmet required.</p> <p>Driver licence required (motor cycle licence not required)</p> <p>Must be used on the traffic lanes (not in cycle lanes or footpaths)</p>	<p>Must be registered and licensed.</p> <p>Does not require a Warrant of Fitness but must have headlights, tail lights, a horn, an effective exhaust system, mudguards, brakes on both wheels, tyres with a good tread pattern.</p> <p>Must not be capable of more than 50km/h.</p>	<p><u>Mobylette GT</u></p>  <p><u>Petrol Powered scooter</u></p> 
<p>Over 600W</p>	<p>Motor Vehicle (because it has 4 wheels)</p>	<p>No cycle helmet required.</p> <p>Driver licence required.</p> <p>Must be used on the traffic lanes (not in cycle lanes or footpaths)</p>	<p>Must have Warrant of Fitness. Must be registered and licensed.</p> <p>(These requirements make it impractical for these devices to be used legally on public roads).</p>	<p><u>Two stroke 600W Motorised skateboard</u></p> 

<p>More than 2kW</p>	<p>Motorcycle</p>	<p>Motor cycle helmet required. Motor cycle licence required. Must be used on the traffic lanes (not in cycle lanes or footpaths)</p>	<p>Must have Warrant of Fitness. Must be registered and licensed.</p>	<p><u>Vespa</u></p> 
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**Key to symbols used in reprinted bill**

**As reported from a select committee**

**Struck out (unanimous)**

Subject to this Act,

Text struck out unanimously

**New (unanimous)**

Subject to this Act,

Text inserted unanimously

*(Subject to this Act,)*

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

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Hon Pete Hodgson

# Land Transport Amendment Bill

## Government Bill

### Contents

1	Title	13	New section 29A inserted
2	Commencement	29A	Persons convicted of specified serious offences prohibited from holding or applying for passenger endorsement
	<b>Part 1</b>		
	<b>Preliminary provision</b>		
3	Purpose	13A	Driver licences are property of Director and are to be returned if suspended, revoked, etc
	<b>Part 2</b>		<i>Transport services licensing</i>
	<b>Amendments to principal Act</b>	14	New Part 4A inserted
	Subpart 1—Principal Act		<b>Part 4A</b>
4	Interpretation		<b>Transport services licensing</b>
	<i>Primary responsibilities of participants in land transport system</i>		Subpart 1—Primary responsibilities of holders of transport service licences
5	General requirements for participants in land transport system		30A Requirements for vehicles
6	Drivers not to be reckless or dangerous		30AB Provision of identification information in Braille
7	New section 8 substituted		Subpart 2—Fit and proper person test
8	Drivers not to be careless or inconsiderate		<i>Assessment criteria</i>
7A	Loads transported by vehicles to be secured	30B	General safety criteria
7B	Drivers not to exceed specified alcohol limits	30C	Additional criteria for small passenger service vehicles and vehicle recovery service
7C	Persons not to drive while under influence of alcohol or drugs	30D	Additional criteria for large passenger service vehicles
	<i>Additional responsibilities concerning road transport</i>	30E	Additional criteria for goods service
8	New heading and sections 22B and 22C inserted		<i>Information requirements</i>
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9	Director may issue temporary driver licences	30I	Certain transport services must be licensed
10	New section 26 substituted	30J	Application for transport service licence
	26 Drivers may be tested and examined	30K	Grant of licence
11	Photographic driver licences		
12	New section 28A inserted		
	28A Transitional provisions for photographic driver licences		

## Land Transport Amendment

<p>30L Conditions of transport service licences</p> <p>30M Transfer, assignment, or lease of transport service licence prohibited</p> <p>30N Term of transport service licence</p> <p>30O Director may grant applications for approved taxi organisations</p> <p>30P Circumstances in which Director must grant applications for approved taxi organisations</p> <p>30Q Director may revoke approval</p> <p>Subpart 4—Revocation of transport service licences</p> <p>30R When Director may revoke transport service licence</p> <p>30S Procedure Director must follow before revoking transport service licence</p> <p>30T Suspension of transport service licence</p> <p style="padding-left: 40px;">Subpart 5—Adverse decisions</p> <p>30U Interpretation</p> <p>30V Director to notify proposal to make adverse decision</p> <p>30W Procedure for consideration of information</p> <p>30X Director's determination</p> <p style="padding-left: 40px;"><i>Work time and logbooks</i></p> <p>15 New Part 4B inserted</p> <p style="text-align: center;"><b>Part 4B</b> <b>Work time and logbooks</b></p> <p>30Y Application of Part</p> <p>30Z Director may grant exemptions or approve alternative fatigue management schemes</p> <p style="padding-left: 40px;">Subpart 1—Work time</p> <p>30ZAA Application of subpart</p> <p>30ZA Limits on work time</p> <p>30ZB Records must be kept</p> <p style="padding-left: 40px;">Subpart 2—Logbooks</p> <p>30ZBA Application of subpart</p> <p>30ZC Drivers must maintain logbooks</p> <p>30ZD Director may approve or revoke alternative means of recording matters</p> <p>30ZE Duties regarding logbooks</p>	<p style="padding-left: 40px;">Subpart 3—Evidence in proceedings</p> <p>30ZF Evidence in proceedings for offences against subpart 1 or subpart 2</p> <p>15A Contravention of sections 5(1)(a), 5(1)(b), 5(4), 30(2), or 30(3)</p> <p style="padding-left: 40px;"><i>Offences relating to driving (other than alcohol-related offences) and penalties</i></p> <p>16 Contravention of section 5(1)(c)</p> <p>17 New section 33A inserted</p> <p>33A Offence to operate as driving instructor without authorisation</p> <p>18 Contravention of section 7 or section 22 involving injury or death</p> <p>19 New section 36B inserted</p> <p>36B Contravention of section 22B or section 22C</p> <p>20 Contravention of section 8 causing injury or death</p> <p>20A Failure to secure load</p> <p>21 New section 43A inserted</p> <p>43A Courts may impose appropriate fines for infringement offences that are not over-loading offences</p> <p>22 New section 47 substituted</p> <p>47 Contravention of section 22(2), (3), (4), or (5)</p> <p>23 Contravention of section 97(5) or (6)</p> <p>24 Contravening notices, requirements, etc, given or imposed by enforcement officers</p> <p style="padding-left: 40px;"><i>Driving offences involving drink or drugs, and penalties and procedures</i></p> <p>25 Contravention of specified breath or blood-alcohol limit</p> <p>26 Contravention of section 12</p> <p>27 Failure or refusal to permit blood specimen to be taken</p> <p>28 Person in charge of motor vehicle causing injury or death</p> <p>29 Defences</p> <p>30 Mandatory penalties for repeat offences involving use of alcohol or drugs</p> <p>31 Who must give blood specimen in hospital or surgery</p>
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## Land Transport Amendment

<p><i>Offences and penalties relating to transport services</i></p> <p>32 New Part 6A inserted</p> <p style="text-align: center;"><b>Part 6A</b> <b>Offences relating to transport services and penalties</b></p> <p>79A Offence to carry on transport service without licence</p> <p>79B Provision of incorrect information</p> <p>79C Failure to present vehicle for inspection</p> <p>79D Contravention of section 30J</p> <p>79E Liability of persons who use unlicensed transport service</p> <p>79F Contravention of section 30L</p> <p>79G Contravention of section 87G</p> <p>79H Contravention of section 128A</p> <p>79I Contravention of section 128B</p> <p>79J Liability of employers and principal</p> <p>79K Liability of directors of bodies corporate</p> <p>79L Court may require convicted transport service licence holder to sit examination</p> <p>79M Penalties for failure to pay passenger service fares</p> <p><i>Offences relating to work time and logbooks</i></p> <p>33 New Part 6B inserted</p> <p style="text-align: center;"><b>Part 6B</b> <b>Offences relating to work time and logbooks</b></p> <p style="padding-left: 20px;">Subpart 1—Work time</p> <p>79N Failure to keep or produce records or comply with conditions of exemption or approval</p> <p>79O Failure to comply with prescribed work time restrictions or rest time requirements</p> <p>79P Defences to work time offences</p> <p style="padding-left: 20px;">Subpart 2—Logbooks</p> <p>79Q Failure to discharge duties regarding logbooks</p> <p>79R Offences and proceedings concerning logbooks</p>	<p>79S Defences to logbook offences</p> <p><i>Offences relating to chain of responsibility</i></p> <p>33A New Part 6C inserted</p> <p style="text-align: center;"><b>Part 6C</b> <b>Offences relating to chain of responsibility</b></p> <p>79T Offence to cause or require driver to breach speed limits, maximum work time, or rest time requirements</p> <p>33B New section 79U inserted</p> <p>79U Offence to cause or require driver to breach maximum gross weight limits</p> <p><i>Disqualification, demerit points, licence suspension, and vehicle impoundment</i></p> <p>34 Provisions relating to mandatory disqualification</p> <p>35 Holder to undergo prescribed tests if disqualified for more than 1 year</p> <p>36 New section 84 substituted</p> <p>84 New licence or endorsement to be issued if disqualified driver qualifies for specified vehicle classes</p> <p>37 New sections 87A to 87G inserted</p> <p><i>Disqualification of transport service driver and other persons</i></p> <p>87A Disqualification of transport service driver</p> <p>87B Disqualification of holder of transport service licence from holding transport service licence</p> <p>87C Procedure for disqualifying person under section 87A or section 87B</p> <p><i>Suspension of transport service driver and other persons</i></p> <p>87D Immediate suspension of transport service driver and other persons in interests of public safety</p> <p>87E Procedure for suspending a person under section 87D</p> <p>87F Term of suspension</p> <p><i>Effect of disqualification or suspension of transport service driver and other persons</i></p>
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## Land Transport Amendment

<p>87G Effect of disqualification or suspension of transport service driver and other persons</p> <p>38 Demerit points to be recorded by Director</p> <p>39 New section 90 substituted</p> <p>90 Suspension of licence or disqualification from driving under demerit points system</p> <p>40 Substitution of community-based sentences</p> <p>41 Mandatory 28-day suspension of driver licence in certain circumstances</p> <p>42 Vehicle seized and impounded for 28 days in certain circumstances</p> <p>43 New section 96A inserted</p> <p>96A Impoundment of vehicle used in transport service</p> <p>44 Release of vehicle after 28 days</p> <p><i>Mitigation of penalties and rights of appeal</i></p> <p>45 Court may remove disqualification</p> <p>46 New section 99A inserted</p> <p>99A Director may approve programmes</p> <p>47 Director to remove certain disqualifications</p> <p>48 Appeal to police against impoundment of vehicle</p> <p>49 Persons who may apply to court for limited licence</p> <p>49A Issue of limited licence to be delayed or prohibited in certain cases</p> <p>49B Court may make order authorising grant of limited licence</p> <p>50 Appeals against court orders relating to disqualification or grant of limited licence, and deferral of disqualification</p> <p>51 New sections 111A and 111B inserted</p> <p>111A Appeal to High Court on question of law</p> <p>111B Further appeal to Court of Appeal</p> <p><i>Enforcement of responsibilities</i></p> <p>52 Enforcement officers may enforce transport legislation</p> <p>53 New section 113A inserted</p> <p>113A Power to inspect records</p> <p>54 Power to require driver to stop and give name and address, etc</p> <p>55 Enforcement officers may give directions prohibiting driving of vehicles</p>	<p>56 Owner or hirer to give information as to identity of driver or passenger</p> <p>57 Powers of entry</p> <p>58 Enforcement officer may immobilise vehicle, etc, if driver incapable of proper control of vehicle</p> <p>59 New sections 128A and 128B inserted</p> <p>128A Enforcement officer's powers in respect of non-complying small passenger service vehicles</p> <p>128B Enforcement officer's powers in respect of non-complying vehicle recovery service vehicles</p> <p>59A Strict liability for offences involving insecure loads and loads falling from vehicles</p> <p><i>Proceedings enforcing responsibilities</i></p> <p>60 Offences punishable summarily</p> <p>61 Time for instituting proceedings</p> <p>62 New section 145A inserted</p> <p>145A Evidence and proof</p> <p>63 Evidence of testing and accuracy of speed-measuring devices, etc</p> <p><i>Land transport subordinate legislation</i></p> <p>64 Rules concerning vehicles</p> <p>65 Rules concerning licensing, standard-setting, etc</p> <p>66 Rules concerning land transport documents</p> <p>67 Regulations</p> <p>68 Regulations relating to fees and charges for land transport</p> <p>68A New section 168A inserted</p> <p>168A Director may declare that vehicle is mobility device or is not motor vehicle</p> <p><i>Land Transport New Zealand</i></p> <p>70 Functions and powers of Director</p> <p>71 Authority to maintain register of driver licences</p> <p>72 New section 199A inserted</p> <p>199A Register of transport service licences</p> <p>73 Restrictions on access to photographic images of driver licence holders</p> <p><i>Miscellaneous provisions</i></p> <p>74 Appointment of enforcement officers and dangerous goods enforcement officers</p>
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<p>75 New section 211A inserted 211A Payment of fees</p> <p>77 Repeals</p> <p>78 Transitional regulations</p> <p>79 Expiry of section 216</p> <p>80 Expiry of section 218</p> <p>Subpart 2—Repeals, amendments, and transitional and savings provisions</p> <p><i>Consequential amendments to Transport Act 1962</i></p> <p>81 Interpretation</p> <p>82 General penalties</p> <p>83 Sections 70B to 70D repealed</p> <p>84 Second Schedule amended</p> <p><i>Other consequential amendments</i></p> <p>85 Repeals, revocations, and consequential amendments</p>	<p><i>Transitional and savings provisions</i></p> <p>86 Rights of existing transport service licence holders</p> <p>87 Rights of existing approved taxi organisations</p> <p>88 Rights of existing operators of traction engines</p> <p>89 Transitional provision for notices given under section 96 of the principal Act</p> <p>90 Transitional provision for holders of exemptions in respect of driving hours or logbooks</p> <p style="text-align: center;">—————</p> <p style="text-align: center;"><b>Schedule</b> <b>Enactments amended</b></p>
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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Land Transport Amendment Act **2004**.
- (2) In this Act, the Land Transport Act 1998<sup>1</sup> is called “the principal Act”.

<sup>1</sup> 1998 No 110

**2 Commencement**

- (1) **Sections 8 to 13, 16, 19, 25 to (27) 28, 30, 35, 36, 38 to 42, 44 to 47, 55, 64, (65, 69 to 71) 70, 71(1), (3), (4), and (5), 73, (76,) 85(1), (2), and (10), 85(13), 88, and 89** come into force—

**Struck out (unanimous)**

- (a) 180 days after the date on which this Act receives the Royal assent; or

**New (unanimous)**

- (a) on **16 January 2006**; or
- (b) on an earlier date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions.

- (2) **Sections 4(1), 4(3), 4(5) to (8), 4(13), 5, 14, 15, 23, 32 to 33A, 34, 37, 43, 48, 51 to 53, 56 to (62) 59, 60 to 62, 66, 67(2), 68, 71(2), 72, 74, 75, 81(2) to (6), 81(8), 81(9), 83, (85(1)) 85(3) to (5), 85(7), 85(9), 85(12), 86, 87, and 90** come into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions.
- (3) The rest of this Act comes into force on the day after the date on which this Act receives the Royal assent.

## **Part 1**

### **Preliminary provision**

#### **3 Purpose**

- (1) The purpose of this Act is to amend the principal Act, the Transport Act 1962, and the Transport Services Licensing Act 1989, to—
- (a) promote, and enhance provisions in that transport legislation relating to safe road user behaviour and vehicle safety; and
  - (b) improve and enhance the enforcement provisions of that transport legislation.
- (2) The purpose of this Act is achieved by—
- (a) clarifying powers and requirements in the principal Act, the Transport Act 1962, and the Transport Services Licensing Act 1989 in order to make that legislation easier to enforce; and
  - (b) amending provisions relating to excess speed, drink-driving, drug-driving, and repeat offences; and
  - (c) assisting the rehabilitation of serious traffic offenders; and
  - (d) improving the driver licensing provisions in the principal Act; and
  - (e) incorporating the operator licensing provisions (excluding rail) of the Transport Services Licensing Act 1989 into the principal Act, which, in relation to transport services, will simplify the licensing requirements, improve commercial operator and driver standards, improve accountability of taxi organisations, and strengthen offences and penalties; and

- (f) updating the driving hours and logbook provisions in the Transport Act 1962 and transferring these provisions to the principal Act as part of the ongoing exercise to consolidate land transport law; and
- (g) providing for traction engine safety to be covered by the principal Act, rather than by the Boilers, Lifts, and Cranes Act 1950, which is repealed by this Act; and
- (h) ensuring that a person whose conduct contributes to an operator's or driver's failure to comply with his or her duties under this Act is held accountable for that conduct; and
- (i) amending the provisions relating to storage and disposal of impounded motor vehicles.

## **Part 2**

### **Amendments to principal Act**

#### Subpart 1—Principal Act

#### **4 Interpretation**

- (1) Section 2(1) of the principal Act is amended by repealing the definitions of **goods service, goods service licence, goods service vehicle, passenger service, passenger service licence, passenger service vehicle, rental service, rental service vehicle, transport service, transport service licence, transport service vehicle, vehicle recovery service, vehicle recovery service licence, and vehicle recovery service vehicle.**
- (2) Section 2(1) of the principal Act is amended by repealing the definition of **invalid carriage.**
- (3) Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:
  - “**approved taxi organisation** means a taxi organisation approved or deemed to be approved by the Director under this Act, the regulations, or the rules
  - “**control**, in relation to a transport service or a proposed or approved taxi organisation, means direct or indirect control of the management of the whole or part of the transport service or taxi organisation by a shareholding or the holding of any position (however described) in the management of the whole or part of the transport service or taxi organisation that gives

the person a significant influence on the operation of the whole or part of the service or organisation (whether or not other persons are also involved)

**New (unanimous)**

**“cumulative work day** means a period of work that begins after a continuous period of rest time of at least 10 hours

**“cumulative work period** means a set of cumulative work days between continuous periods of rest time of at least 24 hours

**“goods service—**

- “(a) means the carriage of goods on any road, whether or not for hire or reward, by means of a motor vehicle whose gross laden weight is 6 000 kg or more; and
- “(b) includes the letting on hire of a motor vehicle whose gross laden weight is 6 000 kg or more by a person who drives the vehicle or provides a driver for the vehicle, where the motor vehicle is used for the carriage of goods; but
- “(c) does not include—
  - “(i) a vehicle recovery service; or
  - “(ii) a service involving the carriage of goods for personal domestic purposes where the service is not operated for more than a total of 7 days in any 12-month period; or
  - “(iii) any carriage of goods by a passenger service vehicle where the carriage is part of a contract for the carriage of passengers or where the carriage is of such small amounts of goods, or occurs so infrequently, that it does not form a significant part of the overall operations of the vehicle; or
  - “(iv) the use of trucks by licensed motor vehicle dealers to carry goods for demonstration and sale purposes; or
  - “(v) the use of vintage vehicles to carry goods for display purposes; or
  - “(vi) the use of trailers towed by small passenger service vehicles to carry passengers’ luggage; or

“(vii) any service specified as an exempt goods service in the regulations or the rules

“**goods service licence** means a licence granted or deemed to be granted under **subpart 3 of Part 4A** that authorises its holder to carry on a goods service

“**goods service vehicle**—

- “(a) means a motor vehicle used or capable of being used in a goods service for the carriage of goods; but
- “(b) does not include a vehicle specified as an exempt goods service vehicle in the regulations or the rules

“**large passenger service vehicle** means any passenger service vehicle that is designed or adapted to carry more than 12 persons (including the driver)

**New (unanimous)**

“**organised criminal activity** means an activity that—

- “(a) involves 2 or more persons; and
- “(b) has the acquisition of income or assets by means of a continuing course of criminal conduct as one of its objects

“**passenger service**—

- “(a) means—
  - “(i) the carriage of passengers on any road for hire or reward by means of a motor vehicle; and
  - “(ii) the carriage of passengers on any road, whether or not for hire or reward, by means of a large passenger service vehicle; and
- “(b) includes the carriage of passengers on any road—
  - “(i) that involves a specific charge on passengers for transport, including part payments to cover (*petrol*) fuel and donations (which *is*) are expected as a condition of carriage); (*and*) or
  - “(ii) by a person or an organisation that is funded by another person or organisation specifically for the provision of transport; (*and*) or

**Struck out (unanimous)**

“(iii) in which the carriage of passengers is an integral part of the service; and

**New (unanimous)**

“(iii) in which the carriage of passengers is generally necessary to provide a service (other than the carriage of passengers) for which payment is made; or

“(iv) in which the carriage of passengers is made using the vehicle provided by one of the passengers and the driver is paid for the carriage; *(and) or*

“(v) that involves the letting on hire of a vehicle by a person who drives the vehicle or provides a driver for the vehicle if, during the hiring, the vehicle is used for the carriage of passengers; but

“(c) does not include—

“(i) private ambulance services provided by organisations primarily for their employees, being ambulance services that are available to the general public in an emergency only when public ambulance services cannot provide a service; or

“(ii) any service using a vehicle that is specified as an exempt passenger service vehicle in the regulations or the rules; or

“(iii) any service specified as an exempt passenger service in the *(regulation) regulations* or the rules

“**passenger service licence** means a licence granted or deemed to be granted under **subpart 3 of Part 4A** that authorises its holder to carry on a passenger service

“**passenger service vehicle**—

“(a) means a vehicle used or available for use in a passenger service for the carriage of passengers; but

“(b) does not include—

“(i) a vehicle designed or adapted to carry 12 or fewer persons (including the driver) provided by one of the passengers being carried; or

“(ii) a vehicle specified as an exempt passenger service vehicle in the regulations or the rules

“**rental service** means the letting of a motor vehicle on hire for the carriage of passengers (including the driver) or of goods, or both, to a person who drives the vehicle or provides a driver for the vehicle; but does not include—

“(a) the letting of a motor vehicle under a hire purchase agreement or a bailment that is for a period exceeding 6 months; or

“(b) the hiring of (*light trailers*) trailers with a gross laden weight not exceeding 3 500 kg; or

“(c) any service specified as an exempt rental service in the regulations or the rules

“**rental service licence** means a licence granted or deemed to be granted under **subpart 3 of Part 4A** that authorises its holder to carry on a rental service

“**rental service vehicle** means a vehicle used or available for use in a rental service for letting on hire for the carriage of passengers or goods, or both, to a person who drives the vehicle or provides a driver for the vehicle; but does not include a vehicle specified as an exempt vehicle in this Act or the regulations or the rules

“**service**, in **Part 4A**, includes—

“(a) an operation carried out on one occasion only; and

“(b) an operation carried out solely for the benefit of the persons carrying it out

“**small passenger service vehicle** means any passenger service vehicle that is designed or adapted to carry 12 or fewer persons (including the driver)

“**taxi** means a motor vehicle that is—

“(a) a small passenger service vehicle; and

“(b) fitted with a sign on its roof displaying the word “taxi” and any other signs required by the regulations or the rules; and

“(c) (*used*) in use or available for use for hire or reward for the carriage of passengers other than on defined routes

“**taxi service** means a passenger service carried on by means of a taxi or taxis

“**transport service**—

- “(a) means any goods service, passenger service, rental service, or vehicle recovery service; but
- “(b) does not include—
  - “(i) a rail service within the meaning of section 2(1) of the Transport Services Licensing Act 1989; and
  - “(ii) any service specified as an exempt transport service in the regulations or the rules

“**transport service driver** means any person who is, or is from time to time, employed or engaged in driving a vehicle being used in a transport service other than a rental service, whether or not that person is licensed or required to hold a licence to drive such a vehicle

“**transport service licence** means any of the following licences granted or deemed to be granted under **subpart 3 of Part 4A**:

- “(a) a goods service licence;
- “(b) a passenger service licence;
- “(c) a rental service licence;
- “(d) a vehicle recovery service licence

“**transport service operator**, in relation to a transport service, means the holder of a transport service licence or a person carrying on a transport service in circumstances in which that person ought to hold a transport service licence

“**transport service vehicle** means any goods service vehicle, passenger service vehicle, rental service vehicle, or vehicle recovery service vehicle; but does not include—

- “(a) a rail service vehicle within the meaning of section 2(1) of the Transport Services Licensing Act 1989; or
- “(b) a vehicle running on self-laying tracks or rollers; or
- “(c) a vehicle that operates solely on or in areas (*in*) to which the public does not have access as of right (whether or not (*it is being*) that vehicle is used on a road in connection with (*the*) that vehicle’s inspection, servicing, or repair, or for the purposes of a practical driving test required under any enactment); or
- “(d) a vehicle used as a place of abode to the extent that it is not used in a rental service; or
- “(e) a vehicle listed as a farm vehicle in Part 1 of the Schedule to the Transit New Zealand (Apportionment and

Refund of Excise Duty) Regulations 1998 or in any provisions made in substitution for that schedule; or

- “(f) a tractor (being a motor vehicle designed principally for traction at speeds not exceeding 50 km per hour (*and not being a vehicle fitted with self-laying tracks or a traction engine*)); or
- “(g) a forklift (being a motor vehicle designed principally for lifting and stacking goods by means of 1 or more forks, tines, platens, or clamps, *and not being a vehicle fitted with self-laying tracks*)); or
- “(h) a hearse; or
- “(i) a traction engine

“**vehicle recovery service**—

- “(a) means the towing or carrying on any road of a motor vehicle, irrespective of the size or design of the towing or carrying vehicle, and whether or not the towing or carrying of the vehicle is carried out by a person intending to carry out repairs on the vehicle; but
- “(b) does not include—
  - “(i) the towing or carrying of any motorcycle or moped; or
  - “(ii) the towing or carrying of one motor vehicle by another where—
    - “(A) the towing or carrying is not carried out directly or indirectly for reward; and
    - “(B) the towing or carrying vehicle is not designed or adapted for the purpose of towing or carrying motor vehicles; or
  - “(iii) the towing or carrying of a vehicle by a person who owns the vehicle; or
  - “(iv) the towing of disabled vehicles using a rope or flat tow by—
    - “(A) a person employed by, or contracted to, a motoring association or insurance company where the towing is limited to removal of the vehicle to a place of safety; or
    - “(B) the owner or employee of a garage or workshop who intends to carry out repairs to the vehicle; or

- “(v) the removal of vehicles by New Zealand Defence Force tow trucks at the request of an enforcement officer; or
- “(vi) routine towing services operated by New Zealand Defence Force personnel in areas where there is no suitable and available commercial towing service nearby; or
- “(vii) any service where the Director has provided the transport service operator with a written notice that—
  - “(A) must be carried in the vehicle used in the service; and
  - “(B) specifies that the nature of the service is such that the carriage of vehicles should be treated as the carriage of goods; or
- “(viii) any service specified as an exempt vehicle recovery service in the regulations or the rules

“**vehicle recovery service licence** means a licence granted or deemed to be granted under **subpart 3 of Part 4A** that authorises its holder to carry on a vehicle recovery service

“**vehicle recovery service vehicle**—

- “(a) means a vehicle used or available for use in a vehicle recovery service for towing or carrying on a road any motor vehicle; but
  - “(b) does not include any vehicle specified as an exempt vehicle recovery service vehicle in the regulations or the rules.”
- (4) Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or

**Struck out (unanimous)**

“(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W

**New (unanimous)**

“**mobility device** means—

“(a) a vehicle that—

“(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and

“(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or

“(b) a vehicle that the Director has declared under **section 168A(1)** to be a mobility device

“**traction engine** means a vehicle that—

“(a) is propelled by steam power; and

“(b) is not a rail service vehicle within the meaning of section 2(1) of the Transport Services Licensing Act 1989; and

“(c) is not designed for the carriage of goods or persons other than the driver and, if appropriate, other persons involved in its operation

“**unlicensed**, in relation to a driver, includes holding an expired licence.”

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

“**rest time** means all time that—

“(a) is not work time; and

“(b) is at least 30 minutes in duration; and

“(c) is not spent in a moving vehicle associated with work

“**work time** means all time spent performing work-related duties, including, but not limited to,—

“(a) driving vehicles (*subject to driving hour requirements*) to which **subpart 1 of Part 4B** applies:

“(b) loading and unloading:

- “(c) maintenance and cleaning of vehicles (other than unpaid cleaning outside working hours):
- “(d) administration or recording:
- “(e) any paid employment (other than paid leave or paid breaks of at least 30 minutes duration), whether or not related to transport activities.”
- (6) Section 2(1) of the principal Act is amended by inserting in the definition of **infringement offence**, after paragraph (b), the following paragraph:
- “(ba) an offence against this Act concerning logbooks that is committed by a transport service driver:”.
- (7) Section 2(1) of the principal Act is amended by omitting from paragraph (a) of the definition of **Land Transport Register** the words “or the Transport Services Licensing Act 1989”.
- (8) Section 2(1) of the principal Act is amended by omitting from the definition of **logbook** the words “, or of a type, approved under the Transport Act 1962 or under rules made under this Act”, and substituting the words “approved by the Director in accordance with the rules, and includes any alternative means approved under **section 30ZD**”.
- (9) Section 2(1) of the principal Act is amended by repealing paragraph (c)(ii) of the definition of **motor vehicle**.
- (10) Section 2(1) of the principal Act is amended by adding to paragraph (c) of the definition of **motor vehicle** the word “; or” and also by adding the following subparagraphs:
- “(vii) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared under **section 168A** is not a motor vehicle; or
- “(viii) a mobility device”.
- (11) Section 2(1) of the principal Act is amended by repealing paragraph (c)(iv) of the definition of **vehicle**.
- (12) Section 2(1) of the principal Act is amended by omitting from paragraph (c)(viii) of the definition of **vehicle** the words “An invalid”, and substituting the word “a”.
- (13) Section 2 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) If a transport service includes the use of vehicles that are specified as exempt vehicles in the regulations or the rules, the operation of those vehicles is not to be treated as part of the operation of the service.”

*Primary responsibilities of participants in land transport system*

**5 General requirements for participants in land transport system**

Section 4(4) of the principal Act is amended by omitting the words “the provisions of section 24 of the Transport Services Licensing Act 1989”, and substituting the words “**subpart 2 of Part 4A**”.

**6 Drivers not to be reckless or dangerous**

(1) Section 7 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

“(1) A person may not drive a motor vehicle, or cause a motor vehicle to be driven, recklessly.”

(2) Section 7(2) of the principal Act is amended by omitting the words “on a road” in both places where they occur.

**7 New section 8 substituted**

The principal Act is amended by repealing section 8, and substituting the following section:

“**8 Drivers not to be careless or inconsiderate**

A person may not drive a vehicle, or cause a vehicle to be driven, carelessly or without reasonable consideration for other persons.”

**New (unanimous)**

**7A Loads transported by vehicles to be secured**

Section 9 of the principal Act is amended by inserting, after the words “on a road”, the words “, and any person loading that vehicle,”.

**New (unanimous)****7B Drivers not to exceed specified alcohol limits**

Section 11 of the principal Act is amended by omitting the words “on a road”.

**7C Persons not to drive while under influence of alcohol or drugs**

Section 12 of the principal Act is amended by omitting the words “on a road”.

*Additional responsibilities concerning road transport***8 New heading and sections 22B and 22C inserted**

The principal Act is amended by inserting, after section 22A, the following heading and sections:

*“Traction engine safety***“22B Operators of traction engines to hold appropriate current qualification**

- “(1) A person may not use a traction engine in a public place—
- “(a) without an appropriate qualification provided for in the regulations or the rules; or
  - “(b) if the person is not permitted under this Act to drive a motor vehicle.
- “(2) A person who uses a traction engine must produce without delay his or her qualification referred to in **subsection (1)(a)** for inspection whenever required to do so by an enforcement officer.
- “(3) In this section and **sections 22C and 36B, public place—**
- “(a) means a place that is open to, or being used by, the public, whether or not there is a charge for admission; and
  - “(b) includes a road and any part of a public place.

**“22C Traction engine to be safe and operated in compliance with regulations and rules**

- “(1) A person may not use a traction engine in a public place in a manner that, having regard to all the circumstances, is or might be dangerous to the public or to a person.

- “(2) If the regulations or the rules require a traction engine to have current evidence of vehicle inspection, or any other certificate, or both, a person may not use the traction engine in a public place without the appropriate current evidence of vehicle inspection, certificate, or both (as the case may require).
- “(3) A person who uses a traction engine that is required to have current evidence of vehicle inspection, or a certificate, must comply with the regulations and the rules concerning such evidence or certificate, and the use of the traction engine.
- “(4) Current evidence of vehicle inspection must be displayed on the traction engine to which it applies.”

### *Driver licensing*

#### **9 Director may issue temporary driver licences**

Section 24 of the principal Act is amended by adding the following subsection:

- “(3) Despite **subsection (1)**, in the case of a person whose licence has expired or been revoked, the Director may issue a temporary licence, valid for a period not exceeding 1 year as specified on the temporary licence, as necessary to enable the person to continue to drive while his or her fitness to drive is assessed by the Director or a person authorised by the Director.”

#### **10 New section 26 substituted**

The principal Act is amended by repealing section 26, and substituting the following section:

#### **“26 Drivers may be tested and examined**

The Director may require an applicant for a driver licence and holders of driver licences to—

- “(a) complete courses that are approved by the Director:  
“(b) pass tests and examinations that are approved by the Director.”

#### **11 Photographic driver licences**

- (1) Section 28(1)(g) of the principal Act is amended by inserting, before the word “date”, the word “original”.
- (2) Section 28(4) of the principal Act is amended by adding the words “, subject to **subsections (4A), (4B), and (4C)**”.
- (3) Section 28 of the principal Act is amended by inserting, after subsection (4), the following subsections:

- “(4A) Without limiting subsection (4), subsection (1)(g) applies to all new driver licences, including—
- “(a) renewal of a current driver licence; and
  - “(b) renewal of an expired driver licence, whether the holder—
    - “(i) was previously suspended or disqualified; or
    - “(ii) failed to renew his or her driver licence on expiry; and
  - “(c) a replacement driver licence.
- “(4B) Despite subsections (1)(g) and (4),—
- “(a) in the case of a driver licence that has been revoked, the new driver licence must show the date of issue of the new licence; and
  - “(b) in the case of a person who applies to convert an overseas licence or permit to a New Zealand full driver licence, the licence must show the date of issue of that person’s first New Zealand driver licence; and
  - “(c) in the case of a learner licence or restricted licence issued under Part 4 of the Land Transport (Driver Licensing) Rule 1999, the original date of issue of the learner licence or restricted licence must be shown on that licence.
- “(4C) Subsection (4B)(c) does not apply if the learner licence or the restricted licence adds a class to an existing licence.”

**12 New section 28A inserted**

The principal Act is amended by inserting, after section 28, the following section:

- “28A **Transitional provisions for photographic driver licences**  
Despite section 28(1)(g) and (4), the date of issue of a driver licence continues to be shown on an existing licence until that licence is renewed or replaced under Part 12 of the Land Transport (Driver Licensing) Rule 1999.”

**13 New section 29A inserted**

The principal Act is amended by inserting, after section 29, the following section:

**“29A Persons convicted of specified serious offences prohibited from holding or applying for passenger endorsement**

- “(1) A person who *(is)* has been convicted of a specified serious offence on, before, or after the commencement of *(the Land Transport Amendment Act 2004)* this section may not hold or apply for a passenger endorsement on his or her driver licence.

**New (unanimous)**

- “(1A) A passenger endorsement is deemed to be expired and of no effect if held by a person who has been convicted of a specified serious offence on, before, or after the commencement of this section.

- “(2) In **subsection (1), specified serious offence** means—

- “(a) murder; or  
“(b) a sexual crime under Part VII of the Crimes Act 1961 punishable by 7 or more years’ imprisonment; and includes a crime under section 144A or section 144C of that Act; or

**Struck out (unanimous)**

- “(c) an offence against any of sections 173 to 176, 188, 189(1), 191, 198, 199, 200(1), 201, 208 to 210, 234 to 236 of the Crimes Act 1961:

**New (unanimous)**

- “(c) an offence against any of the following sections of the Crimes Act 1961:
- “(i) section 173 (attempt to murder):
  - “(ii) section 174 (counselling or attempting to procure murder):
  - “(iii) section 175 (conspiracy to murder):
  - “(iv) section 176 (accessory after the fact to murder):
  - “(v) section 188 (wounding with intent):
  - “(vi) section 189(1) (causing grievous bodily harm by injury):
  - “(vii) section 191 (aggravated wounding or injury):

**New (unanimous)**

- “(viii) section 198 (discharging firearm or doing dangerous act with intent):
- “(ix) section 199 (acid throwing):
- “(x) section 200(1) (causing grievous bodily harm by poison):
- “(xi) section 201 (infecting with disease):
- “(xii) section 208 (abduction of woman or girl):
- “(xiii) section 209 (kidnapping):
- “(xiv) section 210 (abduction of child under 16):
- “(xv) section 234 (robbery):
- “(xvi) section 235 (aggravated robbery):
- “(xvii) section 236 (assault with intent to rob):
- “(d) an offence committed outside New Zealand that, if committed in New Zealand, would constitute an offence specified in **paragraphs (a) to (c)**.”

**13A Driver licences are property of Director and are to be returned if suspended, revoked, etc**

- (1) The heading to section 30 of the principal Act is amended by omitting the words “**returned if suspended, revoked, etc**”, and substituting the words “**surrendered in certain circumstances**”.
- (2) Section 30(1) of the principal Act is amended by omitting the expression “(4)”, and substituting the expression “**(4A)**”.
- (3) Section 30 of the principal Act is amended by inserting, after subsection (4), the following subsection:
- “(4A) The holder of a driver licence must, if that licence is superseded by another driver licence, surrender that driver licence to—
- “(a) the Director; or
- “(b) a person appointed by the Director; or
- “(c) a member of the *(P)*police.”

*Transport services licensing***14 New Part 4A inserted**

The principal Act is amended by inserting, after Part 4, the following part:

**“Part 4A  
“Transport services licensing**

**“Subpart 1—Primary responsibilities of holders of  
transport service licences**

**“30A Requirements for vehicles**

- “(1) A holder of a transport service licence must ensure that—
- “(a) every vehicle to be used in connection with the service is maintained in a fit and proper condition and that the requirements of any Act, regulation, or rule made for this purpose are met:
  - “(b) no vehicle is used in connection with the service unless and until all fees payable in respect of the vehicle and the service under any Act, regulation, or bylaw have been duly paid or appropriate arrangements have been made for payment.
- “(2) The holder of any transport service licence must, whenever required to do so by the Director, present for inspection any vehicle that is used in the service.
- “(3) No evidence of vehicle inspection may be issued in respect of a transport service vehicle unless the person issuing the evidence of vehicle inspection has been notified of the transport service licence number under which the vehicle is being operated.
- “(4) No person may use a transport service vehicle if that vehicle has suffered serious damage until the vehicle has been inspected and passed as being safe by a person authorised by the Director, or the owner of the vehicle has been informed by such a person that the vehicle is not to be inspected.

Compare: 1989 No 74 ss 31, 33

**New (unanimous)**

**“30AB Provision of identification information in Braille**

The holder of a transport service licence under which a taxi is operated and the driver of that taxi must, in accordance with any regulations or rules, ensure that the following identification information is provided in Braille:

- “(a) the name of the approved taxi organisation; and

**New (unanimous)**

- “(b) the unique fleet number assigned to the taxi; and
- “(c) the approved taxi organisation’s telephone number for complaints.

**“Subpart 2—Fit and proper person test***“Assessment criteria***“30B General safety criteria**

- “(1) When assessing whether or not a person is a fit and proper person in relation to any transport service, the Director must consider, in particular, any matter that the Director considers should be taken into account—
  - “(a) in the interests of public safety; or
  - “(b) to ensure that the public is protected from serious or organised criminal activity.
- “(2) For the purpose of determining whether or not a person is a fit and proper person for any of the purposes of this Part, the Director may consider, and may give any relative weight that the Director thinks fit having regard to the degree and nature of the person’s involvement in any transport service to, the following matters:
  - “(a) the person’s criminal history (if any):
  - “(b) any offending by the person in respect of transport-related offences (including any infringement offences):
  - “(c) any history of (*mental illness or*) serious behavioural problems:
  - “(d) any complaints made in relation to any transport service provided or operated by the person or in which the person is involved, particularly complaints made by users of the service:
  - “(e) any history of persistent failure to pay fines incurred by the person in respect of transport-related offences:
  - “(f) any other matter that the Director considers it is appropriate in the public interest to take into account.
- “(3) In determining whether or not a person is a fit and proper person for any of the purposes of this Part, the Director may consider—
  - “(a) any conviction for an offence, whether or not—
    - “(i) the conviction was in a New Zealand court; or

- “(ii) the offence was committed before the commencement of this Part or corresponding former enactment; or
  - “(iii) the person incurred demerit points under this Act or a corresponding former enactment in respect of the conviction; and
  - “(b) the fact that the person has been charged with any offence that is of such a nature that the public interest would seem to require that a person convicted of committing such an offence not be considered to be fit and proper for the purposes of this section.
- “(4) Despite **subsection (3)**, the Director may take into account any other matters and evidence as the Director considers relevant.
- Compare: 1989 No 74 s 24(1), (2)(d), (3)

“30C **Additional criteria for small passenger service vehicles and vehicle recovery service**

Without in any way limiting the matters that the Director may consider under **section 30B(2)**, when the Director is assessing whether or not a person is a fit and proper person in relation to any passenger service involving the use of small passenger service vehicles, or to any vehicle recovery service, the Director must consider, in particular,—

- “(a) any history of (*mental illness or*) serious behavioural problems:
- “(b) any offending in respect of offences of violence, sexual offences, drugs offences, arms offences, or offences involving organised criminal activities:
- “(c) any offending in respect of major transport-related offences, particularly offences relating to safety or to road user charges:
- “(d) any persistent offending of any kind:
- “(e) any complaints in respect of the person or any transport service operated by the person that are of a persistent or serious nature.

Compare: 1989 No 74 s 24(2)(a)

“30D **Additional criteria for large passenger service vehicles**

Without in any way limiting the matters that the Director may have regard to under **section 30B(2)**, when the Director is assessing whether or not a person is a fit and proper person in

relation to any passenger service involving the use of large passenger service vehicles, the Director must consider, in particular,—

- “(a) any history of (*mental illness or*) serious behavioural problems that indicate a propensity for violence:
- “(b) any offending in respect of offences of violence or sexual offences:
- “(c) any offending in respect of major transport-related offences, particularly offences relating to safety or to road user charges.

Compare: 1989 No 74 s 24(2)(b)

**“30E Additional criteria for goods service**

Without in any way limiting the matters that the Director may have regard to under **section 30B(2)**, when the Director is assessing whether or not a person is a fit and proper person in relation to any goods service, the Director must consider, in particular,—

- “(a) any criminal activity conducted in the course of any transport service or transport-related business or employment:
- “(b) any offending in respect of major transport-related offences, particularly offences relating to safety or to road user charges.

Compare: 1989 No 74 s 24(2)(c)

*“Information requirements*

**“30F Director may require information for fit and proper person assessment**

The Director may, for the purpose of determining whether or not a person is a fit and proper person for any of the purposes of this Act,—

- “(a) seek and receive any information that the Director thinks fit; and
- “(b) consider information obtained from any source.

Compare: 1989 No 74 s 24(4)

**“30G Director’s duties concerning prejudicial information**

If the Director proposes to take into account any information that is or may be prejudicial to the person, the Director must,

subject to **section 30H(1)** and to **subpart 5**, disclose that information to the person and, in accordance with **subpart 5**, give the person a reasonable opportunity to refute or comment on it.

Compare: 1989 No 74 s 24(5)

**“30H Non-disclosure by Director of information for safety reasons**

“(1) Nothing in **section 30G** requires the Director to disclose any information the disclosure of which would be likely to endanger the safety of any person.

“(2) If the Director determines not to disclose any information in reliance on **subsection (1)**, the Director must inform the person of the fact of non-disclosure and,—

“(a) in the case of non-disclosure to an individual of information about the individual,—

“(i) inform the individual that he or she may, under the Privacy Act 1993, complain to the Privacy Commissioner about that non-disclosure; and

“(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information has been withheld in reliance on section 27(1)(d) of that Act; and

“(b) in any other case,—

“(i) inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and

“(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld in reliance on section 6(d) of that Act.

Compare: 1989 No 74 s 24(6), (7)

**“Subpart 3—Licensing of transport services**

**“30I Certain transport services must be licensed**

The following classes of transport service must be licensed:

“(a) goods service:

“(b) passenger service:

“(c) rental service:

“(d) vehicle recovery service.

Compare: 1989 No 74 ss 4, 5(1)

“30J **Application for transport service licence**

- “(1) Every application for a transport service licence must be—
- “(a) made in accordance with the regulations and the rules; and
  - “(b) accompanied by the fee (if any) required by the regulations.
- “(2) A person may not hold or apply for a transport service licence while he or she is disqualified under this Act or any other Act from holding or obtaining a transport service licence.

Compare: 1989 No 74, s 6

“30K **Grant of licence**

- “(1) After considering an application for a transport service licence, the Director may grant the licence only if the Director is satisfied that—
- “(a) the applicant is a fit and proper person to hold a transport service licence; and
  - “(b) any person who is to have, or is likely to have, control or involvement in the operation of the transport service is a fit and proper person to have such control or involvement; and
  - “(c) the applicant or any person who is to have control of the service is the holder of the appropriate certificate (if any) required by the regulations or the rules; and
  - “(d) all relevant requirements of this Act, the regulations, and the rules have been complied with.
- “(2) In determining whether or not a person is a fit and proper person to operate, control, or have an involvement in, a transport service, the Director must consider the matters specified in **subpart 2**.
- “(3) **Subpart 5** applies to a decision not to grant a transport service licence.

Compare: 1989 No 74 s 8(1), (2)

“30L **Conditions of transport service licences**

Despite **section 30K(1) and (2)**, the Director may grant the licence on such conditions as the Director may specify on the licence

or in writing to the holder if the applicant applies for a goods service licence and the Director—

“(a) is not satisfied that the applicant is a fit and proper person to operate a goods service under the licence sought; but

“(b) is satisfied that—

“(i) the applicant is a fit and proper person to operate a goods service under a licence to carry the applicant’s own goods, if specified conditions are imposed; and

“(ii) the grant of such a licence is not contrary to the public interest.

Compare: 1989 No 74 s 8(3)

**“30M Transfer, assignment, or lease of transport service licence prohibited**

“(1) A transport service licence may not be transferred, leased, or assigned to any person.

“(2) Nothing in **subsection (1)** prevents the carrying on of a transport service under a transport service licence that was previously held by a deceased person or a person permanently mentally incapacitated, for a period not exceeding 6 months following the death or incapacitation of the person,—

“(a) by the personal representative of the deceased or incapacitated person; or

“(b) by any other person under an arrangement with the personal representative.

Compare: 1989 No 74 s 26(1), (2)

**“30N Term of transport service licence**

“(1) A transport service licence takes effect on the day it is granted and continues in force until it is—

“(a) surrendered under **subsection (2)**; or

“(b) deemed to be surrendered under **subsection (3)**; or

“(c) revoked under **section 30R**.

“(2) The holder of a transport service licence may surrender the transport service licence at any time by written notice to the Director.

“(3) If no vehicle has been operated under a transport service licence for a period of 2 years, the licence is deemed to have been surrendered.

- “(4) No transport service licence for a transport service operated by any of the following may be suspended or revoked for any reason:
- “(a) the Armed Forces; or
  - “(b) the Fire Services Commission; or
  - “(c) the Police; or
  - “(d) any emergency service organisation approved by the Director for the purposes of this section.

Compare: 1989 No 74 ss 3(2), 27, 28

“300 **Director may grant applications for approved taxi organisations**

- “(1) The Director may grant an application by a person or an organisation to be an approved taxi organisation.
- “(2) An application by a person or organisation to be an approved taxi organisation must be made in accordance with the regulations or the rules.
- “(3) An approved taxi organisation must comply with the requirements relating to an approved taxi organisation specified in the regulations or the rules.
- “(4) A holder of a passenger service licence may not operate a taxi service under that licence unless the licence holder is a member of an approved taxi organisation.

Compare: 1989 No 74 ss 20, 21(1)

“30P **Circumstances in which Director must grant applications for approved taxi organisations**

- “(1) Despite **section 300(1)**, the Director must grant an application if the Director is satisfied that—
- “(a) the applicant is—
    - “(i) a person who holds, or has made an application for, a passenger service licence; or
    - “(ii) an organisation that represents operators of taxi services; and
  - “(b) any person who will have, or is likely to have, control of the proposed taxi organisation is a fit and proper person, within the meaning of **subpart 2**, to have control of the proposed taxi organisation; and

**New (unanimous)**

“(ba) any person who will have, or is likely to have, control of the proposed taxi organisation holds the appropriate certificate (if any) required by the regulations or the rules; and

“(c) the operating rules, rosters, and other internal operating procedures of the proposed taxi organisation are likely to provide adequate control over the proposed taxi organisation’s members and their drivers; and

“(d) the proposed taxi organisation’s members and their drivers have the ability to meet the relevant requirements of the regulations and the rules; and

“(e) the proposed taxi organisation is likely to be able to meet the relevant requirements of the regulations and the rules; and

**New (unanimous)**

“(f) the signage of the proposed taxi organisation is sufficiently distinguishable from the signage of any other approved taxi organisation operating in the same area.

“(2) Approval of an application includes approval of the proposed operating rules for the proposed taxi organisation.

“(3) **Subpart 5** applies to a decision not to grant an application.

Compare: 1989 No 74 s 21(3), (3A), (4)

**“30Q Director may revoke approval**

“(1) The Director may revoke any approval granted under **section 300(1) or section 30P(1)** if—

“(a) the person or organisation has been convicted 3 times or more of an offence against this Act or the regulations; or

“(b) the person or organisation no longer meets the criteria to be an approved taxi organisation; or

“(c) the Director is satisfied that the person or organisation, or any person in control of the organisation,—

“(i) is not a fit and proper person, within the meaning of **subpart 2**, to have control of an approved taxi organisation; or

- “(ii) is not a fit and proper person to have control of an approved taxi organisation because the drivers within that approved taxi organisation have failed to maintain, in accordance with the regulations or the rules,—
- “(A) an adequate area knowledge; or
  - “(B) an appropriate ability to communicate in the English language; or

**Struck out (unanimous)**

“(iii) is unable to maintain adequate control over the activities of its members or their drivers.

**New (unanimous)**

“(iii) is unable to maintain adequate control over the activities of its members or their drivers in accordance with—

- “(A) the organisation’s operating rules; and
- “(B) any relevant regulations or rules made under this Act.

“(2) **Subpart 5** applies to a decision to revoke an approval.

Compare: 1989 No 74 s 23

“Subpart 4—Revocation of transport service licences

“30R **When Director may revoke transport service licence**

“(1) The Director may revoke a transport service licence if the Director is satisfied that—

- “(a) the holder of the transport service licence is not a fit and proper person to be the holder of a transport service licence; or
- “(b) any person having control of the service, or any person who has an involvement in the operation of the service, is not a fit and proper person to have control of, or be involved in, the operation of the service.

“(2) **Subpart 5** applies to a decision to revoke a transport service licence.

Compare: 1989 No 74 s 11(1)

**“30S Procedure Director must follow before revoking transport service licence**

If the proposed revocation of a licence under this section is on the ground that a person other than the licence holder is not a fit and proper person,—

- “(a) the notice required to be given to the licence holder by **section 30V** must specify the steps that the Director will require to be taken if the licence is not to be revoked, which steps may include a requirement that the person concerned cease all involvement in the service within a specified period; and
- “(b) the licence must not be revoked where the licence holder complies with any such requirements of the Director.

Compare: 1989 No 74 s 11(2) and (3)

**“30T Suspension of transport service licence**

- “(1) If the holder of a transport service licence, or any person who has control of the service, does not hold a certificate required by the regulations or the rules, the Director may suspend the licence until the holder of the licence or the person who has control of the service is the holder of such a certificate.
- “(2) Subject to **subsection (1)**, any such suspension shall cease immediately upon the holder of the licence or any person having control of the service obtaining the appropriate certificate and notifying the Director accordingly.
- “(3) **Subpart 5** applies to a decision to suspend a transport service licence.

Compare: 1989 No 74 s 18(4) and (5)

**“Subpart 5—Adverse decisions**

**“30U Interpretation**

In **sections 30V to 30X**, unless the context otherwise requires,—

“**adverse decision** means any decision of the Director—

- “(a) that a person is not a fit and proper person under **subpart 2**; or
- “(b) to refuse to grant—
  - “(i) a transport service licence under **section 30K**; or
  - “(ii) approval as an approved taxi organisation under **section 30P(1)**; or

- “(c) to grant a licence on conditions under **section 30L**; or
- “(d) to revoke—
  - “(i) a transport service licence under **section 30R**; or
  - “(ii) approval of an approved taxi organisation under **section 30Q(1)**; or
- “(e) to suspend—
  - “(i) a transport service licence under **section 30T**; or
  - “(ii) a transport service driver or other person under **section 87D**; or
- “(f) to disqualify—
  - “(i) a transport service driver under **section 87A**; or
  - “(ii) a transport service licence holder or person in control of a transport service under **section 87B**

“**affected licence holder**, in relation to any person directly affected by an adverse decision, means the holder of or the applicant for the transport service licence for the transport service in which that person has or is to have control or is or will be involved, whether as a driver or otherwise

“**person directly affected**, in relation to any adverse decision, means the person who would be entitled under section 106 to appeal against that adverse decision

“**person on the basis of whose character the adverse decision arises**, in relation to any adverse decision made or proposed to be made on the ground that any person is not a fit and proper person for the purposes of the relevant service, licence, or other matter to which the decision relates, means the person whom the Director assesses as not being a fit and proper person.

Compare: 1989 No 74 s 25(1)

“30V **Director to notify proposal to make adverse decision**

- “(1) If the Director proposes to make an adverse decision under this Part in respect of any person, the Director must, by notice in writing,—
  - “(a) notify the person directly affected of the proposed decision; and
  - “(b) subject to **subsection (3)**, inform that person of the grounds for the proposed decision; and
  - “(c) specify a date by which submissions may be made to the Director in respect of the proposed decision (which

- date must not be less than 21 days after the date on which the notice is given); and
- “(d) if appropriate, specify the date on which the proposed decision will, unless the Director otherwise determines, take effect, being a date not earlier than 28 days after the date the notice is given; and
  - “(e) notify the person of the person’s right of appeal under section 106, in the event of the Director proceeding with the proposed decision; and
  - “(f) specify such other matters as in any particular case may be required by this Act or any other Act.
- “(2) If the Director gives a notice under **subsection (1)**, the Director—
- “(a) must also supply a copy of the notice to—
    - “(i) any person on the basis of whose character the adverse decision arises, where that person is not the person directly affected:
    - “(ii) any affected licence holder, if the Director considers that the proposed adverse decision is likely to have a significant impact on the operations of that licence holder:
  - “(b) may supply a copy of the notice to any other affected licence holder.
- “(3) No notice or copy of a notice given under this section may include or be accompanied by any information referred to in **section 30G** except to the extent that—
- “(a) the notice or copy is supplied to the person to whom the information relates; or
  - “(b) that person consents to the supply of that information to any other person.

Compare: 1989 No 74 s 25(2)–(4)

“30W **Procedure for consideration of information**

If any notice or copy of a notice is given to any person under **section 30V**,—

- “(a) it is the responsibility of the person to ensure that all information that the person wishes to have considered by the Director in relation to the proposed adverse decision is received by the Director within the period specified in the notice under **section 30V(1)(c)**, or within any further period that the Director may allow in any case:

- “(b) the Director may, but is not obliged to, consider any information supplied by the person after the expiry of the period referred to in **paragraph (a)**, other than information requested by the Director and supplied by the person within such reasonable time as the Director may specify:
- “(c) the Director must consider any submissions made in accordance with **paragraph (a)**, and any information supplied pursuant to a request referred to in **paragraph (b)**, but is not obliged to hear any person on the matter.

Compare: 1989 No 74 s 25(5)

**“30X Director’s determination**

After considering the matters referred to in **section 30W(c)**, the Director must—

- “(a) finally determine whether or not to make the proposed adverse decision; and
- “(b) as soon as practicable thereafter, notify in writing to the person directly affected, and any other person of a kind referred to in **section 30V(2)(a)**, of—
- “(i) the Director’s decision; and
- “(ii) if appropriate, the date on which the decision will take effect; and
- “(iii) if appropriate, the right of appeal under section 106.

Compare: 1989 No 74 s 25(6)”.

*Work time and logbooks*

**15 New Part 4B inserted**

The principal Act is amended by inserting, after Part 4A, the following part:

**“Part 4B  
“Work time and logbooks**

**Struck out (unanimous)**

**“30Y Application of Part**

- “(1) This Part applies to a driver of a vehicle that—
- “(a) requires a class 2, 3, 4, or 5 licence; or
- “(b) is used in—

**Struck out (unanimous)**

- “(i) a transport service (other than a rental service); or
  - “(ii) circumstances in which the vehicle must or ought to be operated under a transport service licence.
- “(2) Despite **subsection (1)**, this Part—
- “(a) applies whether or not the vehicle is—
    - “(i) engaged in any transport service; or
    - “(ii) carrying any load or passengers; but
  - “(b) does not apply to a driver of a goods service vehicle that—
    - “(i) requires a class 2 licence; and
    - “(ii) is used within a 50 km radius of the vehicle’s normal base of operation; and
    - “(iii) is not used for hire or reward.
- “(3) Despite **subsection (1)**, nothing in this Part applies in respect of any rail service vehicle.

**New (unanimous)****“30Y Application of Part**

Nothing in this **Part** applies in respect of any rail service vehicle.

**“30Z Director may grant exemptions or approve alternative fatigue management schemes**

- “(1) If the Director takes into account the criteria specified in section 166(2), the Director may, upon any conditions that he or she considers appropriate,—
- “(a) with respect to **subpart 1**, grant written variations to work time requirements specified in the rules;
  - “(b) with respect to **subpart 2**, grant partial or total written exemptions from some or all of the requirements to maintain logbooks;
  - “(c) approve, in accordance with the rules, an alternative fatigue management scheme that varies the work time restrictions or rest time requirements of any rule for all drivers covered by the relevant transport service licence.

- “(2) A variation or exemption granted, or an approval given under **subsection (1)**, in relation to work time or logbooks may be amended or revoked at any time by the Director in writing.
- “(3) The Director may revoke, by notice in writing, any exemption from logbook use granted under the rules if the Director has reason to believe that the person has breached the rules or any conditions imposed under **subsection (1)**.

**New (unanimous)**

- “(4) Before approving an alternative fatigue management scheme under **subsection (1)(c)**, the Director must be satisfied that the applicant has consulted any representatives of the drivers covered by the relevant transport licence (including, but not limited to, unions).

Compare: 1962 No 135 s 70B(4), (5)

**“Subpart 1—Work time**

**New (unanimous)**

**“30ZAA Application of subpart**

- “(1) This **subpart** applies if—
- “(a) a driver drives a vehicle that requires a class 2, 3, 4, or 5 licence (as specified in the rules); or
  - “(b) a driver drives a vehicle that is used in—
    - “(i) a transport service (other than a rental service); or
    - “(ii) circumstances in which that vehicle must, or ought to, be operated under a transport service licence; or
  - “(c) a driver drives a vehicle that is used to carry goods for hire or reward.
- “(2) Despite **subsection (1)**, this **subpart**—
- “(a) applies whether or not the vehicle is—
    - “(i) engaged in any transport service; or
    - “(ii) carrying any load or passengers; but
  - “(b) does not apply to a driver of a goods service vehicle that—
    - “(i) requires a class 1 or class 2 licence (as specified in the rules); and

**New (unanimous)**

- “(ii) is used within a 50 km radius of the vehicle’s normal base of operation; and  
“(iii) is not used for hire or reward.

**Struck out (unanimous)****“30ZA Limits on work time**

No person may drive or operate a vehicle specified in **section 30Y** in such a manner that the driver exceeds the work time restrictions or fails to comply with the rest time requirements specified in the rules or any variation granted under **section 30Z**.

Compare: 1962 No 135 s 70B(1), (2)

**New (unanimous)****“30ZA Limits on work time**

- “(1) No driver may work for a period of time that—  
“(a) exceeds the work time restrictions specified in this section, the rules, or any variation granted under **section 30Z**; or  
“(b) fails to comply with the rest time requirements specified in this section, the rules, or any variation granted under **section 30Z**.
- “(2) No driver may, in any cumulative work day, exceed 13 hours of work time.
- “(3) No driver may, in any cumulative work period, exceed 70 hours of work time.
- “(4) This section does not apply to a driver of an ambulance service, a fire brigade, or a rural fire party who is proceeding to or returning from an incident attended in response to a priority call specified in the rules.

Compare: 1962 No 135 s 70B(1), (2)

**“30ZB Records must be kept****Struck out (unanimous)**

- “(1) A person who drives a vehicle referred to in **section 30Y**, or any person who employs such a person, must keep time records, wage records, and other related employment records for that person.

**New (unanimous)**

- “(1) A person who employs a person to drive a vehicle referred to **section 30ZAA**, and any self-employed driver who drives a vehicle referred to in **section 30ZAA**, must keep—
- “(a) time records, wage records, and other related employment records for the driver; and
  - “(b) accommodation records and receipts for the driver that are relevant to the driver’s transport service or transport service vehicle; and
  - “(c) fuel records and receipts for the relevant transport service vehicles.
- “(2) The person who keeps the records required under **subsection (1)** must—
- “(a) keep each record for 12 months from the date it is made; and
  - “(b) make all relevant time records, fuel records and receipts, accommodation records and receipts, wage records, and other related employment records in the possession or control of that person available for immediate inspection on demand at any reasonable time by an enforcement officer.
- “(3) Every enforcement officer to whom records are made available for inspection under **subsection (2)(b)** is entitled to make copies of those records.

Compare: 1962 No 135 s 70B(6), (6A)

**“Subpart 2—Logbooks****New (unanimous)****“30ZBA Application of subpart**

“(1) This **subpart** applies if—

- “(a) a driver drives a vehicle that requires a class 2, 3, 4, or 5 licence (as specified in the rules); or
- “(b) a driver drives a vehicle that is used in—
  - “(i) a transport service (other than a rental service); or
  - “(ii) circumstances in which the vehicle must, or ought to, be operated under a transport service licence; or
- “(c) a driver drives a vehicle that is used to carry goods for hire or reward if that vehicle is a heavy motor vehicle.

“(2) Despite **subsection (1)**, this **subpart**—

- “(a) applies whether or not the vehicle is—
  - “(i) engaged in any transport service; or
  - “(ii) carrying any load or passengers; but
- “(b) does not apply to a driver of a goods service vehicle that—
  - “(i) requires a class 1 or class 2 licence (as specified in the rules); and
  - “(ii) is used within a 50 km radius of the vehicle’s normal base of operation; and
  - “(iii) is not used for hire or reward.

**“30ZC Drivers must maintain logbooks**

Unless exempted under **section 30Z(1)**, the regulations, or the rules, a driver must maintain a logbook in the—

- “(a) manner prescribed by the rules; and
- “(b) form approved by the Director in accordance with the rules.

Compare: 1962 No 135 s 70C(1)

**“30ZD Director may approve or revoke alternative means of recording matters**

The Director may, in accordance with the rules, approve or revoke an (*alterative*) alternative means of recording matters relevant to the monitoring of work time.

**“30ZE Duties regarding logbooks**

- “(1) A driver must—
- “(a) retain a logbook required to be maintained by that driver under **section 30ZC** for a period of 12 months after the date of the last entry in that logbook; and
  - “(b) in the case of a driver who is an employee, deliver a copy of each completed logbook record to the driver’s employer within 14 days after completing that record, and the employer must retain the copy of each logbook record for a period of 12 months from the date of the record.
- “(2) A driver must—
- “(a) carry a logbook with him or her at all times when driving a vehicle to which **section 30Y** applies; and
  - “(b) produce, on demand by any enforcement officer and without delay, any logbook that—
    - “(i) the driver is required to maintain; and
    - “(ii) relates to—
      - “(A) the day of the driver’s last rest time of at least 24 hours; and
      - “(B) all the days since that rest time.
- “(3) If the form of the logbook required to be maintained under **section 30ZC** includes an identical copy made simultaneously with the original of that logbook, and the logbook has been produced to an enforcement officer, that enforcement officer is entitled, on demand,—
- “(a) to remove that identical copy; or
  - “(b) if that identical copy has previously been removed or is illegible, to make a copy of that logbook.
- “(4) A person who is required to retain a logbook or a copy of a logbook under **subsection (1)** must make it and all relevant time records, wage records, and other related employment records available for immediate inspection on demand by an enforcement officer at any reasonable time during the period for which it is required to be retained.
- “(5) A person to whom a logbook or a copy of a logbook or records are required to be made available for inspection under **subsection (4)** is entitled to make a copy of that logbook or that copy or those records.

Compare: 1962 No 135 s 70C(5)–(7A)

“Subpart 3—Evidence in proceedings

“30ZF Evidence in proceedings for offences against subpart 1 or subpart 2

- “(1) In proceedings for an offence against **subpart 1 or subpart 2**, the following is sufficient evidence of the contents of a logbook, unless the contrary is proved by production to the Court of the logbook or of an identical copy of the logbook made simultaneously with the original logbook,—
- “(a) evidence given by an enforcement officer authorised to demand the production of logbooks under **section 30ZE(2)(b)**, or by any person who had that status at the time when the alleged offence was committed, as to the contents of any logbook as seen and recorded by that person at the time it was produced; and
- “(b) an identical copy of any logbook removed, or a copy of any logbook made, by an enforcement officer in accordance with **section 30ZE(3) or section 30ZE(4)**.
- “(2) In any proceedings in respect of an offence against **subpart 1** it is presumed, until the contrary is proved, that the contents of any logbook produced to an enforcement officer authorised to demand production of the logbook or removed by an enforcement officer from an accident scene where the driver is incapacitated are an accurate statement of the truth of the matter required to be recorded in the logbook by **section 30ZC**.

Compare: 1962 No 135 s 70D(8), (9)”.

**New (unanimous)**

**15A Contravention of sections 5(1)(a), 5(1)(b), 5(4), 30(2), or 30(3)**

- (1) The heading to section 31 of the principal Act is amended by omitting the words “**or 30(3)**”, and substituting the words “**30(3), or 30(4A)**”.
- (2) Section 31(1) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:
- “(a) drives a motor vehicle on a road—
- “(i) with an expired driver licence; or
- “(ii) without an appropriate driver licence; or”.

**New (unanimous)**

- (3) Section 31(1)(d) of the principal Act is amended by inserting, after the expression “subsection (3)”, the words “or **subsection (4A)**”.

*Offences relating to driving (other than alcohol-related offences) and penalties*

**16 Contravention of section 5(1)(c)**

- (1) Section 32(2)(a) of the principal Act is amended by omitting the words “a traffic improvement school”, and substituting the words “an approved driving improvement course under section 92(1) or a programme approved by the Director under **section 99A**”.
- (2) Section 32(2)(b) of the principal Act is amended by omitting the word “school”, and substituting the words “course or programme”.
- (3) Section 32(2)(b) of the principal Act is amended by repealing subparagraphs (i) and (ii), and substituting the following subparagraphs:
- “(i) in the case of a motorcyclist, drives under the supervision of a person who holds a driving instructor or testing officer endorsement under Part 5 of the Land Transport (Driver Licensing) Rule 1999 that is relevant to a class of licence for a motorcycle:
  - “(ii) in any other case, drives while accompanied by a person who holds a driving instructor or testing officer endorsement under Part 5 of the Land Transport (Driver Licensing) Rule 1999.”

**17 New section 33A inserted**

The principal Act is amended by inserting, after section 33, the following section:

**“33A Offence to operate as driving instructor without authorisation**

- “(1) A person commits an offence if the person provides, or offers or agrees to provide, driving instruction in a motor vehicle for financial or commercial gain without an appropriate current

driver licence authorising the person to operate as a driving instructor.

“(2) The maximum penalty on conviction for an offence against **subsection (1)** is a fine not exceeding \$1,000.”

**18 Contravention of section 7 or section 22 involving injury or death**

Section 36 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) A person commits an indictable offence if the person—
- “(a) drives or causes to be driven a motor vehicle recklessly and by that act or omission causes an injury to or the death of another person; or
  - “(b) drives or causes a motor vehicle to be driven at a speed or in a manner which, having regard to all the circumstances, is or might be dangerous to the public or to a person and by that act or omission causes an injury to or death of another person; or
  - “(c) without reasonable excuse, contravenes section 22 by failing to stop and ascertain whether any person has been injured, and render assistance, after an accident where a person has been injured or killed.”

**19 New section 36B inserted**

The principal Act is amended by inserting, after section 36A, the following section:

**“36B Contravention of section 22B or section 22C**

- “(1) A person commits an offence if the person—
- “(a) uses a traction engine without an appropriate qualification provided for in the regulations or the rules, for the purpose of qualifying the person to safely use the traction engine in a public place; or
  - “(b) uses a traction engine in a public place in a manner that, having regard to all the circumstances, is or might be dangerous to the public or to a person; or
  - “(c) uses a traction engine in a public place without displaying current evidence of vehicle inspection or any other certificate or both (as may be required by the regulations or the rules); or
  - “(d) fails to comply with the regulations or the rules concerning evidence of vehicle inspection or any other

certificate required by the regulations or the rules, or concerning the use of a traction engine that is required to have such evidence or certificate or both.

- “(2) The maximum penalty on conviction for an offence against **subsection (1)** is a fine not exceeding \$5,000.
- “(3) For the purposes of this section, **public place** has the meaning set out in **section 22B(3)**.”

## **20 Contravention of section 8 causing injury or death**

- (1) Section 38 of the principal Act is amended by inserting, after subsection (1), the following subsection:

- “(1A) A person commits an offence if—
- “(a) the person drives a motor vehicle, or causes a motor vehicle to be driven, carelessly (*or without reasonable consideration for other persons*); and
- “(b) by that act or omission, causes an injury to or the death of another person.”

### **New (unanimous)**

- (2) Section 38(2) of the principal Act is amended by inserting, after the expression “subsection (1)”, the words “or **subsection (1A)**”.

## **20A Failure to secure load**

Section 42 of the principal Act is amended by inserting, after the words “on a road”, the words “, and any person loading that vehicle,”.

## **21 New section 43A inserted**

The principal Act is amended by inserting, after section 43, the following section:

### **“43A Courts may impose appropriate fines for infringement offences that are not overloading offences**

A court may impose a fine for an infringement offence, other than an overloading offence, that is not more than the maximum fine prescribed for that offence, whether the fine imposed is more than, the same as, or less than the prescribed infringement fee for that offence.”

**22 New section 47 substituted**

The principal Act is amended by repealing section 47, and substituting the following section:

“47 **Contravention of section (22(3) or (4) or (5)) 22(2), (3), (4), or (5)**

**Struck out (unanimous)**

“(1) A person commits an offence if the person, without reasonable excuse, fails to report an accident involving an injury to or the death of a person, in accordance with section 22(3), when required to do so by that section.

**New (unanimous)**

“(1) A person commits an offence if the person, without reasonable excuse, fails to provide the particulars specified under section 22(2) when required to do so under that section.

“(1A) A person commits an offence if the person, without reasonable excuse, fails to report an accident involving an injury to or the death of a person, in accordance with section 22(3), when required to do so by that section.

“(2) A person commits an offence if the person, without reasonable excuse, fails to report damage to a motor vehicle or other property, in accordance with section 22(4) or (5), when required to do so by the applicable section.

“(3) The maximum penalty on conviction for an offence against **subsection (1) or subsection (1A) or subsection (2)** is a fine not exceeding \$5,000.”

**23 Contravention of section 97(5) or (6)**

- (1) Section 49(1)(a) of the principal Act is amended by inserting, after the expression “sections 96,” the expression “**96A,**”.
- (2) Section 49(1)(b) of the principal Act is amended by inserting, after the expression “sections 96,” the expression “**96A,**”.

**24 Contravening notices, requirements, etc, given or imposed by enforcement officers**

- (1) Section 52(1) of the principal Act is amended by inserting, before paragraph (a), the following paragraph:

“(aa) is the driver of a vehicle that is stopped and fails to remain stopped in accordance with **section 114(2A)**; or”.
- (2) Section 52(1)(a) of the principal Act is amended by adding the words “or, if **section 115(2A)** applies, the enforcement officer has been notified in writing that the vehicle complies with the regulations and the rules”.

*Driving offences involving drink or drugs, and penalties and procedures***25 Contravention of specified breath or blood-alcohol limit**

- (1) Section 56(4) of the principal Act is amended by omitting the words “section 58(1) or section 60(1)”, and substituting the words “any of sections 58(1), 60(1), or 61(1) or (2)”.
- (2) Section 56(4)(b) of the principal Act is amended by omitting the words “1 year or more”, and substituting the words “more than 1 year”.

**New (unanimous)**

- |  |
|--|
| <ol style="list-style-type: none"><li>(3) Section 56 of the principal Act is amended by inserting, after subsection (4), the following subsection:<p>“(4A) Subsection (4)(b) does not apply if an order is made under section 65.”</p></li></ol> |
|--|

**26 Contravention of section 12**

- (1) Section 58(3) of the principal Act is amended by omitting the words “and 60(1)”, and substituting the words “60(1), and 61(1) and (2)”.
- (2) Section 58(3)(b) of the principal Act is amended by omitting the words “1 year or more”, and substituting the words “more than 1 year”.

**New (unanimous)**

- (3) Section 58 of the principal Act is amended by inserting, after subsection (3), the following subsection:
- “(3A) Subsection (3)(b) does not apply if an order is made under section 65.”

**27 Failure or refusal to permit blood specimen to be taken**

- (1) Section 60(3) of the principal Act is amended by omitting the words “and 58(1)”, and substituting the words “58(1), and 61(1) and (2)”.
- (2) Section 60(3)(b) of the principal Act is amended by omitting the words “1 year or more”, and substituting the words “more than 1 year”.

**New (unanimous)**

- (3) Section 60 of the principal Act is amended by inserting, after subsection (3), the following subsection:
- “(3A) Subsection (3)(b) does not apply if an order is made under section 65.”

**28 Person in charge of motor vehicle causing injury or death**

- (1) Section 61(1) and (2) of the principal Act is amended by omitting the words “on a road” in both places where they appear.
- (2) Section 61(3) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
- “(b) the (C)court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more in the case of a first or second offence against this section or section 56(1) or (2), or section 58(1), or section 60(1).”
- (3) Section 61 of the principal Act is amended by inserting, after subsection (3), the following *(subsection) subsections*:
- “(3A) If a person is convicted of a third or subsequent offence against this section or section 56(1) or (2), or section 58(1), or section 60(1) (whether or not that offence is of the same kind

as the person's first or second offence against any of those provisions), the (C)court must order the person to be disqualified from holding or obtaining a driver licence for more than 1 year.

**New (unanimous)**

“(3B) Subsection (3A) does not apply if an order is made under section 65.”

**29 Defences**

Section 64 of the principal Act is amended by inserting, after subsection (3), the following subsection:

“(3A) It is no defence to proceedings for an offence against section 60 (which relates to failing or refusing to supply a blood specimen) that—

- “(a) there was or may have been an error in the result of the breath screening test or evidential breath test; or
- “(b) the occurrence or likely occurrence of any such error did not entitle or empower a person to request or require an evidential breath test or a blood test.”

**30 Mandatory penalties for repeat offences involving use of alcohol or drugs**

Section 65 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:

“(4) The (C)court must make an order that requires a person to attend an Assessment Centre and that disqualifies that person from holding or obtaining a driver licence until the Director removes that disqualification under section 100 if—

- “(a) the (C)court convicts that person of a third or subsequent offence to which this section applies; and
- “(b) the 2 or more previous offences were committed within 5 years of the date of the commission of the offence being dealt with by the (C)court.”

**31 Who must give blood specimen in hospital or surgery**

Section 73(5) of the principal Act is amended by—

- (a) omitting the word “A” in the first place where it appears, and substituting the words “Despite subsection (3)(b), a”; and
- (b) omitting the words “(other than subsection (3)(b))”.

*Offences and penalties relating to transport services***32 New Part 6A inserted**

The principal Act is amended by inserting, after Part 6, the following Part:

**“Part 6A****“Offences relating to transport services and penalties****“79A Offence to carry on transport service without licence**

- “(1) A person commits an offence if the person carries on any transport service without the appropriate current licence.
- “(2) The maximum penalty on conviction for an offence against **subsection (1)** is a fine not exceeding \$10,000.
- “(3) A person who is convicted of a second or subsequent offence against **subsection (1)** is liable on summary conviction to a fine not exceeding \$25,000 and the (C)court may, if it thinks appropriate, order any or every vehicle used under the transport service to be immediately impounded and held at a location that the Director specifies, at the expense of the convicted person (which is in addition to the fine and any other costs (if any) ordered by the (C)court), for a period specified by the (C)court that does not exceed 90 days.
- “(4) Any fees and charges incurred with respect to an impoundment under **subsection (3)** are recoverable from the convicted person by the vehicle recovery service operator or storage provider.
- “(5) Nothing in **subsection (4)** limits or affects any rights against the owner of the vehicle, or in respect of the vehicle, that may be exercised by the vehicle recovery service operator or storage provider.
- “(6) A person may not remove or release from storage an impounded motor vehicle, unless allowed to do so under this Act.

“(7) The storage provider must immediately comply with a direction under this Act to release the vehicle to the owner or a person authorised for the purpose by the owner.

“(8) The Director, or a person authorised for the purpose by the Director, may enter into such arrangements with vehicle recovery service operators and storage providers as he or she thinks necessary for the purposes of this section.

Compare: 1989 No 74, s 5(2), (5), (6)

“79B **Provision of incorrect information**

A licence holder or person having control of a transport service who notifies the Director that the licence holder or person holds the appropriate certificate, knowing that the information is incorrect or being reckless as to whether or not it is correct, commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

Compare: 1989 No 74 s 18(6)

“79C **Failure to present vehicle for inspection**

“(1) A transport service licence holder commits an offence if he or she fails to present his or her transport service vehicle for inspection when required to do so by the Director.

“(2) The maximum penalty on conviction for an offence against **subsection (1)** is a fine not exceeding \$10,000.

“79D **Contravention of section 30J**

“(1) A person commits an offence if the person applies for a transport service licence while disqualified from holding or obtaining a transport service licence.

“(2) If a person is convicted of an offence against **subsection (1)**,—  
“(a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding \$4,500; and  
“(b) the (C)court must order the person to be disqualified from holding or obtaining a transport service licence for 6 months or more.

“(3) The imposition of a mandatory disqualification under this section is subject, with all necessary modifications, to the criteria specified in section 81.

“79E **Liability of persons who use unlicensed transport service**

- “(1) A person commits an offence if the person uses a transport service and knows or ought reasonably to know that, at the time the person used the transport service,—
- “(a) the operator of the transport service did not hold an appropriate transport service licence; or
  - “(b) the operator of the transport service was disqualified from holding or obtaining a transport service licence; or
  - “(c) the transport service licence of the operator was suspended or revoked.
- “(2) The maximum penalty on conviction for an offence against **subsection (1)** is a fine not exceeding \$25,000.

“79F **Contravention of section 30L**

- “(1) A person who holds a goods service licence commits an offence if the person fails to comply with or contravenes any condition imposed in respect of the holder’s licence under **section 30L**.
- “(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding \$10,000.

Compare: 1989 No 74 s 8(4)

“79G **Contravention of section 87G**

- “(1) A person commits an offence if the person, having been prohibited under **section 87G(1)(b)** from driving a transport service vehicle, drives during the currency of the prohibition any vehicle being used in a transport service (other than a rental service) or a specified class of transport service.
- “(2) A person commits an offence if the person, having been prohibited under **section 87G(1)(c)** from carrying out duties or activities of a driving instructor or testing officer, does so during the currency of the prohibition.
- “(3) The maximum penalty on conviction for an offence against **subsections (1) and (2)** is a fine not exceeding \$2,000 and disqualification from holding or obtaining a driver licence for such period (if any) as the (C) court thinks fit.
- “(4) A person commits an offence if the person applies for or obtains a driver licence, other than a driver licence that relates principally to the use of private motor vehicles, while the

person is disqualified under **section 87G(1)(a)** from obtaining the licence.

“(5) The maximum penalty on conviction for an offence against **subsection (4)** is a fine not exceeding \$500.

Compare: 1989 No 74 s 17(3)–(5)

“79H **Contravention of section 128A**

“(1) A person who holds a passenger service licence and a driver of a small passenger service vehicle commits an offence if the person or the driver acts in contravention of or fails to comply with any direction given by an enforcement officer under **section 128A**.

“(2) The maximum penalty on conviction for an offence against **subsection (1)** is a fine not exceeding \$2,000.

Compare: 1989 No 74 s 37(3)

“79I **Contravention of section 128B**

“(1) A person who holds a vehicle recovery service licence and a driver of a vehicle recovery service vehicle commits an offence if the person or the driver acts in contravention of or fails to comply with any direction given by an enforcement officer under **section 128B**.

“(2) The maximum penalty on conviction for an offence against subsection (1) is a fine not exceeding \$2,000.

Compare: 1989 No 74 s 38(3)

“79J **Liability of employers and principal**

If an offence is committed against this Part by a person as the employee, agent, or contractor of another person, that offence must be treated as having been committed by both persons, whether or not it was done with the other person’s knowledge or approval, if it is proved that—

“(a) the other person—

“(i) knew, or could reasonably be expected to have known, that the offence was to be, or was being, committed; and

“(ii) failed to take the steps that were reasonably practicable to prevent the commission of the offence; and

“(b) the other person failed to take the steps that were reasonable in the circumstances to remedy the effects of the act or omission that gave rise to the offence.

Compare: 1989 No 74 s 5(3)

“79K **Liability of directors of bodies corporate**

If a body corporate is convicted of an offence against this Part, every director of the body corporate also commits the offence and is liable to the same penalty if it is proved that—

- “(a) the act or omission that constituted the offence took place with his or her express or implied authority; and
- “(b) he or she failed to take all reasonable steps to prevent or stop that act, or remedy that omission.

Compare: 1989 No 74 s 5(4)

“79L **Court may require convicted transport service licence holder to sit examination**

The (C)court may require a transport service licence holder to sit, or re-sit, the Certificate of Knowledge of Law and Practice examination if the transport service licence holder is convicted of—

- “(a) an offence under this Part or any regulations pertaining to the operation of a licensed transport service; or
- “(b) any other offence under this Act that is applicable to a vehicle used in a licensed transport service.

“79M **Penalties for failure to pay passenger service fares**

- “(1) A person who fails to pay a passenger service fare that he or she is liable to pay commits an infringement offence.
- “(2) The maximum penalty, on summary conviction for an offence against **subsection (1)**, is a fine not exceeding \$500.”

*Offences relating to work time and logbooks*

**33 New Part 6B inserted**

The principal Act is amended by inserting, after **Part 6A**, the following Part:

**“Part 6B  
“Offences relating to work time and logbooks**

**“Subpart 1—Work time**

**“79N Failure to keep or produce records or comply with conditions of exemption or approval**

Every person commits an offence who fails or refuses to comply with any of the requirements of **section 30ZB** or the conditions of any exemption granted or approval given under **section 30Z(1)(a) or (c)**, and is liable on conviction—

**Struck out (unanimous)**

“(a) in the case of a driver, to a fine not exceeding \$2,000, and the person may be disqualified from holding or obtaining a licence to drive a heavy motor vehicle and any vehicle being used in the relevant transport service for a period of 1 calendar month or such greater period as the Court thinks fit:

**New (unanimous)**

“(a) in the case of a driver, to a fine not exceeding \$2,000, and the person may, for a period of 1 calendar month or such greater period as the (C)court thinks fit, be disqualified from holding or obtaining a licence to drive a vehicle that—

- “(i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); and
- “(ii) is used in the relevant transport service; and
- “(iii) is used to carry goods for hire or reward; or

“(b) in any other case, to a fine not exceeding ~~(\$25,000)~~ \$100,000.

Compare: 1962 No 135 s 70B(7)

**“79O Failure to comply with prescribed work time restrictions or rest time requirements (*prescribed in rules*)**

“(1) Every person commits an offence who fails to comply with any work time restrictions or rest time requirements prescribed in this Act or the rules, and is liable on conviction to,—

“(a) in the case of a person exceeding the work time restrictions or failing to comply with the rest time requirements by less than 60 minutes, a fine not exceeding \$2,000, and, as the (C)court thinks fit,—

**Struck out (unanimous)**

“(i) the person may be disqualified from holding or obtaining a licence to drive a heavy motor vehicle and any vehicle being used in the relevant transport service for a period of 1 calendar month or such greater period as the Court thinks fit; or

**New (unanimous)**

“(i) the person may, for a period of 1 calendar month or any greater period that the (C)court thinks fit, be disqualified from holding or obtaining a licence to drive a vehicle that—

“(A) requires a class 2, 3, 4, or 5 licence (as specified in the rules); and

“(B) is used in the relevant transport service; and

“(C) is used to carry goods for hire or reward; or

“(ii) the person must complete a work time and log-book course approved by the Director:

**Struck out (unanimous)**

“(b) in the case of a person exceeding the work time restrictions or failing to comply with the rest time requirements by 60 minutes or more, a fine not exceeding

**Struck out (unanimous)**

\$2,000, and the person must be disqualified from holding or obtaining a licence to drive a heavy motor vehicle and any vehicle being used in the relevant transport service for a period of 1 calendar month or such greater period as the Court thinks fit; or

**New (unanimous)**

- “(b) in the case of a person exceeding the work time restrictions or failing to comply with the rest time requirements by 60 minutes or more in a cumulative work day, a fine not exceeding \$2,000, and the person must, for a period of 1 calendar month or any greater period that the (C)court thinks fit, be disqualified from holding or obtaining a licence to drive a vehicle that—
- “(i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); and
  - “(ii) is used in the relevant transport service; and
  - “(iii) is used to carry goods for hire or reward; or
- “(c) in the case of a person exceeding the work time restrictions or failing to comply with the rest time requirements by 120 minutes or more in a cumulative work period, a fine not exceeding \$2,000, and the person must, for a period of 1 calendar month or any greater period that the (C)court thinks fit, be disqualified from holding or obtaining a licence to drive a vehicle that—
- “(i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); and
  - “(ii) is used in the relevant transport service; and
  - “(iii) is used to carry goods for hire or reward.

**Struck out (unanimous)**

- “(2) Every person commits an offence who requires, directs, or allows a driver to exceed the maximum work time prescribed in the rules if that person knew, or should have known, that the maximum work time would be, or would likely be, exceeded, and is liable on conviction to a fine not exceeding \$25,000.

**“79P Defences to work time offences**

- “(1) It is a defence in any proceedings for an offence under this subpart if the defendant proves that the failure to comply with **subpart 1 of Part 4B** was due to unavoidable delay in the completion of any journey arising out of—
- “(a) circumstances that could not reasonably have been foreseen by the defendant; or
  - “(b) an emergency.
- “(2) For the purposes of **subsection (1), emergency** means—
- “(a) a state of emergency declared under the Civil Defence Emergency Management Act 2002; or
  - “(b) an incident attended by an emergency service; or
  - “(c) an event requiring immediate action to save life or prevent serious injury.

Compare: 1962 No 135 s 70B(8)

**“Subpart 2—Logbooks****“79Q Failure to discharge duties regarding logbooks**

Every person who fails or refuses to comply with any requirement of or demand made under **section 30ZE** commits an offence and is liable on conviction,—

**Struck out (unanimous)**

- “(a) in the case of a driver, to a fine not exceeding \$2,000, and the person may be disqualified from holding or obtaining a licence to drive a heavy motor vehicle and any vehicle being used in the relevant transport service for a period of 1 calendar month or such greater period as the Court thinks fit:

**New (unanimous)**

- “(a) in the case of a driver, to a fine not exceeding \$2,000, and the person may, for a period of 1 calendar month or any greater period that the (C)court thinks fit, be disqualified from holding or obtaining a licence to drive a vehicle that—
- “(i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); and

**New (unanimous)**

“(ii) is used in the relevant transport service; and  
 “(iii) is—  
     “(A) a heavy motor vehicle; and  
     “(B) used to carry goods for hire or reward:

“(b) in any other case, to a fine not exceeding \$25,000.

Compare: 1962 No 135 s 70C(8)

**“79R Offences and proceedings concerning logbooks**

- “(1) Every person commits an offence who—
- “(a) maintains a logbook under **section 30ZC** while maintaining another logbook under that section; or
  - “(b) makes or causes to be made any false statement in a logbook or allows any omission to occur in the logbook.
- “(2) Every person commits an offence who, being the driver of a vehicle to which **section 30ZC or section 30ZD** applies,—
- “(a) on demand by an enforcement officer fails to produce without delay all logbooks that are so demanded; or
  - “(b) on demand by an enforcement officer produces any logbook that is false in a material particular, whether or not the driver knows of the falsehood; or
  - “(c) on demand by an enforcement officer produces any logbook—
    - “(i) that omits a material particular, whether or not the driver knows of the omission; or
    - “(ii) in which any material particular is entered illegally or in such a manner that the matters specified in the rules cannot be readily ascertained.
- “(3) Every person, not being the driver of the vehicle, commits an offence where the person requires, directs, or allows a vehicle to which **section 30ZC or section 30ZD** applies to be used and—
- “(a) a logbook is not maintained in respect of the driving of that vehicle, whether or not the person knows that a logbook is not maintained; or
  - “(b) the logbook maintained in respect of the driving of that vehicle is false in a material particular, whether or not the person knows of the falsehood; or

- “(c) the logbook maintained in respect of the driving of that vehicle omits a material particular, whether or not the person knows of the omission.
- “(4) Every person who commits an offence against this section is liable on conviction—

**Struck out (unanimous)**

- “(a) in the case of a driver to a fine not exceeding \$2,000, and the person may be disqualified from holding or obtaining a licence to drive a heavy motor vehicle and any vehicle being used in the relevant transport service for a period of 1 calendar month or such greater period as the Court thinks fit:

**New (unanimous)**

- “(a) in the case of a driver to a fine not exceeding \$2,000, and the person may, for a period of 1 calendar month or any greater period that the (C)court thinks fit, be disqualified from holding or obtaining a licence to drive a vehicle that—
- “(i) requires a class 2, 3, 4, or 5 licence (as specified in the rules); and
- “(ii) is used in the relevant transport service; and
- “(iii) is—
- “(A) a heavy motor vehicle; and
- “(B) used to carry goods for hire or reward:
- “(b) in any other case, to a fine not exceeding \$25,000.

**Struck out (unanimous)**

- “(5) Every person commits an offence who requires, directs, or allows a driver not to maintain a logbook in the prescribed manner if that person knew, or should have known, that the failure to maintain the logbook would contravene this subpart, and is liable on conviction to a fine not exceeding \$25,000.

Compare: 1962 No 135 s 70D(1)–(3), (10)

**“79S Defences to logbook offences**

- “(1) It is a defence to a charge under **section 79R(1) or section 79R(2) or section 79R(3)** if the defendant proves that the proceedings relate to a motor vehicle or service or individual that has been exempted from the requirement to maintain a logbook under this Act, the rules, or regulations.
- “(2) In the case of a defendant who was not the driver of the vehicle to which the charge relates, it is a defence to a charge under **section 79R(1) or section 79R(3)(b) or section 79R(3)(c)** if the defendant proves that—
- “(a) reasonable steps were taken by the defendant to prevent the false statement or material omission in the logbook; and
  - “(b) as soon as reasonably practicable after the false statement or material omission was drawn to the person’s attention by any enforcement officer authorised to demand the production of logbooks under **section 30ZE(2)**, the person produced to the enforcement officer a logbook containing no false statement or material omission.
- “(3) Except as provided in **subsection (4)**, **subsection (2)** does not apply unless within 7 days after the service of the summons, or within such further time as the (C)court may allow, the defendant has delivered to the prosecutor a written notice—
- “(a) stating that the defendant intends to rely on **subsection (2)**; and
  - “(b) specifying the reasonable steps that the defendant will claim to have taken.
- “(4) In any proceedings relating to a charge to which **subsection (2)** applies, evidence that the defendant took a step not specified in the written notice required by **subsection (3)** is not, except with the leave of the (C)court, admissible for the purpose of supporting a defence under **subsection (2)**.

Compare: 1962 No 135 s 70D(4)–(7)”.

**New (unanimous)***Offences relating to chain of responsibility***33A New Part 6C inserted**

The principal Act is amended by inserting, after **Part 6B**, the following Part:

**“Part 6C****“Offences relating to chain of responsibility****“79T Offence to cause or require driver to breach speed limits, maximum work time, or rest time requirements**

Every person commits an offence, and is liable on conviction to a fine not exceeding \$25,000, who, by act or omission, directly or indirectly causes or requires a driver to—

“(a) exceed any applicable speed limit if that—

“(i) person knew, or should have known, that the speed limit would be, or would likely be, exceeded; and

“(ii) driver is a driver to whom **subpart 1 of Part 4B** applies; or

“(b) exceed the maximum work time prescribed in this Act or the rules if that person knew, or should have known, that the maximum work time would be, or would likely be, exceeded; or

“(c) fail to comply with the rest time requirements prescribed in this Act or the rules if that person knew, or should have known, that the rest time requirements would not be, or would likely not be, complied with; or

“(d) fail to maintain a logbook in the prescribed manner if that person knew, or should have known, that the failure to maintain the logbook would contravene **subpart 2 of Part 6B.**”

**33B New section 79U inserted**

The principal Act is amended by inserting, after section 79T, the following section:

**“79U Offence to cause or require driver to breach maximum gross weight limits**

Every person commits an offence, and is liable on conviction to a fine not exceeding \$25,000, who, by act or omission,

**New (unanimous)**

directly or indirectly causes or requires a driver to operate a vehicle or combination of vehicles in breach of the applicable maximum gross weight limits for that vehicle or combination of vehicles.”

*Disqualification, demerit points, licence suspension, and vehicle impoundment*

**34 Provisions relating to mandatory disqualification**

- (1) Section 81(1) of the principal Act is amended by inserting, after the words “driver licence”, the words “or transport service licence”.
- (2) Section 81(2) of the principal Act is amended by—
  - (a) omitting the expression “68”, and substituting the expression “65”; and
  - (b) inserting, after the words “driver licence”, the words “or transport service licence”.

**35 Holder to undergo prescribed tests if disqualified for more than 1 year**

- (1) The heading to section 83 of the principal Act is amended by omitting the words “**prescribed tests**”, and substituting the words “**approved tests or courses**”.
- (2) Section 83(1) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:
  - “(a) the licence continues to be of no effect after the disqualification ends until the person applies for the same class of licence and the person qualifies for the licence by any or all (as the case may be) of the following:
    - “(i) completing any courses approved by the Director for that purpose;
    - “(ii) passing the tests and examinations approved by the Director for that purpose; and”.
- (3) Section 83 of the principal Act is amended by inserting, after subsection (1), the following subsection:

- “(1A) If a person to whom subsection (1) applies has passed the appropriate theory test, the Director may—
- “(a) issue a new licence to that person with the supervisory condition (if any) applicable to a learner licence for that class of vehicle as specified in the rules; or
  - “(b) endorse that person’s existing licence with the supervisory condition (if any) applicable to a learner licence for that class of vehicle as specified in the rules.”

**36 New section 84 substituted**

The principal Act is amended by repealing section 84, and substituting the following section:

**“84 New licence or endorsement to be issued if disqualified driver qualifies for specified vehicle classes**

- “(1) This section applies if—
- “(a) section 83(1) applies; and
  - “(b) the person—
    - “(i) applies for a class of licence that the person held immediately before that person was disqualified; and
    - “(ii) qualifies for that class of licence by any or all of the following:
      - “(A) completing any courses approved by the Director for that purpose;
      - “(B) passing the tests and examinations approved by the Director for that purpose.
- “(2) If this section applies, then the Director must—
- “(a) issue a new licence to that person to authorise that person to drive the relevant class of motor vehicle and all lower classes of motor vehicles for which that person held a licence immediately before he or she was disqualified; or
  - “(b) endorse that person’s existing licence to authorise that person to drive the relevant class of motor vehicle and all lower classes of motor vehicles for which that person held a licence immediately before he or she was disqualified.
- “(3) A class of licence to drive a motorcycle does not entitle a person to drive a motor vehicle other than a motor vehicle authorised by that class of licence.”

**37 New sections 87A to 87G inserted**

The principal Act is amended by inserting, after section 87, the following heading and sections:

*“Disqualification of transport service driver and other persons*

**“87A Disqualification of transport service driver**

If the Director is satisfied that a transport service driver is not a fit and proper person within the meaning of **subpart 2 of Part 4A** to drive a transport service vehicle, the Director may disqualify that person, for a period not exceeding 10 years, from driving any vehicle being used in a transport service (other than a rental service) or a specified class of transport service.

Compare: 1989 No 74 s 15(1)

**“87B Disqualification of holder of transport service licence from holding transport service licence**

If the Director revokes a transport service licence, the Director may disqualify, for a period not exceeding 10 years, the holder of the transport service licence, or any other person who was in control of or involved in the transport service and whose fitness and propriety was the basis of, or contributed to, a decision to revoke the transport service licence, from—

“(a) holding or obtaining a transport service licence:

“(b) having any form of control of a transport service.

**“87C Procedure for disqualifying person under section 87A or section 87B**

**Subpart 5 of Part 4A** applies to a decision to disqualify a person under **section 87A or section 87B.**

Compare: 1989 No 74 s 15(2)

*“Suspension of transport service driver and other persons*

**“87D Immediate suspension of transport service driver and other persons in interests of public safety**

“(1) If the circumstances described in **subsection (2)** apply, the Director may, by notice in writing to the person concerned, suspend that person from—

“(a) driving any vehicle used in a transport service (other than a rental service) or a specified class of transport service:

- “(b) being a driving instructor or testing officer, as the case may be.
- “(2) The circumstances referred to in **subsection (1)** are—
- “(a) the Director considers that—
- “(i) the person concerned is not a fit and proper person within the meaning of **subpart 2 of Part 4A** to drive a transport service vehicle or to be a driving instructor or testing officer, as the case may be; and
- “(ii) the interests of public safety, or the need to ensure that the public is protected from serious or organised criminal activity, would seem to require immediate suspension of the person as a transport service driver, driving instructor, or testing officer, as the case may be; or
- “(b) the person has been charged with any offence that is of such a nature that the interests of public safety, or the need to protect the public against serious or organised criminal activity, would require that a person convicted of committing such an offence not be a transport service driver, or driving instructor, or testing officer, as the case may be.
- “(3) In this section and **sections 87E and 87F**,—
- “**driving instructor** means a person who holds a driving instructor endorsement under Part 5 of the Land Transport (Driver Licensing) Rule 1999
- “**testing officer** means a person who holds a testing officer endorsement under Part 5 of the Land Transport (Driver Licensing) Rule 1999.

Compare: 1989 No 74 s 16(1)

- “**87E Procedure for suspending a person under section 87D**  
**Subpart 5 of Part 4A** applies to a decision to suspend a person under **section 87D**.

Compare: 1989 No 74 s 16(2)

“**87F Term of suspension**

- “(1) A suspension under **section 87D** may take effect either immediately or from any date that the Director may specify.

- “(2) The Director may at any time withdraw a suspension imposed under **section 87D**.
- “(3) If any suspension has been imposed in respect of a person to whom **section 87D(2)(b)** applies, the suspension ceases immediately if—
- “(a) the charge is withdrawn in circumstances where it is not replaced with another charge based on the same circumstances; or
- “(b) the person is found not guilty of the offence charged.

Compare: 1989 No 74 s 16(1), (3), (4)

*“Effect of disqualification or suspension of transport service driver and other persons*

**“87G Effect of disqualification or suspension of transport service driver and other persons**

- “(1) If the Director disqualifies or suspends any person from driving a transport service vehicle or being a driving instructor or testing officer under either **section 87A or section 87D**, the Director may, for the period of the disqualification or suspension,—
- “(a) revoke or suspend any driver licence held by the person, not being a licence of a class that relates principally to the use of private motor vehicles, and disqualify the person from holding or obtaining any such licence; and
- “(b) prohibit the person from driving any vehicle used in a transport service (other than a rental service vehicle) or a specified class of transport service, even though the person may obtain or continue to hold a driver licence of a class that, although it relates principally to the use of private motor vehicles, also entitles the person to drive a transport service vehicle; and
- “(c) prohibit the person from carrying out duties or activities as a driving instructor or testing officer.
- “(2) Nothing in this section or in any of **sections 87A to 87F** derogates from or affects any power of the Director under this Act, the regulations, or the rules, to revoke, suspend, or otherwise deal with any driver licence.

Compare: 1989 No 74 s 17(1), (2)”.

**38 Demerit points to be recorded by Director**

Section 88 of the principal Act is amended by repealing subsection (5), and substituting the following subsection:

- “(5) For the purposes of subsections (1) and (4), if an infringement fee is paid to the enforcement authority at the address for payment specified in the infringement notice before or within 28 days after service of a reminder notice for that offence or within 5 days after the expiry of that 28-day period, the following provisions apply to an infringement offence:
- “(a) the date on which the infringement notice was issued is to be treated as the date on which the offence was committed; and
  - “(b) a summary conviction for the offence is to be treated as having been entered against the offender on the date of the payment of the infringement fee.”

**39 New section 90 substituted**

The principal Act is amended by repealing section 90, and substituting the following section:

**“90 Suspension of licence or disqualification from driving under demerit points system**

- “(1) If, in any 2-year period, a total of 100 or more demerit points have effect against a person, the Director must, by notice in writing given to that person, either—
- “(a) suspend that person’s current driver licence for 3 months; or
  - “(b) if the person does not hold a current driver licence on the date of the giving of the notice, disqualify the person from holding or obtaining a driver licence for 3 months.
- “(2) If the Director has been unsuccessful in giving notice to a person under **subsection (1)**, an enforcement officer may, by notice in writing given to that person, either—
- “(a) suspend that person’s current driver licence for 3 months; or
  - “(b) if the person does not hold a current driver licence on the date of the giving of the notice, disqualify the person from holding or obtaining a driver licence for 3 months.
- “(3) A suspension or disqualification under **subsection (1) or subsection (2)** starts on the date the notice is given to the person.
- “(4) A person whose driver licence has been suspended under **subsection (1) or subsection (2)** may not hold or obtain a driver licence while the suspension is in force.”

**40 Substitution of community-based sentences****Struck out (unanimous)**

- (1) Section 94(1) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:
- “(a) the offender—
- “(i) is being sentenced for an offence against section 32(1)(a) (driving while disqualified); and
  - “(ii) has at least 1 year of an existing disqualification or disqualifications left to serve; and
  - “(iii) has not been convicted of offences against any of the following sections of this Act committed within 2 years of the date of the commission of the offence being dealt with by the Court:
    - “(A) section 35(1)(a) or (b):
    - “(B) section 36(1):
    - “(C) section 36A(1)(a) or (c):
    - “(D) section 36A(2):
    - “(E) section 39(1):
    - “(F) section 56(1) or (2):
    - “(G) section 58(1):
    - “(H) section 60(1):
    - “(I) section 61(1) or (2):
    - “(J) section 62(1); and
  - “(iv) has not been convicted in the previous 2 years or concurrently of an offence against section 171 of the Crimes Act 1961 (manslaughter) in which the manslaughter was the result of driving a motor vehicle; and”.
- (2) Section 94 of the principal Act is amended by inserting, after subsection (3), the following subsection:
- “(3A) For the purposes of subsection (3)(a), the (C)court may impose a sentence of supervision as a community-based sentence if—
- “(a) that sentence is appropriate; and
  - “(b) a suitable programme is available; and
  - “(c) the offender attends a suitable programme.”
- (3) Section 94 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:

**Struck out (unanimous)**

- “(4) This section does not apply if—
- “(a) the offender is a—
    - “(i) driver of a passenger service vehicle; or
    - “(ii) testing officer; or
    - “(iii) driving instructor; or
  - “(b) section 63 or section 65 applies.”

**New (unanimous)**

- “(4) This section does not apply if—
- “(a) section 63 or section 65 applies; or
  - “(b) the offender is prohibited from applying for a limited licence under section 103(2)(a), (b), or (d).”

**41 Mandatory 28-day suspension of driver licence in certain circumstances**

- (1) Section 95(1) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:
- “(a) undergone an evidential breath test or blood test under this Act and been found,—
    - “(i) for an offence, where the person has previously been convicted of an offence against any of sections 56(1) or (2), 58(1), 60(1), or 61(1) or (2) within the last 4 years,—
      - “(A) to have a breath alcohol concentration exceeding 400 micrograms of alcohol per litre of breath; or
      - “(B) to have a blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood:
    - “(ii) in any other case,—
      - “(A) to have a breath alcohol concentration exceeding 650 micrograms of alcohol per litre of breath; or
      - “(B) to have a blood alcohol concentration exceeding 130 milligrams of alcohol per 100 millilitres of blood; and”.

- (2) Section 95(1) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:
- “(c) driven a motor vehicle on a road at a speed exceeding—
- “(i) the applicable permanent posted speed limit by more than 40 km an hour (which speed was detected by a means other than approved vehicle surveillance equipment); or
- “(ii) any other speed limit by more than 50 km an hour (which speed was detected by a means other than approved vehicle surveillance equipment).”
- (3) Section 95(1A) of the principal Act is amended by omitting the expression “800”, and substituting the expression “650”.
- (4) Section 95(1A)(b) of the principal Act is amended by omitting the expression “160”, and substituting the expression “130”.
- (5) Section 95(8)(a) of the principal Act is amended by omitting the expression “160”, and substituting the expression “130”.

#### **42 Vehicle seized and impounded for 28 days in certain circumstances**

- (1) Section 96(1) of the principal Act is amended by adding the word “; or” and also by adding the following paragraph:
- “(d) the person—
- “(i) had a—
- “(A) breath alcohol concentration exceeding 400 micrograms of alcohol per litre of breath; or
- “(B) blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood; or
- “(C) failed or refused to undergo a blood test, after having been required or requested to do so under section 72 or section 73; and
- “(ii) had been convicted of 2 or more previous offences against any of sections 56(1) or (2), 58(1), 60(1), or 61(1) or (2) within the last 4 years.”
- (2) Section 96 of the principal Act is amended by inserting, after subsection (1D), the following subsection:
- “(1E) An enforcement officer who seizes and impounds (or authorises the impoundment of) a motor vehicle because he or

she believes on reasonable grounds that a person has undergone an evidential breath test and has been found to have a breath alcohol concentration exceeding 400 micrograms of alcohol per litre of breath,—

“(a) must give the person a notice under subsection (2) even though the person has the right under section 70A to elect to have a blood test; and

“(b) a further notice is not required and must not be given under subsection (2) if the person undergoes a blood test and is found to have a blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood.”

- (3) Section 96 of the principal Act is amended by inserting, after subsection (6), the following subsection:

“(6A) A vehicle to which a notice under this section relates must be released to the owner when the result of the blood test (if any) is notified to the person who drove the vehicle in circumstances referred to in **subsection (1)(d)** if—

“(a) the blood test shows that he or she had a blood alcohol concentration of, or less than, 80 milligrams of alcohol per 100 millilitres of blood; and

“(b) the vehicle has not already been released.”

- (4) Section 96(8)(a) of the principal Act is amended by omitting the words “a traffic improvement school”, and substituting the words “an approved course or programme”.

- (5) Section 96(8)(b) of the principal Act is amended by omitting the word “school”, and substituting the words “course or programme”.

#### **43 New section 96A inserted**

The principal Act is amended by inserting, after section 96, the following section:

##### **“96A Impoundment of vehicle used in transport service**

“(1) An enforcement officer must seize and impound, or seize and authorise the impoundment of, a motor vehicle that is being used in a transport service for 28 days if the officer believes on reasonable grounds that a person drove the vehicle on a road while—

“(a) the transport service operator was disqualified from holding or obtaining a transport service licence; or

- “(b) the transport service operator’s transport service licence was suspended or revoked; or
- “(c) the transport service operator—
  - “(i) does not hold a transport service licence; and
  - “(ii) has previously been forbidden to operate a transport service.
- “(2) An enforcement officer who seizes and impounds (or authorises the impoundment of) a vehicle under this section must—
  - “(a) complete a notice in the prescribed form, or in a form to the same effect, acknowledging the seizure and impoundment, and setting out (if the particulars are reasonably ascertainable)—
    - “(i) the name and address of the driver; and
    - “(ii) the name and address of the transport service operator, if different from the driver; and
    - “(iii) the year of manufacture and make of the vehicle, and its registration plate details or vehicle identification number; and
    - “(iv) the date and time of the seizure; and
    - “(v) the place where the vehicle is to be impounded; and
    - “(vi) an outline of the person’s rights of appeal under sections 102 and 110; and
  - “(b) give the driver a copy of the notice, unless the driver has left the scene; and
  - “(c) give the registered owner of the vehicle a copy of the notice, if the registered owner is present at the time of the seizure, or as soon as practicable send a copy to the registered owner by ordinary post to the registered owner’s last known place of residence or business or postal address, or address as recorded on the Motor Vehicle Register; and
  - “(d) cause a copy of the notice to be given to the storage provider who stores the motor vehicle; and
  - “(e) retain a copy of the notice for 12 months.
- “(3) The owner of an impounded vehicle has the rights of appeal provided in sections 102 and 110.
- “(4) Personal property (other than property attached to or used in connection with the operation of the vehicle) present in a motor vehicle at the time of the seizure and impoundment

must be released on request to a person who produces satisfactory evidence to the effect that he or she was lawfully entitled to possession of the vehicle or personal property immediately before the vehicle was moved; and goods present in a motor vehicle at the time of the seizure and impoundment must be released subsequently to a person acting on behalf of the owner of the goods if the person produces satisfactory evidence of the owner's consent to such release.

- “(5) An enforcement officer does not have to seize or impound a motor vehicle if the officer has good cause to suspect that the vehicle is a stolen vehicle or had been converted, is a write-off, or has suffered severe damage.
- “(6) A vehicle to which a notice under this section relates must be released to the owner if—
- “(a) the Director or the police have decided finally that proceedings will not be taken against the transport service operator or the person who drove the vehicle in circumstances referred to in **subsection (1)** or such proceedings have been taken and the person is acquitted; and
  - “(b) the vehicle has not already been released.
- “(7) Nothing in **subsection (1)** authorises the seizure or impoundment of a trailer or any other vehicle without motive power that is being towed by or is attached to a motor vehicle.
- “(8) Sections 97 and 98 apply, with any necessary modifications, to a motor vehicle used in a transport service that is impounded under this section.”

#### **44 Release of vehicle after 28 days**

Section 98(4)(a) of the principal Act is amended by omitting the expression “28 days”, and substituting the expression “10 days”.

#### *Mitigation of penalties and rights of appeal*

#### **45 Court may remove disqualification**

- (1) The heading to section 99 of the principal Act is amended by omitting the word “**remove**”, and substituting the word “**reduce**”.
- (2) Section 99 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

- “(1) A person (**the applicant**) who by order of a court is disqualified from holding or obtaining a driver licence may from time to time apply to a court to reduce the disqualification or disqualifications if the person, on the date that the application is made,—
- “(a) has more than 1 year of an existing disqualification or disqualifications left to serve; and
  - “(b) has not been convicted in the previous 2 years of offences against any of the following sections of this Act:
    - “(i) section 35(1)(a) or (b):
    - “(ii) section 36(1):
    - “(iii) section 36A(1)(a) or (c):
    - “(iv) section 36A(2):
    - “(v) section 39(1):
    - “(vi) section 56(1) or (2):
    - “(vii) section 58(1):
    - “(viii) section 60(1):
    - “(ix) section 61(1) or (2):
    - “(x) section 62(1); and
  - “(c) has not been convicted in the previous 2 years or concurrently of an offence against section 171 of the Crimes Act 1961 (manslaughter) in which the manslaughter was the result of driving a motor vehicle; and
  - “(d) has not been convicted of offences against section 32(1)(a) or (b) or (c) in the last 6 months.
- “(1A) For the purposes of **subsection (1)(b), (c), and (d)**, the date on which a person has been convicted is the date on which a conviction has been entered against that person.”
- (3) Section 99(2)(a) of the principal Act is amended by omitting the word “remove”, and substituting the word “reduce”.
  - (4) Section 99(3) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:
    - “(a) whether or not the opportunity to attend a programme approved under **section 99A** was reasonably available to the applicant; and”.
  - (5) Section 99(3)(b) of the principal Act is amended by omitting the word “course”, and substituting the words “approved programme”:

- (6) Section 99(3)(c) of the principal Act is amended by omitting the words “a course”, and substituting the words “an approved programme”.
- (7) Section 99(5) of the principal Act is amended by omitting the words “exercising jurisdiction in the court by which the order was made”.

#### **46 New section 99A inserted**

The principal Act is amended by inserting, after section 99, the following section:

##### **“99A Director may approve programmes**

- “(1) The Director may approve any programme for the purposes of sections 32 and 99.
- “(2) When approving a programme, the Director may consult with any persons that the Director considers appropriate having regard to the nature of the programme and the persons to whom it is targeted.”

#### **47 Director to remove certain disqualifications**

- (1) Section 100(1) of the principal Act is amended by repealing paragraph (b).
- (2) Section 100(3) of the principal Act is amended by omitting the words “2 years”, and substituting the words “1 year and 1 day”.

#### **48 Appeal to (P)police against impoundment of vehicle**

- (1) Section 102(1) of the principal Act is amended by inserting, after the expression “section 96”, the words “or **section 96A**”.
- (2) Section 102(1)(b) of the principal Act is amended by—
  - (a) inserting, after the expression “section 96”, the words “or **section 96A**”; and
  - (b) omitting the words “that section”, and substituting the words “those sections”.
- (3) Section 102(1) of the principal Act is amended by adding the word “; or”, and also by adding the following paragraph:
  - “(h) if **section 96A** applies, the owner did not know, and could not reasonably have been expected to know, that the operator of the transport service in which the vehicle was being used—

- “(i) was disqualified from holding a transport service licence; or
- “(ii) had the relevant transport service licence suspended or revoked; or
- “(iii) did not hold a transport service licence and had previously been forbidden to operate a transport service.”

**49 Persons who may apply to court for limited licence**

Section 103(2)(d) of the principal Act is amended by adding the word “; or” and also by adding the following subparagraph:

- “(iv) for an offence against a provision of the Transport Act 1962 that corresponds to an offence specified in any of subparagraphs (i) to (iii).”

**New (unanimous)**

**49A Issue of limited licence to be delayed or prohibited in certain cases**

Section 104 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

- “(3) No order may be made under section 105 authorising a person to drive a motor vehicle—
  - “(a) for the purposes of conducting driving tests or acting as a driving instructor; or
  - “(b) in a passenger service, unless the accumulation of demerit points is the only reason for the suspension of that person’s driver licence.”

**49B Court may make order authorising grant of limited licence**

Section 105 is amended by adding the following subsection:

- “(9) Despite **section 104(3)(b)**, the court may not make an order under this section unless the applicant satisfies the court that no more than 20 of the demerit points were accumulated while driving in a passenger service.”

**50 Appeals against court orders relating to disqualification or grant of limited licence, and deferral of disqualification**

Section 107 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:

- “(1) A person who has been disqualified by order of a District Court from holding or obtaining a driver licence may appeal to the High Court against a decision of a District Court by—
- “(a) refusing to grant the person a limited licence; or
  - “(b) refusing to reduce the person’s disqualification.
- “(2) If it thinks fit, a District Court may, on an application by a person who has appealed to the High Court under **subsection (1)** or section 107 or section 115 of the Summary Proceedings Act 1957, defer the operation of the disqualification order pending the determination of the appeal.
- “(2A) If the District Court refuses to defer the operation of the disqualification order pending the appeal, the person who applied for the disqualification order to be deferred may appeal to the High Court against that decision of the District Court.
- “(2B) Part 4 of the Summary Proceedings Act 1957 applies, with the necessary modifications, to an appeal to the High Court under **subsection (1) or subsection (2A).**”

**51 New sections 111A and 111B inserted**

- (1) The principal Act is amended by inserting, after section 111, the following sections:

**“111A Appeal to High Court on question of law**

- “(1) A party to an appeal under section 106 who is dissatisfied with the decision of the District Court on the grounds that it is erroneous in law may appeal to the High Court on that question of law.
- “(2) An appeal under this section must be heard and determined in accordance with the rules of the High Court.

**“111B Further appeal to Court of Appeal**

- “(1) This section applies to appeals under this Act with respect to the offences specified in **Part 6A**.

- “(2) If this section applies, a party to an appeal who is dissatisfied with the decision of the High Court in respect of the appeal as being erroneous in law may, with the leave of the High Court or (if that leave is declined) with special leave of the Court of Appeal, appeal to the Court of Appeal on that question of law.
- “(3) The Court of Appeal may make any order or determination that it thinks fit in relation to the appeal.
- “(4) The decision of the Court of Appeal on an appeal or any application for leave to appeal is final.
- “(5) Except as provided in this section, the procedures in respect of an appeal under this section must be in accordance with the ordinary rules of court.
- Compare: 1989 No 74 s 46”.
- (2) Section 111(4) of the principal Act is consequentially amended by omitting the expression “section 107”, and substituting the words “sections 107, **111A, and 111B**”.
- (3) This section applies to every appeal under this Act to a District Court, whether the appeal is commenced before or after the commencement of this section, subject to the right of appeal being exercised within the applicable time limit in Part 4 of the Summary Proceedings Act 1957.

#### *Enforcement of responsibilities*

#### **52 Enforcement officers may enforce transport legislation**

Section 113(2) of the principal Act is amended by adding the following paragraph:

- “(f) forbid a person who is operating a transport service without a licence to operate that transport service.”

#### **53 New section 113A inserted**

The principal Act is amended by inserting, after section 113, the following section:

##### **“113A Power to inspect records**

- “(1) For the purpose of ascertaining whether this Act has been or is being complied with by any person to whom this Act applies, any enforcement officer in uniform or in possession of a warrant or other evidence of his or her authority as an enforcement officer may require that person to produce without delay for inspection all relevant books or records in that person’s

possession or over which that person has control, including (but not limited to) logbooks, records associated with logbooks, financial records relating to expenditure on fuel, invoices, vehicle maintenance records, depreciation records for vehicles, time and wage records, and waybills.

“(2) The enforcement officer may take extracts from or make copies of any books or records so produced.

Compare: 1989 No 74 s 63A”.

**54 Power to require driver to stop and give name and address, etc**

Section 114 of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2A) Subject to subsections (4) and (5), the driver of a vehicle that is stopped by an enforcement officer under this Act must remain stopped for as long as is reasonably necessary for the enforcement officer to complete the exercise of any powers conferred, or duties imposed, on an enforcement officer by this Act.”

**55 Enforcement officers may give directions prohibiting driving of vehicles**

(1) Section 115 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) An enforcement officer who believes on reasonable grounds that a vehicle does not comply with the regulations or the rules or a particular requirement of the regulations or the rules, may—

“(a) affix or cause to be affixed to the vehicle a notice in the form approved by the Authority by notice in the *Gazette* directing that the vehicle must not be driven on a road; and

“(b) give the driver or owner of the vehicle a notice in a form approved by the Authority by notice in the *Gazette* directing that the vehicle must not be driven on a road.

“(2) A notice given under **subsection (1)** continues in force until the vehicle—

“(a) has been inspected by a person authorised by the Director; and

- “(b) the person is satisfied that the vehicle has been made to comply with the regulations and the rules or with the particular requirement of the regulations or the rules; and
  - “(c) new evidence of vehicle inspection has been issued for the vehicle by a person authorised by the Director and is displayed on that vehicle.
- “(2A) Despite **subsection (2)**, the enforcement officer may specify that the notice in **subsection (1)** continues in force until—
- “(a) the vehicle has been made to comply with the regulations and the rules or with the particular requirement of the regulations or the rules; and
  - “(b) the enforcement officer has been notified in writing that the vehicle complies with the regulations and the rules or with the particular requirement of the regulations or the rules.”

**56 Owner or hirer to give information as to identity of driver or passenger**

- (1) The heading to section 118 of the principal Act is amended by inserting, after the word “**hirer**”, the words “**or licence holder**”.
- (2) Section 118(3) of the principal Act is amended by—
  - (a) inserting, after the expression “subsection (2)”, the words “or **subsection (6)**”; and
  - (b) inserting, after the word “hirer”, the words “or licence holder”.
- (3) Section 118 of the principal Act is amended by adding the following subsection:

“(6) If the holder of a transport service licence employs any person to drive a vehicle under that licence, the licence holder, on being informed of any offence alleged to have been committed by that person or by a person driving a vehicle being used under the licence, and on being requested to do so by an enforcement officer, must supply in writing the full name and address of the driver.”
- (4) Section 118 of the principal Act is amended by omitting the compare note and substituting the following compare note:

“Compare: 1962 No 135 s 67; 1989 No 74 s 32(1)”.

**57 Powers of entry**

- (1) Section 119(3) of the principal Act is amended by inserting, after the expression “section 96”, the words “or **section 96A**”.
- (2) Section 119(4) of the principal Act is amended by inserting, after the expression “section 96”, the words “or **section 96A**”.
- (3) Section 119(5) of the principal Act is amended by inserting, after the expression “section 96”, the words “or **section 96A**”.

**58 Enforcement officer may immobilise vehicle, etc, if driver incapable of proper control of vehicle**

Section 121(1)(a)(ii) of the principal Act is amended by *(inserting, after the words “driving hours”, the words “or work time”)* omitting the words “driving hours”, and substituting the words “work time or rest time”.

**59 New sections 128A and 128B inserted**

The principal Act is amended by inserting, after section 128, the following sections:

**“128A Enforcement officer’s powers in respect of non-complying small passenger service vehicles**

An enforcement officer who is in uniform or who produces evidence of identity as an enforcement officer may direct the driver of any small passenger service vehicle that is not in compliance with section 30AB or any rule or regulation to cease making the vehicle available for hire and to remove the vehicle from any designated stand until such time as the vehicle is in compliance with the regulations or the rules.

Compare: 1989 No 74 s 37(2)

**“128B Enforcement officer’s powers in respect of non-complying vehicle recovery service vehicles**

Any enforcement officer who is in uniform or who produces evidence of identity as an enforcement officer may direct the driver of any vehicle recovery service vehicle that is not in compliance with any rule or regulation to cease making the vehicle available for towing or carrying until such time as the vehicle is in compliance with the rules or regulations.

Compare: 1989 No 74 s 38(2)”.

**New (unanimous)****59A Strict liability for offences involving insecure loads and loads falling from vehicles**

Section 134(4)(a) of the principal Act is amended by omitting the expression “2005”, and substituting the expression “2009”.

*Proceedings enforcing responsibilities***60 Offences punishable summarily**

(1) Section 135 of the principal Act is amended by inserting, after subsection (1), the following subsections:

“(1A) Every information for an offence against **Part 6A or Part 6B** must be laid by the Director or an enforcement officer.

“(1B) In the absence of proof to the contrary it is presumed that every information for an offence against **Part 6A or Part 6B** has been laid by a person authorised to do so under **subsection (1A)**.”

**Struck out (unanimous)**

(2) Section 135 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

“(2) A District Court presided over by 2 or more Justices of the Peace or 1 or more Community Magistrates has jurisdiction in respect of any summary offence that is not punishable by imprisonment under—

“(a) Part 5 or Part 6; or

“(b) if a driver committed the offence, **Part 6A or Part 6B**; or

“(c) any regulations made under this Act (other than regulations relating to heavy motor vehicles).”

**61 Time for instituting proceedings**

Section 136(3) of the principal Act is amended by revoking paragraph (b), and substituting the following paragraph:

“(b) an offence against this Act concerning—

“(i) work time under **subpart 1 of Part 6B**; or

“(ii) logbooks under **subpart 2 of Part 6B**; or

“(iii) the issue of installation certificates and inspection certificates for alternative fuel systems.”

**62 New section 145A inserted**

The principal Act is amended by inserting, after section 145, the following section:

**“145A Evidence and proof**

In any proceedings for an offence against **Part 6A**,—

- “(a) if it is proved that passengers or goods were carried in or on any motor vehicle, the passengers or goods are deemed to have been carried in such a manner as to bring the motor vehicle under the requirements of this Act unless the defendant satisfies the (C)court to the contrary:
- “(b) evidence of the contents of the register maintained under **section 199A** may be given by a certificate signed by the Director or any officer of the Authority authorised for that purpose by the Director; and every such certificate is sufficient evidence of the matters stated in it, until the contrary is proved:
- “(c) the production of a certificate signed by the Director or by an officer of the Authority authorised for that purpose by the Director to the effect that on a specified date a person was or was not the holder of any transport service licence or any specified type of transport service licence is sufficient evidence of the matter certified, until the contrary is proved:
- “(d) it is to be presumed that every certificate purporting to have been certified or given under this section has been certified or given by the Director or by an officer of the Authority authorised by the Director to certify documents or give certificates under this section, until the contrary is proved.

Compare: 1989 No 74 s 63”.

**63 Evidence of testing and accuracy of speed-measuring devices, etc**

Section 146(1) of the principal Act is amended by omitting the word “evidence”, and substituting the word “proof”.

*Land transport subordinate legislation***64 Rules concerning vehicles**

Section 155 of the principal Act is amended by inserting, after paragraph (e), the following paragraph:

“(ea) provide for the periodical or other examination of traction engines and the issue of a certificate of compliance for boilers and other pressure vessels:”.

**65 Rules concerning licensing, standard-setting, etc**

(1) Section 158(b)(vi)(A) of the principal Act is amended by omitting the words “on-duty time, the off-duty periods, and rest periods”, and substituting the words “work time and rest time”.

(2) Section 158(b) of the principal Act is amended by adding the following subparagraphs:

“(vii) set out categories of safety performance for transport service operators and approved taxi organisations and provide the means for assessing (and re-assessing) and publishing levels of safety performance in relation to those categories:

“(viii) empower the Director to approve tests, courses, and course providers for the purpose of issuing certificates of knowledge of law and practice or area knowledge certificates or other certificates:

“(ix) specify the circumstances in which the Director can require an applicant for, or the holder of, a certificate of knowledge of law and practice or an area knowledge certificate or other certificates to undergo such tests, including (but not limited to) a second or subsequent test:

“(x) specify the drivers involved in transport services that must display or wear a photographic identification card and the details of such a card:

“(xi) specify the requirements for approved taxi organisations, including (but not limited to) those required by persons in control of the approved taxi organisation:

“(xii) provide for the notification of vehicles used in a transport service:

“(xiii) provide for the issue of certificates of responsibility where a person other than the owner operates a vehicle in a transport service under licence:

- “(xiv) provide for the display of identification on goods service vehicles, vehicle recovery service vehicles, and large passenger service vehicles:
- “(xv) provide for registers of complaints and prescribing the matters to be entered in such registers and the manner in which they are to be entered and maintained, and the manner in which they are to be made available for inspection:
- “(xvi) provide for the giving by any person in relation to any transport service carried on by the person of information relating to that service and prescribing the nature of the information and the form, manner, and time in or at which it is to be given:
- “(xvii) specify requirements for a small passenger service including signs, notices, fares, equipment, identification, driver duties and conduct, availability, complaint management, record keeping, and vehicle condition:
- “(xviii) specify requirements for a vehicle recovery service including identification, driver duties and conduct, operator duties, complaints management, record keeping, and towing restrictions and authorisations:
- “(xix) specify requirements for a rental service including a register of vehicles and hirers, details to be included in a rental service agreement, insurance requirements, the ability of rental service licence holders to charge hirers for fees incurred from owner-liability offences, and any requirements that rental service operators must comply with when charging for owner-liability offence fees:
- “(xx) provide for the approval of qualifications and specify conditions for the safe use of traction engines.”

## 66 Rules concerning land transport documents

Section 159(3)(a) of the principal Act is amended by omitting the words “section 24 of the Transport Services Licensing Act 1989”, and substituting the words “**subpart 2 of Part 4A**”.

**67 Regulations**

- (1) Section 167(1)(e) of the principal Act is amended by adding the word “; or” and also by adding the following subparagraph:

“(iv) in the case of an overloading offence, may not exceed \$10,000.”.

- (2) Section 167(1) of the principal Act is amended by inserting, after paragraph (m), the following paragraphs:

“(ma) exempting any service or class or category of service from being a transport service for the purposes of **Part 4A and Part 6A:**

“(mb) exempting any vehicle or class or category of vehicle from being a transport service vehicle for the purposes of **Part 4A and Part 6A:**”.

**68 Regulations relating to fees and charges for land transport**

- (1) Section 168(1)(a) of the principal Act is amended by omitting the words “, the Transport Services Licensing Act 1989”.

**New (unanimous)**

- (2) Section 168(2) of the principal Act is amended by inserting, after the words “times of use,”, the words “or different distances,”.

**68A New section 168A inserted**

The principal Act is amended by inserting, after section 168, the following section:

**“168A Director may declare that vehicle is mobility device or is not motor vehicle**

- “(1) If a vehicle or type of vehicle has a maximum power output not exceeding 1 500 W, the Director may, by notice in the *Gazette*, declare that the vehicle or type of vehicle is a mobility device.

- “(2) If a vehicle or type of vehicle is propelled by a motor that has a maximum power output not exceeding 300 W, the Director may, by notice in the *Gazette*, declare that the vehicle or type of vehicle is not a motor vehicle.

**New (unanimous)**

- “(3) If a vehicle or type of vehicle is propelled by a motor that has a maximum power output greater than 300 W but not exceeding 600 W, the Director may, by notice in the *Gazette*, declare that the vehicle or type of vehicle is not a motor vehicle.
- “(4) If the Director makes a declaration under **subsection (3)**, the Director may—
- “(a) impose conditions with respect to—
- “(i) the operation of the vehicle or type of vehicle; and
- “(ii) the equipment required on the vehicle or type of vehicle; and
- “(b) specify those conditions in the notice.
- “(5) A notice given under this section is a regulation for the purposes of the Regulations (Disallowance) Act 1989, but is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.”

**Struck out (unanimous)**

*Land Transport Safety Authority of New Zealand*

**69 Land Transport Safety Authority of New Zealand continued**

Section 184(2) of the principal Act is amended by omitting the words “who are New Zealand citizens or permanent residents of New Zealand”.

**New (unanimous)**

*Land Transport New Zealand*

**70 Functions and powers of Director****New (unanimous)**

(1AA) Section 197(1) of the principal Act is amended by adding the words “under section 73 of the Crown Entities Act 2004”.

- (1) Section 197(3)(a) of the principal Act is amended by omitting the words “(if any)”.

**71 Authority to maintain register of driver licences**

- (1) Section 199(2) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:  
“(c) the original date of issue of the licence and the date of issue of the current licence:”.
- (2) Section 199(2)(1) of the principal Act is amended by omitting the words “section 17 of the Transport Services Licensing Act 1989”, and substituting the expression “**Part 4A**”.

**New (unanimous)**

- (3) Section 199(6)(b) of the principal Act is amended by omitting the word “certificate”, and substituting the word “application”.
- (4) Section 199(7) of the principal Act is amended by omitting the expression “(3)”, and substituting the expression “(4)”.
- (5) Section 199(8) of the principal Act is amended by omitting the words “(3) to (5)”, and substituting the words “(4) to (6)”.

**72 New section 199A inserted**

The principal Act is amended by inserting, after section 199, the following section:

**“199A Register of transport service licences**

- “(1) The Authority must continue and maintain the register of transport service licences that was established under section 29 of the Transport Services Licensing Act 1989.
- “(2) The register must show for each licence the following information:
- “(a) the holder’s full name:
  - “(b) if the holder is a natural person, the holder’s date of birth:
  - “(c) the holder’s business or residential address:
  - “(d) the full name and address of any person in control:
  - “(e) the number of the licence:
  - “(f) the date of issue of the licence:

- “(g) the class or classes of transport services to which the licence applies:
  - “(h) information about any operator safety rating, or other similar information, specified in the regulations or the rules:
  - “(i) any conditions applying to the licence:
  - “(j) information about any revocation, suspension, or surrender:
  - “(k) information about any order of disqualification made against the holder of the licence under this Act or any former enactment:
  - “(l) information about any order removing a disqualification imposed on the holder under this Act or any former enactment:
  - “(m) the dates of any amendments to the licence.
- “(3) The register of transport service licences must also show the following information for an approved taxi organisation:
- “(a) the full name of the approved taxi organisation; and
  - “(b) the business address of the approved taxi organisation; and
  - “(c) the telephone number by which the services of the approved taxi organisation may be booked; and
  - “(d) the full names of the responsible officers of the approved taxi organisation; and
  - “(e) the date of approval; and
  - “(f) the status of the approval; and
  - “(g) the safety rating (if any) of the approved taxi organisation.
- “(4) A person who applies to the Director and pays the prescribed fee (if any)—
- “(a) is, with the consent of the holder of the transport service licence named in the application, entitled to the information stored in the register in respect of the licence holder; but
  - “(b) is, without the consent of the holder of the transport service licence named in the application, entitled only to the information stored in the register in respect of the licence holder that is—
    - “(i) specified in **subsection (2)(a) and (g) to (l)**; and
    - “(ii) in the case of an approved taxi organisation, specified in **subsection (3)(a) to (c) and (e) to (g)**.

- “(5) An application under **subsection (4)**—
- “(a) may be made in writing or electronically or orally; and
  - “(b) must describe the person named with sufficient particularity to enable the Director to identify the person and the licences concerned.
- “(6) Information requested under subsection (4) may be given in writing or electronically or orally.

Compare: 1989 No 74 s 29”.

### **73 Restrictions on access to photographic images of driver licence holders**

- (1) Section 200(1) of the principal Act is amended by omitting the expression “subsection (2)”, and substituting the words “this section”.
- (2) Section 200 of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2A) A person who is the next of kin of a deceased individual to whom a photographic image stored under section 28(5) relates may access the photographic image—

  - “(a) on production to the Director of—
    - “(i) a death certificate (within the meaning of section 2 of the Births, Deaths, and Marriages Registration Act 1995) relating to the death of the individual; or
    - “(ii) the grant of probate of the will of the individual or of letters of administration to the individual’s estate; and
  - “(b) only if the person who is seeking access to the photographic image satisfies the Director that the person is the individual’s next of kin.”
- (3) Section 200 of the principal Act is amended by adding the following subsection:

“(4) For the purposes of this section, **next of kin**, includes a spouse, a civil union partner, and a (*same-sex or heterosexual*) de facto partner.”

*Miscellaneous provisions***74 Appointment of enforcement officers and dangerous goods enforcement officers**

Section 208(3) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:

“(a) an enforcement officer for the purposes of any of **Parts 4A, 4B, 6A, and 6B**, including any rules or regulations made in relation to transport services, or sections **22B, 22C, 36B, 113(2)(f), 113A, 115, 118(6), 124, 128A, 128B, 135(1A), 138, and 139**; or”.

**75 New section 211A inserted**

The principal Act is amended by inserting, after section 211, the following section:

**“211A Payment of fees**

All fees and other money (not being fines, infringement fees, or other penalties) received or recovered for the purposes of **Part 4A** must be paid or credited to the Authority.

Compare: 1989 No 74 s 65”.

**Struck out (unanimous)****76 New section 212 substituted**

The principal Act is amended by repealing section 212, and substituting the following section:

**“212 Authority to pay sum to Assessment Centres**

The Authority must pay each Assessment Centre, from money appropriated for the purpose by Parliament, such sum as may be prescribed for the assessment report relevant to a person’s application for the removal of the disqualification under section 100.”

**77 Repeals**

Section 214(3) of the principal Act is amended by omitting the expression “2005”, and substituting the expression (“2007”) “2009”.

**78 Transitional regulations**

Section 216 of the principal Act is amended by adding the following paragraph:

“(d) prescribing matters that would otherwise be covered by rules made under section 158.”

**79 Expiry of section 216**

Section 217 of the principal Act is amended by omitting the expression “2005”, and substituting the expression (“2007”) “2009”.

**80 Expiry of section 218**

Section 219 of the principal Act is amended by omitting the expression “2005”, and substituting the expression (“2007”) “2009”.

Subpart 2—Repeals, amendments, and transitional and savings provisions

*Consequential amendments to Transport Act 1962*

**81 Interpretation**

- (1) Section 2(1) of the Transport Act 1962 is amended by repealing the definition of **invalid carriage**.
- (2) Section 2(1) of the Transport Act 1962 is amended by omitting from the definition of the terms **goods service** and **goods service licence** the expression “Transport Services Licensing Act 1989”, and substituting the expression “Land Transport Act 1998”.
- (3) Section 2(1) of the Transport Act 1962 is amended by omitting from the definition of **large passenger service vehicle** the expression “Transport Services Licensing Act 1989”, and substituting the expression “Land Transport Act 1998”.
- (4) Section 2(1) of the Transport Act 1962 is amended by omitting from the definition of the terms **passenger service**, **passenger service licence**, and **passenger service vehicle** the expression “Transport Services Licensing Act 1989”, and substituting the expression “Land Transport Act 1998”.
- (5) Section 2(1) of the Transport Act 1962 is amended by omitting from the definition of the terms **rental service**, **rental service licence**, and **rental service vehicle** the expression “Transport Services Licensing Act 1989”, and substituting the expression “Land Transport Act 1998”.

- (6) Section 2(1) of the Transport Act 1962 is amended by omitting from the definition of **small passenger service vehicle** the expression “Transport Services Licensing Act 1989” and substituting the expression “Land Transport Act 1998”.
- (7) Section 2(1) of the Transport Act 1962 is amended by omitting from the definition of **towage fee** the words “towage fees in respect of offences involving different areas, times, or vehicles”, and substituting the words “rates of towage fees in respect of different classes of persons, vehicles, products, or any other property or item, or on the basis of different *(time)* times of use, or different distances, or on any other differential basis”.
- (8) Section 2(1) of the Transport Act 1962 is amended by omitting from the definition of the terms **transport service**, **transport service licence**, and **transport service vehicle** the expression “Transport Services Licensing Act 1989”, and substituting the expression “Land Transport Act 1998”.
- (9) Section 2(1) of the Transport Act 1962 is amended by omitting from the definition of the terms **vehicle recovery service**, **vehicle recovery service licence**, and **vehicle recovery service vehicle** the expression “Transport Services Licensing Act 1989” and substituting the expression “Land Transport Act 1998”.

**New (unanimous)**

- (10) Section 41A(1) of the Transport Act 1962 is amended by adding the following subparagraph to paragraph (b) of the definition of **stationary vehicle offence**:
- “(vii) section 34(1)(b) of the Land Transport Act 1998 (which relates to operating a vehicle without current evidence of vehicle inspection or a certificate of loading):”.
- (11) Section 53 of the Transport Act 1962 is repealed.

**82 General penalties**

Section 30(1) of the Transport Act 1962 is amended by omitting the expression “\$500”, and substituting the expression “\$1,000”.

**83 Sections 70B to 70D repealed**

Sections 70B to 70D of the Transport Act 1962 are repealed.

**84 Second Schedule amended**

- (1) Part IX of the Second Schedule of the Transport Act 1962 is amended by adding the following item:

79M	Failure to pay passenger service fares	150
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**New (unanimous)**

- (2) Part IX of the Second Schedule of the Transport Act 1962 is amended by inserting, after the 36A(1)(b) item, the following item:

42(1)	Failing to secure load	600
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- (3) Part X of the Second Schedule of the Transport Act 1962 is amended by inserting, before the first item, the following item:

Section 87(1)(a), Transit New Zealand Act 1989	Acts in contravention of or fails to comply in any respect with any provision of section 82 of the Transit New Zealand Act 1989 (restrictions on use of motorways)	250
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*Other consequential amendments***85 Repeals, revocations, and consequential amendments**

- (1) The Boilers, Lifts, and Cranes Act 1950 (1950 No 53) is repealed.
- (2) Despite the repeal of the Boilers, Lifts, and Cranes Act 1950 by **subsection (1)**, the Engine Drivers' Examination Regulations 1952 (SR 1952/149 and SR 1968/170), Inspection of Boilers Order 1958 (SR 1959/116), and Tram-Drivers Regulations 1947 (SR 1947/22)—
- (a) continue in force as if that Act had not been repealed; and
  - (b) may be amended or revoked in the same manner in which they could have been amended or revoked under that Act.
- (3) Sections 4(a) to (d), 5(6)(a), 7, 8(3) and (4), 9, 12 to 14, 18 to 23, 24(2)(a) to (c), 26(3), 29, 32 to 39, and 66(cd) and (e), and the First to the Fourth Schedules of the Transport Services Licensing Act 1989 (1989 No 74) are repealed.

- (4) Section 42(1) of the Transport Services Licensing Act 1989 (1989 No 74) is amended by omitting the expression “14, 15, 16, 19, 21, 23,” and substituting the expression “15, 16, 19.”
- (5) Despite the repeal of those sections of the Transport Services Licensing Act 1989 by **subsection (3)**, the Transport Services Licensing Regulations 1989 (SR 1989/313)—
  - (a) continue in force as if those sections had not been repealed; and
  - (b) may be amended or revoked in the same manner in which they could have been amended or revoked under that Act.
- (6) The Acts specified in **Part 1 of the Schedule** are amended in the manner indicated in that Part of the Schedule.
- (7) The Acts specified in **Part 2 of the Schedule** are amended in the manner indicated in that Part of the Schedule.
- (8) The regulations specified in **Part 3 of the Schedule** are amended in the manner indicated in that Part of the Schedule.
- (9) The regulations specified in **Part 4 of the Schedule** are amended in the manner indicated in that Part of the Schedule.
- (10) The regulations specified in **Part 5 of the Schedule** are amended in the manner indicated in that Part of the Schedule.
- (11) The Land Transport Rules specified in **Part 6 of the Schedule** are amended in the manner indicated in that Part of the Schedule.
- (12) The Land Transport Rule specified in **Part 7 of the Schedule** is amended in the manner indicated in that Part of the Schedule.
- (13) The Land Transport Rule specified in **Part 8 of the Schedule** is amended in the manner indicated in that Part of the Schedule.

*Transitional and savings provisions*

**86 Rights of existing transport service licence holders**

- (1) Every person who, immediately before the commencement of **Part 4A** of the principal Act, was the holder of a transport service licence (except a rail service licence) under the Transport Services Licensing Act 1989 is deemed to have been granted, on the commencement of **Part 4A** of the principal Act, the equivalent transport service licence under this Act.
- (2) Any licence deemed by **subsection (1)** to have been granted under this Act may at any time on or after the commencement

of **Part 4A** of the principal Act be revoked or suspended or otherwise dealt with in accordance with that Act.

**New (unanimous)**

- (3) A certificate of knowledge of law and practice issued under the Transport Services Licensing Act 1989 continues to have effect, and may be revoked or otherwise dealt with as if it had been issued under the principal Act, or the regulations or rules made under the principal Act.

Compare: 1989 No 74 s 9

**87 Rights of existing approved taxi organisations**

- (1) Every person who, immediately before the commencement of **Part 4A** of the principal Act, was an approved taxi organisation under the Transport Services Licensing Act 1989—
- (a) continues to be an approved taxi organisation on the commencement of **Part 4A** of the principal Act; and
  - (b) may be dealt with in accordance with **Part 4A** of the principal Act.
- (2) Any application to be an approved taxi organisation that was lodged before the commencement of **Part 4A** of the principal Act is to be treated as being lodged under **Part 4A** of the principal Act.

**88 Rights of existing operators of traction engines**

- (1) Every person who, immediately before the commencement of **sections 22B and 22C** of the principal Act, was qualified under the Boilers, Lifts, and Cranes Act 1950 to operate a traction engine is deemed to have been granted, on the commencement of those sections, the equivalent qualification under this Act.
- (2) Any qualification deemed by **subsection (1)** to have been granted under this Act may at any time on or after the commencement of **sections 22B and 22C** of the principal Act be revoked or suspended or otherwise dealt with in accordance with the rules.

**89 Transitional provision for notices given under section 96 of the principal Act**

If, after the commencement of **section 42**, an enforcement officer issues a notice under **section 96** of the principal Act in any case to which **subsection (1)** of that section applies in a form used by enforcement officers before the commencement of **section 42**, that form does not of itself invalidate the notice.

**90 Transitional provision for holders of exemptions in respect of driving hours or logbooks**

Every variation or exemption granted under section 70B or section 70C of the Transport Act 1962 ceases to have effect 6 months after the date of commencement of this section.

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s 85 (6)–(13)

## Schedule Enactments amended

### Part 1

Acts amended when Act receives Royal assent

#### New (unanimous)

##### **Crown Entities Act 2004** (2004 No 115)

Repeal the item that repeals section 185(1) and (2) in the Land Transport Act 1998 item in Schedule 6.

Repeal the item that omits from section 197(1) in the Land Transport Act 1998 item in Schedule 6.

##### **Motor Vehicle Sales Act 2003** (2003 No 12)

Repeal the definition of **invalid carriage** in section 6(1).

Insert in section 6(1), in its appropriate alphabetical order:

“**mobility device** has the same meaning as in section 2(1) of the Land Transport Act 1998”.

Repeal paragraph (b)(i) of the definition of **motor vehicle** in section 6(1).

Add to paragraph (b) of the definition of **motor vehicle** in section 6(1) the (word “; or”) expression “:” and also add:

“(vii) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998:

“(viii) a mobility device”.

##### **Road User Charges Act 1977** (1977 No 124)

Add to the definition of **motor vehicle** in section 2(1) the words “; but does not include—” and also add:

“(a) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998; or

“(b) a mobility device as defined in section 2(1) of the Land Transport Act 1998”.

Part 1—*continued***Transport (Vehicle and Driver Registration and Licensing)****Act 1986** (1986 No 6)

Repeal the definition of **disabled person's vehicle** in section 2(1).  
Insert in section 2(1), in its appropriate order, the following definition:

“**mobility device** has the same meaning as in section 2(1) of the Land Transport Act 1998”.

Repeal paragraph (b) of the definition of **motor vehicle** in section 2(1).

Add to the definition of **motor vehicle** in section 2(1) the word “; or” and also add:

“(h) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under section 168A of the Land Transport Act 1998; or

“(i) a mobility device”.

Repeal paragraph (d) of the definition of **vehicle** in section 2(1).

## Part 2

## Acts amended when specified by Order in Council

**Education Act 1964** (1964 No 135)

Omit from the definition of the terms **passenger service** and **rental service** in section 201A(2) the expression “Transport Services Licensing Act 1989” and substitute the expression “Land Transport Act 1998”.

**Employment Relations Act 2000** (2000 No 24)

Repeal section 93(5) and substitute:

“(5) For the purposes of this section and section 94, **passenger road service** means the carriage of passengers on any road, whether or not for hire or reward, by means of a large passenger service vehicle within the meaning of that term in section 2(1) of the Land Transport Act 1998 (not including any service specified as an exempt service in the regulations or the rules made under that Act).”

**New Zealand Railways Corporation Act 1981** (1981 No 119)

Omit from section 16(5) the expression “Transport Services Licensing Act 1989” and substitute the expression “Land Transport Act 1998”.

Part 2—*continued***Privacy Act 1993** (1993 No 28)

Omit from the items relating to “medical details” and “wanted persons” in the third column of Schedule 5 the words “section 24 of the Transport Services Licensing Act 1989” in both places where they occur and substitute in each case the words “**subpart 2 of Part 4A** of the Land Transport Act 1998”

Omit from the item relating to “medical details” in the third column of Schedule 5 the words “section 46 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986” and substitute the words “section 19 of the Land Transport Act 1998”.

**Smoke-Free Environments Act 1990** (1990 No 108)

Omit from the definition of the terms **passenger service vehicle** and **small passenger service vehicle** in section 2 the expression “Transport Services Licensing Act 1989” and substitute the expression “Land Transport Act 1998”.

## Part 3

Regulations amended when Act receives Royal assent

**Health and Safety in Employment (Prescribed Matters)****Regulations 2003** (SR 2003/90)

Add to regulation 6(1)(b)(iv) the words “or subsequent corresponding enactment”.

**New Zealand Railways Corporation (General) Regulations****1982** (SR 1982/47)

Revoke the definition of **motor vehicle** in regulation 2(1) and substitute:

“**motor vehicle** (*means*)—

“(a) means a vehicle that is drawn or propelled by mechanical power; and includes a trailer and a caravan; but

“(b) does not include a vehicle that (*is powered solely by a motor that has been declared by the Director (within the meaning of the Land Transport Act 1998), by notice in the Gazette, to have a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998”.

**Traffic Regulations 1976** (SR 1976/227)

Revoke the definition of **invalid carriage** in regulation 2.

Part 3—*continued***Traffic Regulations 1976** (SR 1976/227)—*continued*

Insert in regulation 2, in its appropriate alphabetical order:

**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device”.

Revoke paragraph (b) of the definition of **motor vehicle** in regulation 2.

Add to the definition of **motor vehicle** in regulation 2 the word “; or” and also add:

- “(g) a vehicle that *(has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;* or
- “(h) a mobility device”.

Part 3—*continued***Traffic Regulations 1976** (SR 1976/227)—continued

Revoke paragraph (d) of the definition of **vehicle** in regulation 2.

**New (unanimous)**

Revoke regulation 83A.

Revoke regulation 136A(d).

**Transport (Vehicle Standards) Regulations 1990**

(SR 1990/247)

Revoke the definition of **invalid carriage** in regulation 2.

**War Pensions Regulations 1956** (SR 1956/7)

Revoke regulation 54A and substitute:

**“54A Financial assistance for purchase of motor vehicles**

In this Part of these regulations, **motor vehicle**—

“(a) includes a mobility device as defined in section 2(1) of the Land Transport Act 1998; but

“(b) does not include a vehicle that *(has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W)* the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998.”

## Part 4

Regulations amended when specified by Order in Council

**Auckland International Airport By-Laws Approval Order**

**1989** (SR 1989/369)

Omit from the definition of **large passenger service vehicle** in bylaw 2 of the Schedule the expression “Transport Services Licensing Act 1989” and substitute the expression “Land Transport Act 1998”.

Omit from the definition of **small passenger service vehicle** in bylaw 2 of the Schedule the expression “Transport Services Licensing Act 1989” and substitute the expression “Land Transport Act 1998”.

Part 4—*continued***Christchurch International Airport By-Laws Approval Order 1989** (SR 1989/405)

Omit from the definition of **large passenger service vehicle** in bylaw 2 of the Schedule the expression “Transport Services Licensing Act 1989” and substitute the expression “Land Transport Act 1998”.

Omit from the definition of **small passenger service vehicle** in bylaw 2 of the Schedule the expression “Transport Services Licensing Act 1989” and substitute the expression “Land Transport Act 1998”.

**Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001** (SR 2001/116)

Omit from the definition of **passenger service vehicle** in regulation 8(3) the expression “Transport Services Licensing Act 1989” and substitute the expression “Land Transport Act 1998”.

Revoke regulation 59(4) and substitute:

“(4) If electrical equipment is installed on any train, locomotive, tram, or trolley bus, the controls imposed on that electrical equipment under the Act are the same controls as are included in those parts of the following enactments that relate to hazardous areas:

“(a) the Land Transport Act 1998 or the regulations or the rules made under that Act:

“(b) the Transport Services Licensing Act 1989 or the regulations or the rules made under that Act.”

**Injury Prevention, Rehabilitation, and Compensation (Motor Vehicle Levy and Motor Vehicle Account Residual Levy)****Regulations 2003** (SR 2003/387)

Omit from the definition of **passenger service vehicle** in regulation 3 the expression “Transport Services Licensing Act 1989” and substitute the expression “Land Transport Act 1998”.

**Land Transport (Driver Licensing and Driver Testing Fees)****Regulations 1999** (SR 1999/93)

Omit from the definition of **large passenger service vehicle** in regulation 2(1) the expression “Transport Services Licensing Act 1989” and substitute the expression “Land Transport Act 1998”.

Omit from the definition of **small passenger service vehicle** in regulation 2(1) the expression “Transport Services Licensing Act 1989” and substitute the expression “Land Transport Act 1998”.

Part 4—*continued***Struck out (unanimous)****Land Transport (Offences and Penalties) Regulations 1999**  
(SR 1999/99)

Insert in the parenthetical clause under the heading to Schedule 4, after the expression “*section 96*”, the words “**or section 96A**”.

Insert in Part 1 of Schedule 4, after paragraph (e) under the heading **ADVICE TO DRIVER OR OPERATOR**, the word “; or” and the following:

- (f) in the case of a transport service vehicle, the transport service operator was disqualified from holding or obtaining a transport service licence; or
- (g) in the case of a transport service vehicle, the transport service operator’s transport service licence was suspended or revoked; or
- (h) in the case of a transport service vehicle, the transport service operator did not hold a transport service licence and had previously been forbidden to operate a transport service.

Add to clause 4(b) in Part 2 of Schedule 4:

“(vii) in the case of a transport service vehicle, the transport service operator was disqualified from holding or obtaining a transport service licence;  
or

“(viii) in the case of a transport service vehicle, the transport service operator’s transport service licence was suspended or revoked; or

“(ix) in the case of a transport service vehicle, the transport service operator did not hold a transport service licence and had previously been forbidden to operate a transport service; or”.

Add to clause 4 in Part 2 of Schedule 4 the word “; or”.

Add to clause 4 in Part 2 of Schedule 4:

“(i) if **section 96A** applies, the owner did not know that the operator of the transport service—

“(i) was disqualified from holding a transport service licence; or

“(ii) had the relevant transport service licence suspended or revoked; or

“(iii) did not hold a transport service licence and had previously been forbidden to operate a transport service.”

## Part 5

Regulations amended (*180 days after Act receives Royal assent*) on 16 January 2006 or on earlier date specified by Order in Council

**Land Transport (Assessment Centre and Accident Report Fees) Regulations 1998** (SR 1998/448)

Omit from regulation 2(1) the words “sections 65(4) and” and substitute the word “section”.

**Land Transport (Offences and Penalties) Regulations 1999** (SR 1999/99)

Omit from clause 1(a) in Part 1 of Schedule 3 the expression “800” and substitute the expression “650”.

Omit from clause 1(b) in Part 1 of Schedule 3 the expression “160” and substitute the expression “130”.

Insert in clause 1(d) in Part 1 of Schedule 3, after the word “applicable” the words “permanent posted”.

Omit from clause 1(d) in Part 1 of Schedule 3 the expression “50” and substitute the expression “40”.

Add to clause 1(d) in Part 1 of Schedule 3 the word “; or” and also add:

- (e) you have been convicted of a previous offence against any of sections 56(1) or (2), 58(1), 60(1), or 61(1) or (2) of the Act within the last 4 years, and you have undergone an evidential breath test under the Act and your breath alcohol concentration was found to exceed 400 micrograms of alcohol per litre of breath; or
- (f) you have been convicted of a previous offence against any of sections 56(1) or (2), 58(1), 60(1), or 61(1) or (2) of the Act within the last 4 years, and you have undergone an evidential blood test under the Act and your blood alcohol concentration was found to exceed 80 milligrams of alcohol per 100 millilitres of blood; or
- (g) you drove a motor vehicle on a road at a speed exceeding the applicable speed limit by more than 50 km/h (which speed was detected by means other than approved vehicle surveillance equipment).

Omit from the first bullet point in clause 2A in Part 1 of Schedule 3 the expression “160” and substitute the expression “130”.

Insert in the first bullet point in clause 2A in Part 1 of Schedule 3, after the words “of blood”, the words “or, if you have been convicted of 1 or more previous offences against any of sections 56(1) or (2), 58(1), 60(1), or 61(1) or (2) of the Act in the last 4 years, 80 milligrams of alcohol per 100 millilitres of blood”.

Omit from clause 2(b)(i) in Part 2 of Schedule 3 the expression “800” and substitute the expression “650”.

Omit from clause 2(b)(ii) in Part 2 of Schedule 3 the expression “160” and substitute the expression “130”.

Part 5—*continued***Land Transport (Offences and Penalties) Regulations 1999**  
(SR 1999/99)—*continued*

Omit from clause 2(b)(iii) in Part 2 of Schedule 3 the words “of section” and substitute the words “or section”.

Insert in clause 2(b)(iv) in Part 2 of Schedule 3, after the word “applicable”, the words “permanent posted”.

Omit from clause 2(b)(iv) in Part 2 of Schedule 3 the expression “50” and substitute the expression “40”.

Add to clause 2(b) in Part 2 of Schedule 3 the following:

“(v) you have been convicted of a previous offence against any of sections 56(1) or (2), 58(1), 60(1), or 61(1) or (2) of the Act within the last 4 years, and you have undergone an evidential breath test under the Act and your breath alcohol concentration was found to exceed 400 micrograms of alcohol per litre of breath; or

“(vi) you have been convicted of a previous offence against any of sections 56(1) or (2), 58(1), 60(1), or 61(1) or (2) of the Act within the last 4 years, and you have undergone an evidential blood test under the Act and your blood alcohol concentration was found to exceed 80 milligrams of alcohol per 100 millilitres of blood; or

“(vii) you drove a motor vehicle on a road at a speed exceeding the applicable speed limit by more than 50 km/h (which speed was detected by means other than approved vehicle surveillance equipment); or”.

Insert in Part 1 of Schedule 4, after paragraph (c) under the heading **ADVICE TO DRIVER OR OPERATOR**, the word “; or” and the following:

- (d) you had a breath alcohol concentration exceeding 400 micrograms of alcohol per litre of breath or a blood alcohol concentration exceeding 80 milligrams of alcohol per 100 millilitres of blood, and you have been convicted of 2 or more offences against any of sections 56(1) or (2), 58(1), 60(1), or 61(1) or (2) of the Act within the last 4 years; or
- (e) you failed or refused to undergo a blood test after having been required or requested to do so under section 72 or section 73 of the Act

Part 5—*continued***Land Transport (Offences and Penalties) Regulations 1999**  
(SR 1999/99)—*continued*

Add to Part 1 in Schedule 4:

If a blood sample has been taken, the impounded vehicle will be released to you when you are notified of the result of the blood test, but only if—

- “(a) the blood test shows you had a blood concentration of, or less than, 80 milligrams of alcohol per 100 millilitres of blood; and
- “(b) the result of the blood test is notified to you before the close of the 28-day impoundment period.”

Add to clause 4(b) in Part 2 of Schedule 4:

“(vi) the driver—

“(A) had a breath alcohol concentration exceeding 400 micrograms of alcohol per litre of breath or a blood alcohol concentration exceeding 80 milligrams per 100 millilitres of blood; and

“(B) had been convicted of 2 or more offences against section 56(1) or (2), section 58(1), section 60(1), or section 61(1) or (2) of the Act within the last 4 years; or”.

Omit from clause 13(a) in Part 2 of Schedule 4 the expression “28” and substitute the expression “10”.

## Part 6

Land Transport Rules amended when Act receives  
Royal assent

**Land Transport (Driver Licensing) Rule 1999** (SR 1999/100)

Insert in clause 2(1), in its appropriate alphabetical order:

**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or

Part 6—*continued***Land Transport (Driver Licensing) Rule 1999** (SR 1999/100)—  
continued**Struck out (unanimous)**

“(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W.”

**New (unanimous)**

“**mobility device** means—

“(a) a vehicle that—

“(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and

“(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or

“(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device”.

Revoke paragraph (c)(ii) of the definition of **motor vehicle** in clause 2(1).

Add to paragraph (c) of the definition of **motor vehicle** in clause 2(1) the word “; or” and also add:

“(vii) a vehicle that ~~(has been declared by the Director, by notice in the *Gazette*, to be propelled by a motor that has a maximum power output not exceeding 200 W)~~ the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998; or

“(viii) a mobility device”.

Revoke paragraph (c)(iv) of the definition of **vehicle** in clause 2(1).

Omit from clause 22 the words “hire or reward” and substitute the words “financial or commercial gain”.

Omit from clause 25(a) the words “hire or reward” and substitute the words “financial or commercial gain”.

Part 6—*continued***Land Transport Rule 45001: Dangerous Goods 1999**

Revoke paragraph (d) of the definition of **vehicle** in Part 2.

**Land Transport Rule 32001/1: Door Retention Systems 2001**

Insert in Part 2, in its appropriate alphabetical order:

**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.

Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that *(has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;*
- “(h) a mobility device.”

Part 6—*continued***Land Transport Rule 32008/1: External Projections 2001**

Insert in Part 2, in its appropriate alphabetical order:

**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.

Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;
- “(h) a mobility device.”

**Land Transport Rule 32006/1: Frontal Impact 2001**

Insert in Part 2, in its appropriate alphabetical order:

Part 6—*continued***Land Transport Rule 32006/1: Frontal Impact 2001—continued**  
**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.  
Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;
- “(h) a mobility device.”

**Land Transport Rule 32012/1: Glazing, Windscreen Wipe and Wash, and Mirrors 1999**

Insert in Part 2, in its appropriate alphabetical order:

Part 6—*continued***Land Transport Rule 32012/1: Glazing, Windscreen Wipe and Wash, and Mirrors 1999—continued****Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

“(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or

“(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

“(a) a vehicle that—

“(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and

“(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or

“(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.

Add to the definition of **motor vehicle** in Part 2:

“(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;

“(h) a mobility device.”

Revoke paragraph (d) of the definition of **vehicle** in Part 2.

**Land Transport Rule 32010/1: Head Restraints 2001**

Insert in Part 2, in its appropriate alphabetical order:

Part 6—*continued***Land Transport Rule 32010/1: Head Restraints 2001**—continued  
**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.  
Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;
- “(h) a mobility device.”

**Land Transport Rule 32002/1: Interior Impact 2001**

Insert in Part 2, in its appropriate alphabetical order:

Part 6—*continued***Land Transport Rule 32002/1: Interior Impact 2001**—continued  
**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.  
Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;
- “(h) a mobility device.”

**Land Transport Rule 32014: Light-vehicle Brakes 2002**

Insert in Part 2, in its appropriate alphabetical order:

Part 6—*continued***Land Transport Rule 32014: Light-vehicle Brakes 2002—**  
continued**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.  
Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that *(has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W)* the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;
- “(h) a mobility device.”

Revoke paragraph (d) of the definition of **vehicle** in Part 2.

**Land Transport Rule 31001: Passenger Service Vehicles 1999**

Insert in Part 2, in its appropriate alphabetical order:

Part 6—*continued***Land Transport Rule 31001: Passenger Service Vehicles 1999—**  
continued**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.  
Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;
- “(h) a mobility device.”

Revoke paragraph (d) of the definition of **vehicle** in Part 2.

Part 6—*continued***Land Transport Rule 32011: Seatbelts and Seatbelt Anchorages 2002**

Insert in Part 2, in its appropriate alphabetical order:

**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.

Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;
- “(h) a mobility device.”

Revoke paragraph (d) of the definition of **vehicle** in Part 2.

Part 6—*continued***Land Transport Rule 32004: Seats and Seat Anchorages 2002**

Insert in Part 2, in its appropriate alphabetical order:

**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.

Add to the definition of **motor vehicle**, in Part 2:

- “(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;
- “(h) a mobility device.”

Revoke paragraph (d) of the definition of **vehicle** in Part 2.

Part 6—*continued***Land Transport Rule 32003/1: Steering Systems 2001**

Insert in Part 2, in its appropriate alphabetical order:

**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.

Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;
- “(h) a mobility device.”

**Land Transport Rule 32013: Tyres and Wheels 2001**

Insert in Part 2, in its appropriate alphabetical order:

Part 6—*continued***Land Transport Rule 32013: Tyres and Wheels 2001**—continued  
**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.  
Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;
- “(h) a mobility device.”

Revoke paragraph (d) of the definition of **vehicle** in Part 2.

**Land Transport Rule 41001: Vehicle Dimensions and Mass 2002**  
Insert in Part 2, in its appropriate alphabetical order:

Part 6—*continued***Land Transport Rule 41001: Vehicle Dimensions and Mass 2002**—continued**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.  
Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;
- “(h) a mobility device.”

Revoke paragraph (d) of the definition of **vehicle** in Part 2.

**Land Transport Rule 33001: Vehicle Exhaust Emissions 2003**

Insert in Part 2, in its appropriate alphabetical order:

Part 6—*continued***Land Transport Rule 33001: Vehicle Exhaust Emissions 2003—**  
continued**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

“(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or

“(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

“(a) a vehicle that—

“(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and

“(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or

“(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.

Add to the definition of **motor vehicle** in Part 2:

“(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;

“(h) a mobility device.”

Revoke paragraph (d) of the definition of **vehicle** in Part 2.

**Land Transport Rule 34001: Vehicle Repair 1998**

Insert in Part 2, in its appropriate alphabetical order:

Part 6—*continued***Land Transport Rule 34001: Vehicle Repair 1998**—continued  
**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.  
Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998; or
- “(h) a mobility device.”

Revoke paragraph (d) of the definition of **vehicle** in Part 2.

Part 6—*continued***Land Transport Rule 35001/1: Vehicle Standards Compliance 2002**

Add to clause 9.3(3)(b) the words “and the licence number has been notified to the vehicle inspector”.

Insert in Part 2, in its appropriate alphabetical order:

**Struck out (unanimous)**

“**mobility device** means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment, and—

- “(a) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) has been declared by the Director, by notice in the *Gazette*, to have a maximum power output not exceeding 1 500 W”.

**New (unanimous)**

“**mobility device** means—

- “(a) a vehicle that—
  - “(i) is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
  - “(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or
- “(b) a vehicle that the Director has declared under **section 168A(1)** of the Land Transport Act 1998 to be a mobility device.”

Revoke paragraph (b) of the definition of **motor vehicle** in Part 2.  
Add to the definition of **motor vehicle** in Part 2:

- “(g) a vehicle that (*has been declared by the Director, by notice in the Gazette, to be propelled by a motor that has a maximum power output not exceeding 200 W*) the Director has declared is not a motor vehicle under **section 168A** of the Land Transport Act 1998;
- “(h) a mobility device.”

## Part 7

Land Transport Rules amended when specified by  
Order in Council**Land Transport (Driver Licensing) Rule 1999** (SR 1999/100)

Revoke the definition of **driver identification card** in clause 2(1) and substitute:

“**driver identification card** means a card issued under the regulations or the rules made under the Act”.

Omit from the definition of **passenger service** in clause 2(1) the words “Part 1 of the First Schedule of the Transport Services Licensing Act 1989 or in regulations referred to in that Part” and substitute the words “the Act or in regulations or rules made under the Act”.

Omit from the definition of **passenger service vehicle** in clause 2(1) the words “Part 2 of the First Schedule of the Transport Services Licensing Act 1989 or in regulations referred to in that Part” and substitute the words “the Act or in regulations or rules made under the Act”.

Revoke paragraph (e) of the definition of **vehicle recovery service** in clause 2(1) and substitute:

“(e) any service specified as an exempt service in the Act or in the regulations or rules made under the Act”.

**New (unanimous)**

Revoke clause 26(1)(b).

Revoke clause 35(1) and substitute:

“(1) In determining whether the applicant for, or the holder of, an endorsement specified in column 1 of the table to this subclause is a fit and proper person for the purposes of this rule, the Director may consider, and give such relative weight as the Director thinks fit to, the criteria in **subpart 2 of Part 4A** of the Act set out in column 2 of the table to this subclause in relation to that type of endorsement.

Table to clause 35(1)

<b>Type of endorsement</b>	<b>Criteria in subpart 2 of Part 4A of Act</b>
Driving instructor	section 30B section 30C
Passenger	section 30B

Part 7—*continued***Land Transport (Driver Licensing) Rule 1999** (SR 1999/100)—  
continued

	section 30C (in the case of a person who is driving or intends to drive small passenger service vehicles)
	section 30D (in the case of a person who is driving or intends to drive large passenger service vehicles)
Testing officer	section 30B section 30C
Vehicle recovery	section 30B section 30C”

Add to clause 82(1) the word “or; and also add:”

“(g) the person is the holder of a passenger endorsement and has been prohibited from holding or obtaining a passenger endorsement under **section 29A** of the Act.”

Add to clause 93:

“(f) work time and fatigue management courses for the purposes of **Part 4B** of the Act.”

## Part 8

Land Transport Rules amended (*180 days after Act receives Royal assent or*) on 16 January 2006 or on earlier date specified in Order in Council

**Land Transport (Driver Licensing) Rule 1999** (SR 1999/100)

Omit from clause 45(1) and (1A) the words “as specified in Schedule 5” in both places where they occur and substitute in each case the words “approved by the Director”.

Omit from clause 46 the words “in Schedule 5” and substitute the words “approved by the Director”.

Omit from clause 46 the words “as specified in Schedule 5” and substitute the words “as approved by the Director”.

Insert in clause 63(1)(i), before the word “date”, the word “original”.

Omit from the heading to Part 12 the words “**and Replacement**” and substitute the words “, **Replacement, and Reinstatement**”.

Insert, after clause 67:

Part 8—*continued***Land Transport (Driver Licensing) Rule 1999** (SR 1999/100)—  
continued**“67A Reinstatement of driver licence after end of  
disqualification**

- “(1) The Director may, from time to time, on the application of a person who has been disqualified for more than 12 months reinstate that person’s licence.
- “(2) A person is entitled to have his or her driver licence reinstated if—
- “(a) the person has served their disqualification, and there are no further subsequent periods of disqualification left to serve as of the date of application; and
  - “(b) the person complies with clause 67(2)(a); and
  - “(c) in the case of an applicant of 75 years of age or over, the person produces a medical certificate in accordance with clause 44; and
  - “(d) in the case of an applicant of 80 years of age or over, the person passes the older driver test under clause 49; and
  - “(e) in the case of an applicant for a licence of any of Classes 2, 3, 4, or 5, the person produces a medical certificate in accordance with clause 44; and
  - “(f) in the case of an applicant for a licence of any of—
    - “(i) Classes 1, 2, 3, 4, or 5, the person passes—
      - “(A) the appropriate theory test under clause 45 for the highest class of driver licence the person is applying to reinstate; and
      - “(B) the appropriate practical driving test for the highest class of driver licence the person is applying to reinstate in accordance with clauses 48, 49, and 51; or
    - “(ii) Classes 2, 3, 4, and 5, the person completes a course approved under clause 93 (if any); and
  - “(g) in the case of an applicant for a Class 6 driver licence, the person passes—
    - “(i) the theory test for a Class 6 licence under clause 45(1); and
    - “(ii) the practical driving test for a Class 6 licence under clause 51 or clause 48(3), (4), or (5), as appropriate.

Part 8—*continued***Land Transport (Driver Licensing) Rule 1999** (SR 1999/100)—  
continued

- “(3) If a person to whom **subclause (2)(f)** applies complies with **subclause (2)(f)(i) (2)(f)(i)(A)**, the person’s driver licence may be reinstated subject to the condition specified in clause 16(1)(a).
- “(4) A condition imposed under **subclause (3)** continues in force until the person to whom it applies complies with **subclause(2)(f)(i)(B) or subclause (2)(f)(ii)**.
- “(5) If a person to whom **subclause (2)(g)** applies complies with **subclause (2)(g)(i)**, the person’s driver licence may be reinstated subject to the conditions specified in clause 16(1)(b) and (c).
- “(6) The conditions imposed under **subclause (5)** continue in force until the person to whom they apply complies with **subclause (2)(g)(ii)**.”

Revoke Schedule 5.

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**Legislative history**

22 June 2004	Introduction (Bill 112–1)
29 June 2004	First reading and referral to Transport and Industrial Relations Committee

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