

Land Transport (Road Safety) Amendment Bill

Government Bill

As reported from the Justice Committee

Commentary

Recommendation

The Justice Committee has examined the Land Transport (Road Safety) Amendment Bill and recommends that it be passed. We recommend all amendments unanimously except for those in clauses 28 and 31A, which we recommend by majority.

Introduction

The Land Transport (Road Safety) Amendment Bill seeks to reduce unsafe behaviour on New Zealand's roads by increasing the speed and severity of enforcement. The bill has two main objectives: to improve the legislative response to fleeing drivers and to improve safety within the land transport system.

The bill would target fleeing drivers by amending the Land Transport Act 1998 to:

- lengthen from 28 days to 6 months the period for which an enforcement officer may seize and impound a vehicle, if the driver has failed to stop or remain stopped when required
- create a new power to enable an enforcement officer to seize and impound a vehicle for 28 days if the driver, owner, or registered person fails to provide information about a fleeing driver, and impounding the vehicle is necessary to prevent a serious threat to road safety
- increase the licence disqualification period after a second conviction for a failing-to-stop offence, from 1 year to 1–2 years.

The bill would also amend the Sentencing Act 2002 to create a new sentencing option enabling the courts to order that a vehicle be forfeited on conviction for a failing-to-stop offence.

The bill would further amend the Land Transport Act to improve general road safety and speed enforcement. These amendments include:

- providing for the electronic service of notices and the automated issuing of certain infringement notices
- enabling point-to-point safety cameras to be used as an enforcement tool for speeding offences.

The bill would also make amendments to the Summary Proceedings Act 1957, the Land Transport (Offences and Penalties) Regulations 1999, and the Land Transport (Storage and Towage of Impounded Vehicles) Regulations 1999.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Changes to the commencement date

As introduced, clause 2 of the bill establishes that it would come into force the day after it received Royal assent. However, we recommend that clause 2 be amended so that the bill would come into force 6 weeks after it received Royal assent.

Extending the commencement date would allow sufficient time for the changes proposed by this bill to be implemented and communicated to the public. Implementation activities would include the New Zealand Police amending the impoundment notices, preparing guidance on the appeals process, training staff, and putting in place mechanisms to monitor and report on the outcomes of appeals. This 6-week extension would also allow Waka Kotahi New Zealand Transport Agency (Waka Kotahi) to develop guidance for towage and storage operators about the new impoundment regime and create a new financial assurance regime for 6-month impoundments.

Defining “converted”

Section 96AAA, inserted into the Land Transport Act by clause 10, would give an enforcement officer the power to seize and impound a vehicle for 6 months. The officer would have to be satisfied that the person driving the vehicle had failed to stop (or remain stopped) as signalled, requested, or required, and that the vehicle:

- (i) is not a stolen vehicle; and
- (ii) has not been converted; and
- (iii) is not a write-off; and
- (iv) has not suffered severe damage.

We consider that the use of the word “converted”, which is not defined in the bill, could be confusing and open to interpretation.

Section 226 of the Crimes Act 1961 defines the conversion of a vehicle in the following way:

- (1) Every one is liable to imprisonment for a term not exceeding 7 years who, dishonestly and without claim of right, but not so as to be guilty of theft, takes or uses for his or her own purposes or another person's purposes—
 - (a) any vehicle, ship, or aircraft; or
 - (b) any part of any vehicle, ship, or aircraft; or
 - (c) any horse.
- (2) Every one is liable to imprisonment for a term not exceeding 2 years who attempts to commit the offence in subsection (1) or who, dishonestly and without claim of right, interferes with, or gets into or upon, any vehicle, ship, or aircraft.

We consider that the definition of conversion found in the Crimes Act should be replicated in section 2 (the interpretation section) of the Land Transport Act. We think this would provide clarity and remove the potential for different interpretations of the law. We recommend amending clause 4 accordingly.

Sharing impoundment notices with Waka Kotahi

Clause 9 would amend section 96 of the Land Transport Act, and clause 10 would insert new sections 96AAA and 96AAB. These sections would set out criteria for the seizure and impoundment of a vehicle as part of an expanded seizure and impoundment regime.

Under the expanded 6-month impoundment regime proposed by the bill, Waka Kotahi would be responsible for financially guaranteeing the costs involved in towing and storing an impounded vehicle. However, as introduced, the bill does not provide for Waka Kotahi to be notified when a vehicle is seized or impounded.

We consider that, as Waka Kotahi would be financially responsible for the vehicle while it was impounded, there should be provision in the bill requiring it to be notified upon impoundment. We recommend amending clause 10 of the bill to insert new section 96AAA(2A) into the Act. New section 96AAA(2A) would introduce a requirement for the Police to send a copy of the impoundment notice when a vehicle is impounded under new section 96AAA.

Expanding references to “registered person”

The expanded seizure and impoundment regime established in amended section 96 and new sections 96AAA and 96AAB would, in some cases, make the registered person liable for actions taken using their vehicle. The vehicle could be released to the registered person if the Police chose not to take further enforcement action or the “registered person” had met certain criteria.

For the purposes of the Land Transport Act, a “registered person” is an individual who has registered a vehicle against their name in the motor vehicle register. We gave

thought to what would happen to vehicles that are unregistered. We consider that, when a vehicle is not registered, the vehicle's owner should have the same rights and obligations for payment as a registered person would. We therefore recommend amending clauses 9 and 10, and associated consequential clauses (including regulations) to expand references to the "registered person" to include the legal owner of the vehicle, if the vehicle is not registered.

Releasing a vehicle if no prosecution is sought

New section 96AAB, introduced by clause 10, would establish criteria for the impoundment of a vehicle used in a fleeing driver offence if the owner or hirer fails or refuses to provide information to an enforcement officer. In these circumstances, a vehicle could be impounded if necessary to prevent a serious threat to road safety.

New section 96AAB(3)(a) states that if a vehicle were seized and impounded under this section, then provisions set out in sections 96(2) to (4A) and 96(6) to (8) of the Land Transport Act would apply.

Section 96(6) of the Land Transport Act sets out criteria for when an impounded vehicle must be returned. However, we consider that it should be made clear in the bill that if the Police choose not to prosecute, the vehicle must be returned to the owner or hirer.

Therefore, we recommend removing the reference to section 96(6) from clause 10. Instead, we recommend inserting new sections 96AAB(4) and 96AAB(5) to introduce a clear requirement for the Police to return an impounded vehicle to the relevant person if they chose not to prosecute. This change would also align section 96AAB with section 96AAA, which includes a clear requirement for the Police to return a vehicle impounded on suspicion of being used in a fleeing driver event if they do not prosecute the owner.

Providing greater financial assurance

We acknowledge that there are likely to be many financial stakeholders involved in the seizure, impoundment, and storage of a vehicle. Stakeholders in this process can include the registered person, the towage operator, the storage provider, and any financial services providers who have an interest in the vehicle.

Section 97A, as inserted by clause 13 of the bill, would establish that Waka Kotahi is responsible for providing financial assurance to the towage and storage companies for 6-month impoundments. In practice, this means that Waka Kotahi would be responsible for paying these companies to cover the cost of towing and storing the impounded vehicles. The registered person, who is ultimately liable for these expenses, would then pay Waka Kotahi to reimburse these fees.

We recommend amending clause 13 to insert new section 97B into the bill. New section 97B would give Waka Kotahi the power to enter into an arrangement with the registered person to recover the fees incurred through the towage and storage of an impounded vehicle.

We also recommend amending the Land Transport (Storage and Towage Fees for Impounded Vehicles) Regulations 1999 through clause 51 to ensure that the payment of fees by the registered person would be made to Waka Kotahi instead of the towage operator for 6-month impoundments.

Accommodating vehicles with a financial interest

We acknowledge that a financial services provider may have a financial interest in an impounded vehicle. We believe the bill should be amended to allow the financial services provider to repossess an impounded vehicle without accepting the financial liabilities associated with the seizure and impoundment.

We recommend amending section 97A, to clarify that when a vehicle that has been impounded is repossessed by a financial services provider, they would not be liable for fees incurred through the towing and impoundment of the vehicle. Under new section 97A(2A), the provider would be liable to cover costs incurred by Waka Kotahi in locating the vehicle.

We also recommend amending new section 98AAA, introduced by clause 15. Our amendment would see an impounded vehicle released if the financial services provider became the registered person of the vehicle.

A number of submitters raised concerns with us that a financial services provider would not be aware if a vehicle had been impounded. Due to privacy concerns, it would not be appropriate to have Waka Kotahi or the Police notify a financial services provider if a vehicle it had a financial interest in had been impounded. Instead we think the onus should be on the finance provider's client to notify their finance provider of a change in circumstances, such as the vehicle being impounded.

We suggest that finance providers consider clarifying within their contracts that a requirement sits with the client to notify them of such a change in circumstances.

Automated infringement systems

It is intended that the point-to-point speed camera system would include an automated enforcement system. In the bill as introduced, this system would take data from the speed camera network and automatically issue an infringement notice if the camera had detected an offence. We recommend several changes to the bill relating to this system.

Automated infringement system would verify an offence detected by a camera

We understand that the wording of section 139AAA, as introduced, is inaccurate. Rather than detecting the offence, the infringement system would verify an offence detected by a speed camera. We recommend amending section 139AAA to reflect that the automatic infringement system would verify an offence rather than detect it.

We also recommend clarifying in section 139AAA that the automatic infringement system would use information provided by approved vehicle surveillance equipment. Our amendment would also make clear that the system would be linked with informa-

tion contained on the register of motor vehicles, in order to verify the offence information.

The Minister of Transport must approve the infringement system

In the bill as introduced, the Director of Land Transport would be responsible for approving an automated enforcement system. We recommend amending new section 139AAB, introduced by clause 26, to instead require the Minister of Transport to approve the automated infringement system. This change would ensure that the Minister would have oversight of the running and auditing of the infringement system. It would also require the Minister to be satisfied that an enforcement agency would undertake an annual assurance process that considered both the capability and processes of the system, including how it handles privacy.

We also recommend amending new section 141A, proposed by clause 27. Our amendment would clarify that while approval to operate the system would be at the Minister's authority, it would be the responsibility of the enforcement agency to ensure that the system was working in the manner set out in section 139AAA(1). This amendment would also require the agency to ensure that the system has undergone a quality assurance process as required in section 139AAC.

Clarifying criteria for infringement notices

We recommend inserting new clause 26A into the bill to amend section 140 of the Land Transport Act. Amended section 140 would detail the criteria for the issue of an infringement notice for speeding detected by a point-to-point camera system. Amended section 140(1A) would clarify the criteria for point-to-point cameras when more than one speed limit applies between the detection points. This section would make it clear that in cases like this, the average weighted speed of the car applies.

We also recommend clarifying that in the case of a speeding offence where the average speed is relied on, the location of the offence is between the two detection points. Our amendment would also make clear that the time of the offending was the whole time the vehicle was between these points.

Signposting speed cameras

We think that any point-to-point speed cameras should be well signposted. We recommend amending clause 28 to insert new section 146E. New section 146E would require the road controlling authority to install and maintain signage advising motorists of the presence of a point-to-point camera system.

The validity of proceedings for average speed offences would not be affected if the sign was obscured, defaced, damaged, or removed by any person.

Discretionary powers for the courts

Clause 39 would amend section 129 of the Sentencing Act. Section 129 requires that a Court order the confiscation of a vehicle used in the commission of a second specified offence if it was committed within four years of an initial specified offence.

We recommend amending clause 39 to clarify that, if the second specified offence is a fleeing driver offence, the court must either order confiscation, or use the power in section 142AAB to apply a forfeiture order.

This amendment would ensure that the Court retains the power to order forfeiture, regardless of whether it is a first or subsequent offence. In the case of a subsequent offence that would fall within section 129, the amendment would create a requirement of confiscation if forfeiture is not ordered.

Recording electronic addresses

Section 199 of the Land Transport Act requires Waka Kotahi to maintain the national register of all driver licences. The register must contain a licence holder's full name, address, gender, date of birth, place of birth (if known to the Agency), and signature. We believe this requirement should be updated to require the register to also contain a licence holder's electronic address (email) if it is known.

We recommend amending section 199(2) through clause 29 to implement this recommendation.

Land Transport (Infringement and Reminder Notices) Regulations 2012

We recommend inserting clauses 49C to 49J to update Schedules 1, 1A, and 2 to 8 of the Land Transport (Infringement and Reminder Notices) Regulations 2012. These regulations establish the form that infringement notices must take. At present the regulations do not allow for an infringement notice to be sent electronically. Our proposed amendments would update the regulations to allow for an infringement notice to be sent electronically.

Expanding the definition of “enforcement officer”

Section 208A of the Land Transport Act establishes that Waka Kotahi is an enforcement officer for certain infringement offences for the purposes of issuing an infringement notice under section 139. We consider that section 208A should be expanded to make it clear that the Agency is an enforcement officer where the infringement is verified by an automated infringement system. We recommend inserting new clause 31A accordingly.

Amendments to the Privacy Act

The Privacy Act enables agencies to access law enforcement information held by another agency if such access is authorised by the provisions of Schedule 4.

The Police, who currently operate the traffic safety camera network, are at present able to share information gathered by these cameras with Waka Kotahi, the Ministry of Justice, and the Legal Services Commissioner. If the traffic safety camera network transfers to Waka Kotahi, we recommend enabling Waka Kotahi to share information from traffic safety cameras with the Police, the Ministry of Justice, and the Legal Services Commissioner.

We therefore recommend inserting new clause 45I into the bill. Clause 45I would amend Schedule 4 of the Privacy Act to enable this.

ACT New Zealand differing view

This bill seeks to confiscate vehicles of fleeing drivers regardless of whether the owner was driving the vehicle or not. ACT opposes the Government punishing property owners for the alleged criminal acts of others.

The cost of six months of vehicle storage and towage could also ultimately be borne by the taxpayer. If the vehicle is not claimed by the owner, Waka Kotahi will pay all related fees. We estimate that taxpayer burden to start at \$2,500 per vehicle.

ACT acknowledges the challenges our front-line Police face in apprehending fleeing driver. The recent change to Police pursuit policy should assist greatly, without the need to confiscate the property of others.

New Zealand National Party differing view

The National Party supports the primary purpose of this bill to provide Police with more power against fleeing drivers. This will help in a small way to deal with an issue which has got out of control in the past few years. On that basis we will support the bill.

We do not support another policy included in the legislation, however, to allow for point-to-point speed cameras. Figures shown to the select committee showed that speed was the cause in less than 10 percent of crashes resulting in death or injury. Instead of putting more focus on all the other factors such as drink driving, drugged driving, not wearing seatbelts, the quality of the roads, the Government continues to look for ways to slow drivers down. We do not believe this should be a priority that is rushed through as part of this legislation.

Appendix

Committee process

The Land Transport (Road Safety) Amendment Bill was referred to the committee on 18 May 2023.

We called for submissions on the bill with a closing date of 4 June 2023. We received and considered submissions from 33 interested groups and individuals. We heard oral evidence from 8 submitters.

We received advice on the bill from the Ministry of Transport, the Ministry of Justice, Waka Kotahi, and the New Zealand Police. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Vanushi Walters (Chairperson)

Hon Paul Goldsmith

Dr Emily Henderson

Anahila Kanongata'a

Marja Lubeck

Nicole McKee

Hon Mark Mitchell

Simon O'Connor

Arena Williams

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

text inserted unanimously

~~text deleted by a majority~~

~~text deleted unanimously~~

Hon Kiritapu Allan

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Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Land Transport (Road Safety) Amendment Act **2023**.

2 Commencement

This Act comes into force on the day that is 6 weeks after Royal assent. 5

Part 1

Amendments to Land Transport Act 1998

3 Principal Act

This Part amends the Land Transport Act 1998.

4 Section 2 amended (Interpretation) 10

In section 2(1), insert in their appropriate alphabetical order:

automated infringement notice-system means a device or a system of devices that has been approved by the Minister of Transport under **section 139AAB**

- (a) ~~can automatically do the following:~~
- (i) ~~detect the commission of an infringement offence that is a moving vehicle offence:~~ 15
 - (ii) ~~recognise that 1 or more images or sequences of images connected with the infringement offence are of sufficient quality to be used as evidence in relation to the offence:~~
 - (iii) ~~recognise the registration plate of the vehicle involved in the infringement offence:~~ 20
 - (iv) ~~identify the registered person for the vehicle:~~

- (v) identify a physical or electronic address to which an infringement notice can be issued;
- (vi) issue an infringement notice under **section 139AAA**; and
- (b) has been approved by the Director under **section 141A**
- convert**, in relation to a motor vehicle, means to dishonestly and without claim of right, but not so as to be guilty of theft, take or use the vehicle for one's own purposes or another person's purposes (*see* Crimes Act 1961, section 226), and **converted** has a corresponding meaning
- electronic address** includes an email address
- information system**, in relation to electronic communications, means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications
- point-to-point average speed system** means a system that—
- (a) consists of 2 items of approved vehicle surveillance equipment that operate in combination and with the support of associated software; and
- (b) has the ability to calculate the average speed of a motor vehicle between 2 detection points; and
- (c) has been approved by the Minister by notice (*see* subsection (6)).
- 5 Section 22 amended (Driver's duties where accident occurs)**
- (1) After section 22(2)(a), insert:
- (aa) the driver's or rider's electronic address (if the driver or rider has an electronic address); and
- (2) After section 22(2)(b), insert:
- (ba) the owner's electronic address (if the owner has an electronic address); and
- (3) After section 22(4)(a), insert:
- (aa) the driver's or rider's electronic address (if the driver or rider has an electronic address); and
- 6 Section 49 amended (Contravention of section 97(5) or (6))**
- In section 49(1)(a) and (b), replace “sections 96, 96A” with “sections 96, **96AAA, 96AAB**, 96A”.
- 7 Section 52A amended (Contravention of section 114)**
- In section 52A(4), replace “1 year” with “a period of not less than 1 year and not more than 2 years”.

8 Section 91B amended (Ways in which warning notice or driver licence stop order or details of related fines must be served)

Repeal section 91B(5).

9 Section 96 amended (Vehicle seized and impounded for 28 days in certain circumstances)

5

(1) Repeal section 96(1AB).

(2) In section 96(1E) and (2), replace “(or authorises the impoundment of)” with “, or seizes and authorises the impoundment of,”.

(3) After section 96(2)(a)(i), insert:

(ia) ~~the registered person’s~~ driver’s electronic address (if the ~~person~~ driver has an electronic address); and

10

(4) Replace section 96(2)(c) and (d) with:

(c) if the driver has left the scene, give a copy of the notice to the registered person, if that person is present at the time of the seizure, or send a copy of the notice to that person in accordance with **subsection (2AAA)**; and

15

(d) give or send a copy of the notice to the vehicle recovery service ~~provider~~ operator who tows or carries the impounded motor vehicle to the place where it is to be stored; and

(da) give or send a copy of the notice to the storage provider who stores the motor vehicle; and

20

(5) After section 96(2), insert:

(2AAA) For the purposes of **subsection (2)(c)**, if the registered person is not present at the time of the seizure, the enforcement officer must, as soon as practicable, send a copy of the notice to the registered person—

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(a) by post addressed to that person at their last known place of residence or business, their last known postal address, or their address as recorded on the register of motor vehicles or any other register administered by the Agency; or

(b) by electronic means addressed to that person at their electronic address (if any) as recorded on the register of motor vehicles or any other register administered by the Agency.

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(6) After section 96(2A)(a)(ii), insert:

(iia) electronic address (if the driver has an electronic address); and

(7) After section 96(2A)(b)(ii), insert:

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(iia) electronic address (if the person has an electronic address); and

(8) In section 96(3), replace “The owner of an impounded vehicle” with “The ~~registered person for, or the hirer of, an impounded vehicle~~ relevant person specified in subsection (6B)”.

- (9) In section 96(5), replace “seize or impound” with “seize and impound”.
- (10) In section 96(6) and (6A), replace “the owner” with “~~registered person or hirer~~the relevant person specified in **subsection (6B)**”.
- (11) Repeal section 96(6)(a)(iii) and (iv) ~~and (6B)~~.
- (12) Replace section 96(6B) with:

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(6B) In subsections (6) and (6A), the vehicle is released—

- (a) to the registered person, if the vehicle is registered; or
- (b) if the vehicle is not registered, to a person who the enforcement officer is satisfied is the owner of the vehicle.

10 New sections 96AAA and 96AAB inserted

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After section 96, insert:

96AAA Impoundment of motor vehicle used in fleeing driver offence

- (1) An enforcement officer may seize and impound, or seize and authorise the impoundment of, a motor vehicle for 6 months if the officer believes on reasonable grounds that—

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- (a) the person driving the vehicle has failed to stop (or remain stopped) as signalled, requested, or required under section 114 (*see* section 52A(1)(a) and (b) for the offence); and
- (b) the vehicle—
- (i) is not a stolen vehicle; and
- (ii) has not been converted; and
- (iii) is not a write-off; and
- (iv) has not suffered severe damage.

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- (2) If an enforcement officer seizes and impounds, or seizes and authorises the impoundment of, a motor vehicle under this section, ~~the following provisions apply~~ section 96(2) to (4A), (7), and (8) ~~applies~~, with any necessary modifications, as if the vehicle were seized and impounded under section 96.

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(a) ~~section 96(2) to (4A), (7), and (8):~~

(b) ~~section 97:~~

(c) ~~section 98 (in which the modifications include a reference to a 6-month impoundment period rather than a 28-day impoundment period).~~

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(2A) Despite **subsection (2)**, the enforcement officer who gives or sends a copy of the notice to a storage provider under **section 96(2)(da)** must, at the same time, send a copy of the notice to the Agency.

- (3) A vehicle to which this section ~~applies~~ and a notice under section 96(2) relates must be released to the relevant person specified in **subsection (5)** ~~registered person or hirer~~ if—

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- (a) the Police have decided not to take any of the following proceedings (or if proceedings have been taken and the person against whom they are taken is acquitted):
- (i) proceedings against the ~~person—driver~~ who failed to stop (or remain stopped) (*see* section 52A(1)(a) or (b) for the offence): 5
 - (ii) proceedings against the registered person ~~for~~, or hirer (~~as applicable~~) of, the motor vehicle who, without reasonable excuse, failed or refused to provide information or provided false or misleading information has not provided the information requested under section 118(4) (*see* section 52(6) for the offence); and 10
- (b) the vehicle has not been—
- (i) released; or
 - (ii) seized under the Summary Proceedings Act 1957; or
 - (iii) confiscated under the Sentencing Act 2002.
- (4) A vehicle to which this section applies and a notice under section 96(2) relates 15
~~may be released to the registered person or hirer if the registered person or hirer (as applicable) relevant person specified in subsection (5) if that person—~~
- (a) was not the person driving the vehicle when the vehicle failed to stop (or remain stopped); and 20
 - (b) has provided the information requested under section 118(4).
- (5) For the purposes of subsections (3) and (4), the vehicle is released,—
- (a) if the vehicle is registered,—
 - (i) to the hirer (if any) of the vehicle; or
 - (ii) otherwise, to the registered person for the vehicle; or 25
 - (b) if the vehicle is not registered, to a person who the enforcement officer is satisfied is the owner of the vehicle.

96AAB Impoundment of motor vehicle for failure to give information about fleeing driver offence

- (1) This section applies if a vehicle— 30
- (a) is involved in the commission of an offence against section 52A(1)(a) or (b); and
 - (b) has not been seized and impounded under **section 96AAA**.
- (2) An enforcement officer may seize and impound, or seize and authorise the impoundment of, a motor vehicle for 28 days if the officer believes on reasonable grounds that— 35
- (a) either—

- (i) the driver of the vehicle failed or refused to provide information or provided false or misleading information in response to a demand for information made by the officer under section 114(3)(b) (*see* section 52A(1)(c) for the offence); or
- (ii) ~~the owner or hirer of registered person for, or the hirer of, the~~ motor vehicle, without reasonable excuse, failed or refused to provide information or provided false or misleading information ~~in response to a request for information made by the officer requested~~ under section 118(4) (*see* section 52(6) for the offence); and
- (b) impounding the vehicle is necessary to prevent a serious threat to road safety.
- (3) If an enforcement officer seizes and impounds, or seizes and authorises the impoundment of, a vehicle under this section, the following provisions apply, with any necessary modifications, as if the vehicle were seized and impounded under section 96:
- (a) section 96(2) to (4A), ~~(6)~~, (7), and (8):
- (b) section 97:
- (c) section 98.
- (4) A vehicle to which this section applies and a notice under section 96(2) relates must be released to the relevant person specified in **subsection (6)** if the Police have decided not to take any of the following proceedings (or if proceedings have been taken and the person against whom they are taken is acquitted):
- (a) proceedings against the driver for a matter referred to in **subsection (2)(a)(i)**:
- (b) proceedings against the registered person or hirer for a matter referred to in **subsection (2)(a)(ii)**.
- (5) A vehicle to which this section applies and a notice under section 96(2) relates may be released to the relevant person specified in **subsection (6)** if—
- (a) the driver has given the information demanded under section 114(3)(b); or
- (b) the registered person or hirer has given the information requested under section 118(4).
- (6) For the purposes of **subsections (4) and (5)**, the vehicle is released,—
- (a) if the vehicle is registered,—
- (i) to the hirer (if any) of the vehicle; or
- (ii) otherwise, to the registered person for the vehicle; or
- (b) if the vehicle is not registered, to a person who the enforcement officer is satisfied is the owner of the vehicle.

11 Section 96A amended (Impoundment of vehicle used in transport service)

(1) After section 96A(2)(a)(i), insert:

(ia) the driver's electronic address (if the driver has an electronic address); and

(2) After section 96A(2)(a)(ii), insert:

(iia) the transport service operator's electronic address (if the transport service operator is different from the driver and has an electronic address); and

(3) Replace section 96A(2)(c) and (d) with:

(c) if the driver has left the scene, give a copy of the notice to the registered person, if that person is present at the time of the seizure, or send a copy of the notice to that person in accordance with **subsection (2AAA)**; and

(d) give or send a copy of the notice to the vehicle recovery service ~~provider~~ operator who tows or carries the impounded motor vehicle to the place where it is to be stored; and

(da) give or send a copy of the notice to the storage provider who stores the motor vehicle; and

(4) After section 96A(2), insert:

(2AAA) For the purposes of **subsection (2)(c)**, if the registered person is not present at the time of the seizure, the enforcement officer must, as soon as practicable, send a copy of the notice to the registered person—

(a) by post addressed to that person at their last known place of residence or business, their last known postal address, or their address as recorded on the register of motor vehicles or any other register administered by the Agency; or

(b) by electronic means addressed to that person at their electronic address (if any) as recorded on the register of motor vehicles or any other register administered by the Agency.

(5) After section 96A(2A)(a)(ii), insert:

(iia) electronic address (if the driver has an electronic address); and

(6) After section 96A(2A)(b)(ii), insert:

(iia) electronic address (if the transport service operator has an electronic address); and

(7) In section 96A(3), replace “owner of an impounded vehicle” with “relevant person specified in **subsection (7)**”.

(8) In section 96A(6), replace “owner” with “relevant person specified in **subsection (7)**”.

(9) After section 96A(6), insert:

- (7) For the purposes of subsections (3) and (6), the relevant person is,—
- (a) if the vehicle is registered, the registered person for the vehicle; or
 - (b) if the vehicle is not registered, a person who the enforcement officer is satisfied is the owner of the vehicle.

12 Section 97 amended (Storage of impounded vehicles) 5

- (1) In the heading to section 97, after “vehicles”, insert “: generally”.
- (2) In section 97(1), after “section 96”, insert “or **96AAB**”.
- (3) In section 97(2) and (3), replace “owner of the impounded vehicle” with “registered person for the impounded vehicle”.
- (4) Repeal section 97(2A). 10
- (5) In section 97(4), replace “owner of the vehicle” with “registered person for the vehicle”.
- (6) In section 97(6)(a), replace “owner” with “registered person” in each place.

13 New sections 97A and 97B inserted (Storage of vehicles impounded under section 96AAA) 15

After section 97, insert:

97A Storage of vehicles impounded under section 96AAA

- (1) A motor vehicle seized and impounded under **section 96AAA** must be stored where the enforcement officer directs.
- (2) The registered person for the impounded vehicle is liable to pay the fees and charges for towage and storage that are prescribed or assessed in the manner specified by regulations made under section 167. 20
- (3) **Subsection (2)** does not apply if—
 - (a) the registered person, or a person authorised by them, has not claimed the vehicle; or 25
 - (b) the vehicle is released under **section 96AAA(3) or (4)**; or
 - (c) the registered person is a person who—
 - (i) holds a security interest in the vehicle before its seizure for impoundment; and
 - (ii) since the impoundment,— 30
 - (A) repossessed the vehicle under Part 3A of the Credit Contracts and Consumer Finance Act 2003 or section 109 of the Personal Property Securities Act 1999; and
 - (B) became the registered person.
- (2A) However, a registered person described in **subsection (3)(c)** is liable to pay a prescribed fee or charge to cover costs incurred by the Agency in locating the 35

- vehicle on request by that person on becoming entitled to possession of the vehicle after it was impounded.
- (4) Fees and charges under **subsection (2)** are—
- (a) payable to the Agency; and
 - (b) recoverable from the Agency by a vehicle recovery service operator or a storage provider. 5
- (5) **Subsection (6)** applies if—
- (a) a court orders—
 - (i) the confiscation of the vehicle under the Sentencing Act 2002; or
 - (ii) the forfeiture of the vehicle under **section 142AAB** of that Act; and 10
 - (b) the vehicle is sold under section 137 of the Sentencing Act 2002 (including as that provision is applied by **section 142AAE or 142AAF** of that Act).
- (6) In the circumstances described in **subsection (5)**, fees and charges under **subsection (2)** are recoverable by a vehicle recovery service operator or a storage provider from the chief executive of the Ministry of Justice as impoundment costs in accordance with that provision. 15
- (7) Any 1 or more of the following persons may enter into any arrangements they consider necessary with vehicle recovery service operators and storage providers for the payment of fees and charges under this section: 20
- (a) the Commissioner:
 - (b) the Agency:
 - (c) the chief executive of the Ministry of Justice:
 - (d) a Registrar. 25
- (8) A person may not remove or release an impounded motor vehicle from storage unless allowed to do so under this Act.
- (9) In **subsection (7)(d)**, **Registrar** means any Registrar of the High Court or of the District Court, as the case may require, and includes a Deputy Registrar.
- 97B Fee arrangements for vehicles impounded under section 96AAA** 30
- (1) For the purposes of section 98(1)(b) (as applied by **section 98AAA(2)**), the Agency may, on request, enter into an arrangement with the registered person under which fees and charges for towage and storage of the vehicle may be paid by instalments.
- (2) On receiving a request for an instalment arrangement, the Agency may— 35
- (a) ask the person making the request for further information to enable the Agency to make a decision; or
 - (b) make a counter-offer to the person who made the request.

- (3) After considering all available information, the Agency may—
- (a) enter into an instalment arrangement if satisfied that doing so is necessary or desirable to maximise recovery of unpaid fees and charges; or
 - (b) on any reasonable grounds, decline to make an arrangement.
- (4) The terms of an instalment arrangement may include an interest charge at the rate determined under section 120E(1)(a) of the Tax Administration Act 1994. 5
- (5) The Agency may cancel an instalment arrangement if satisfied that—
- (a) the arrangement was entered into on the basis of information given by the person who requested the arrangement that was false or misleading in a material particular; or 10
 - (b) the person is not meeting their obligations under the arrangement.
- (6) If an instalment arrangement is cancelled, the outstanding unpaid fees and charges remain payable.

14 Section 98 amended (Release of vehicle after 28 days)

- (1AAA) In the heading to section 98, replace “28 days” with “28-day impoundment”. 15
- (1) Before section 98(1), insert:
- (1AAA) This section applies if a vehicle has been impounded for 28 days under section 96, **96AAB**, or 96A.
- (2) In section 98(1), replace “the owner of the vehicle, or a person authorised for the purpose by the owner” with “the relevant person specified in **subsection (10)**, or a person authorised for the purpose by the relevant person”. 20
- (3) Replace section 98(1)(a)(i) with:
- (i) in the case of the relevant person specified in **subsection (10)**, or a person authorised for the purpose by the relevant person, either the relevant person’s copy of the notice of acknowledgement of seizure and impoundment or 1 of the following: 25
 - (A) if the relevant person is the registered person for the vehicle, proof of registration of the vehicle in their name:
 - (B) if the relevant person is the owner of the vehicle, proof of ownership of the vehicle; or 30
- (4) In section 98(4)(b), replace “the owner, or a person authorised for the purpose by the owner” with “the relevant person specified in **subsection (10)**, or a person authorised for the purpose by the relevant person”.
- (5) In section 98(7)(b), replace “owner of the impounded vehicle” with “registered person for the impounded vehicle”. 35
- (6) After section 98(9), insert:

- (10) For the purposes of subsections (1) and (4)(b), the vehicle may be removed from storage by, or released to,—
- (a) the registered person, if the vehicle is registered; or
 - (b) if the vehicle is not registered, a person who the enforcement officer is satisfied is the owner of the vehicle.

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15 New section 98AAA inserted (Release of vehicle after ~~6 months~~ 6-month impoundment)

After section 98, insert:

98AAA Release of vehicle after ~~6 months~~ 6-month impoundment

- (1) This section applies if a vehicle has been impounded for 6 months under **section 96AAA**. 10
- (2) On and after the close of the 6-month impoundment period, section 98 applies, with all necessary modifications, to the impoundment of a vehicle under **section 96AAA** in the same way as it applies to a vehicle that has been impounded for 28 days under section 96, **96AAB**, or 96A. 15
- (3) In addition to the early release allowed by section 98(3), an enforcement officer authorised for the purpose by the Commissioner may order the release of an impounded vehicle to the registered person at any time before the close of the 6-month impoundment period if the registered person is a person who—
 - (a) had a security interest in the vehicle before its seizure for impoundment; and 20
 - (b) since the impoundment,—
 - (i) repossessed the vehicle under Part 3A of the Credit Contracts and Consumer Finance Act 2003 or section 109 of the Personal Property Securities Act 1999; and 25
 - (ii) became the registered person.

16 Section 98A amended (Commissioner may prohibit sale or disposal of certain motor vehicles)

- (1) Replace section 98A(1) with:
- (1) This section applies if— 30
 - (a) a person is charged with an offence under this Act or any other enactment that would, if the person is convicted of the offence, permit or require a court to order—
 - (i) the confiscation of the person's motor vehicle under the Sentencing Act 2002; or 35
 - (ii) the forfeiture of the vehicle under **section 142AAB** of that Act; and

(b) the Commissioner believes, on reasonable grounds in the circumstances, that the court would, if the person is convicted of the offence, order that confiscation or forfeiture.

(2) In section 98A(4)(b)(ii), replace “owner of the vehicle” with “registered person for the motor vehicle”.

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(3) In section 98A(4)(b)(iii), replace “owner of the motor vehicle” with “registered person for the motor vehicle”.

17 Section 102 amended (Appeal to Police against impoundment of vehicle)

(1AAA) In the heading to section 102, after “vehicle”, insert “: general”.

(1) In section 102(1), replace “An owner whose motor vehicle has been seized and impounded under section 96 or section 96A” with “A ~~registered person relevant~~ person specified in subsection (6) whose motor vehicle has been seized and impounded under section 96, **96AAB**, or 96A”.

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(2) Replace section 102(1)(b) with:

(b) the enforcement officer who seized the vehicle did not—

- (i) have reasonable grounds of belief as required by section 96, **96AAB**, or 96A; or
- (ii) comply with the notice requirements in section 96(2) (including as applied by section **96AAB(3)** or 96A(2) (whichever applies); or

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(3) In section 102(1)(c), (d), and (h), replace “owner” with “~~registered relevant~~ person”.

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(4) Replace section 102(1)(f) and (g) with:

(f) if section 96(1AA) or (1A) or **96AAB** applies, the ~~registered relevant~~ person did not know and could not reasonably be expected to know that the operator or hirer of the vehicle would contravene section 22A(1) or (3), 22AF, 114, or 118 (whichever applies); or

(g) if section 96(1AA) or (1A) or **96AAB** applies, the ~~registered relevant~~ person took all reasonable steps to prevent the operator or hirer of the vehicle from contravening section 22A(1) or (3), 22AF, 114, or 118 (whichever applies); or

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(5) Repeal section 102(1)(ga).

(6) After section 102(1), insert:

(1A) ~~A registered person whose motor vehicle has been seized and impounded under section 96AAA may appeal to the Police against the seizure and impoundment on any of the following grounds:~~

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(a) ~~the impounded vehicle was a stolen or converted vehicle at the time of the seizure and impoundment;~~

(b) ~~the enforcement officer who seized and impounded, or seized and authorised the impoundment of, the vehicle—~~

- (i) ~~did not have reasonable grounds of belief as required by that section; or~~
 - (ii) ~~did not comply with the notice requirements in section 96(2) (as applied by **section 96AAA(2)(a)**):~~
 - (e) ~~the registered person did not know and could not reasonably be expected to know that the operator of the vehicle would contravene section 114:~~ 5
 - (d) ~~the registered person took all reasonable steps to prevent the operator of the vehicle from contravening section 114:~~
 - (e) ~~the registered person—~~
 - (i) ~~was not the person driving the vehicle when the vehicle failed to stop (or remain stopped); and~~ 10
 - (ii) ~~either—~~
 - (A) ~~did not know, and could not reasonably have been expected to know, the identity of the driver; or~~
 - (B) ~~has otherwise provided the information requested under section 118(4):~~ 15
 - (f) ~~the driver drove the vehicle in a serious medical emergency (including carrying a person who is about to give birth):~~
 - (g) ~~release of the vehicle to the registered person is appropriate because—~~
 - (i) ~~the seizure and impoundment of the vehicle have resulted or will result in—~~ 20
 - (A) ~~extreme hardship to the registered person (whether in relation to employment or otherwise); or~~
 - (B) ~~undue hardship to a person other than the registered person (whether in relation to employment or otherwise); and~~ 25
 - (ii) ~~release of the vehicle is not contrary to the interests of road safety.~~
- (7) In section 102(3), after “subsection (1)”, insert “or **(1A)**”.
- (8) In section 102(3)(a), replace “owner” with “registered person” in each place.
- (6) In section 102(3)(a),—
- (a) replace “to the owner” with “to the relevant person specified in **subsection (6)**”: 30
 - (b) replace “by the owner” with “by the relevant person”.
- (7) After section 102(5), insert:
- (6) For the purposes of **subsections (1) and (3)(a)**, the relevant person is—
- (a) the registered person for the vehicle, if the vehicle is registered; or 35
 - (b) if the vehicle is not registered, a person who the enforcement officer is satisfied is the owner of the vehicle.

17A New section 102A inserted (Appeal to Police against impoundment of vehicle under section 96AAA)

After section 102, insert:

102A Appeal to Police against impoundment of vehicle under section 96AAA

- (1) A relevant person specified in **section 102(6)** whose motor vehicle has been seized and impounded under **section 96AAA** may appeal to the Police against the seizure and impoundment on any of the following grounds:
- (a) the impounded vehicle was a stolen or converted vehicle at the time of the seizure and impoundment:
 - (b) the enforcement officer who seized and impounded, or seized and authorised the impoundment of, the vehicle—
 - (i) did not have reasonable grounds of belief as required by that section; or
 - (ii) did not comply with the notice requirements in section 96(2) (as applied by **section 96AAA(2)(a)**):
 - (c) the relevant person did not know and could not reasonably be expected to know that the operator of the vehicle would contravene section 114:
 - (d) the relevant person took all reasonable steps to prevent the operator of the vehicle from contravening section 114:
 - (e) the relevant person—
 - (i) was not the person driving the vehicle when the vehicle failed to stop (or remain stopped); and
 - (ii) either—
 - (A) did not know, and could not reasonably have been expected to know, the identity of the driver; or
 - (B) has otherwise provided the information requested under section 118(4):
 - (f) the driver drove the vehicle in a serious medical emergency (including carrying a person who is about to give birth):
 - (g) release of the vehicle to the relevant person is appropriate because—
 - (i) the seizure and impoundment of the vehicle have resulted or will result in—
 - (A) extreme hardship to the relevant person (whether in relation to employment or otherwise); or
 - (B) undue hardship to a person other than the relevant person (whether in relation to employment or otherwise); and
 - (ii) release of the vehicle is not contrary to the interests of road safety.

(2) Section 102(2) to **(6)** applies, with all necessary modifications, to an appeal under this section.

18 Section 110 amended (Appeal against refusal of Police to direct release of impounded vehicle)

- ⊖ In section 110(1), after “subsection (1)”, insert “, **(1A)**, or **(1B)**”. 5
- (1) In section 110(1), replace “under section 102 may, on any grounds set out in subsection (1) of that section” with “under section 102 or **102A** may, on any grounds set out in section 102(1) or **102A(1)**”.
- (2) In section 110(1A), after “section 102”, insert “or **102A**”.
- (3) In section 110(1B), after “section 102(2)”, insert “(including as applied by **section 102A**)”. 10
- (4) In section 110(2), replace “subsection (1) or (5) of section 102” with “section 102(1) or (5) (including as applied by **section 102A**)”.
- (5) In section 110(3)(a)(i), after “section 102”, insert “or **102A**”.

19 Section 113 amended (Enforcement officers may enforce transport legislation) 15

In section 113(2)(a), after “full address,”, insert “electronic address (if the person has an electronic address),”.

20 Section 114 amended (Power to require driver to stop and give name and address, etc) 20

- (1) In section 114(3)(b)(i), replace “give his or her full name, full address,” with “give their full name, full address, electronic address (if they have an electronic address),”.
- (2) In section 114(3)(b)(ii), replace “owner of the vehicle” with “registered person for the vehicle”. 25
- (3) Replace section 114(3)(b)(iii) with:

(iii) if the driver is not the registered person for the vehicle, give the name and address of the registered person or such particulars within the driver’s knowledge as may lead to the identification of the registered person. 30

21 Section 118 amended (Requirement to give information as to identity of driver or passenger)

- (1AAA) In section 118(1) and (2), replace “the owner or hirer of the vehicle” with “the registered person for, or the hirer of, the vehicle”.
- (1AAB) In section 118(3) and (5), replace “owner or hirer” with “registered person or hirer”. 35
- (1AAC) Replace section 118(4) with:

- (4) If a vehicle failed to stop (or remain stopped) as signalled, requested, or required under section 114, an enforcement officer may request the registered person for, or the hirer of, the vehicle to give all information in their possession or obtainable by them that may lead to the identification and apprehension of the driver, and the registered person or hirer must give the officer that information immediately. 5
- (1) In section 118(4), replace “or remain stopped in contravention of section 114” with “(or remain stopped) as signalled, requested, or required under section 114”.
- (2) In section 118(6), replace “the full name and address of the driver” with “the driver’s full name, full address, and electronic address (if the driver has an electronic address)”. 10
- 22 Section 119 amended (Powers of entry)**
- (1) Replace section 119(1)(a)(i) with:
- (i) has failed to comply with a requirement under section 114(2) or (3) (relating to stopping a vehicle, remaining stopped, or giving information to an enforcement officer); and 15
- (2) In section 119(3), replace “section 96, 96A” with “section 96, **96AAA**, **96AAB**, 96A”.
- (3) In section 119(4) and (5), replace “section 96 or section 96A or section 123” with “section 96, **96AAA**, **96AAB**, 96A, or 123”. 20
- 23 Section 133 amended (Owner liability for moving vehicle offences and special vehicle lane offences)**
- In section 133(4)(c)(i)(B), after “telephone number”, insert “, or electronic address”. 25
- 24 Section 133A amended (Owner liability for stationary vehicle offences)**
- In section 133A(4)(c)(i)(B), replace “and telephone number” with “telephone number, or electronic address”.
- 25 Section 139 amended (Issue of infringement notice)**
- (1) Replace section 139(2)(c) and (d) with: 30
- (c) by sending it, or a copy of it, to the person who appears to have committed the infringement offence—
- (i) by post addressed to the person at their last known place of residence or business or last known postal address; or
- (ii) by electronic means addressed to the person at their electronic address (if any) as recorded on the register of motor vehicles or any other register administered by the Agency; or 35

- (d) if the person is the holder of a land transport document, by serving it, or a copy of it, on that person—
- (i) by post at the last address the person provided for service for the purposes of that land transport document; or
 - (ii) by electronic means at their electronic address ~~(if they provided an electronic address for service for the purposes of that land transport document).~~ 5
- (1A) In section 139(3)(a), replace “subsection (2)(ba)” with “subsection (2)(b) or (ba)”.
- (2) In section 139(3)(b), replace “subsection (2)(c) or (d)” with “**subsection (2)(c)(i) or (d)(i)**”. 10
- (3) After section 139(3)(b), insert:
- (c) is sent electronically to a person under **subsection (2)(c)(ii) or (d)(ii)** must, unless the contrary is shown, be treated as having been sent to, or served on, the person at the time the electronic communication containing the notice first enters an information system that is outside the control of the enforcement officer. 15
- (4) After section 139(3), insert:
- (4) Despite section 24(1)(e) of the Summary Proceedings Act 1957, a reminder notice may be served on a person for the purposes of section 21(2) of that Act— 20
- (a) by sending it, or a copy of it, to the person who appears to have committed the infringement offence by electronic means addressed to the person at their electronic address ~~(if they have an electronic address); or~~
 - (b) if the person is the holder of a land transport document, by serving it, or a copy of it, on that person by electronic means addressed to the person at their electronic address ~~(if any) as recorded on the register of motor vehicles or any other register administered by the Agency.~~ 25
- (5) After section 139(7), insert:
- (8) In this section, unless the context otherwise requires, **electronic address**, in relation to a person, means— 30
- (a) the electronic address that the person has given to the Agency; or
 - (b) otherwise, the person’s last known electronic address.
- 26 New sections 139AAA and 139AAB to 139AAC inserted** 35
- After section 139, insert:
- 139AAA Infringement notice issued automatically for offence verified by automated infringement system**
- (1) ~~This section applies if an automated infringement notice system has—~~

- (a) ~~detected the commission of an infringement offence that is a moving vehicle offence; and~~
- (b) ~~recognised that 1 or more images connected with the infringement offence are of sufficient quality to be used as evidence in relation to the offence; and~~ 5
- (c) ~~recognised the registration plate of the vehicle involved in the infringement offence; and~~
- (d) ~~identified the registered person for the vehicle; and~~
- (e) ~~identified a physical or an electronic address to which an infringement notice can be issued.~~ 10
- (1) This section applies if an automated infringement system verifies, on the basis of data provided by approved vehicle surveillance equipment or a point-to-point average speed system that is linked to information on the register of motor vehicles,—
- (a) the commission of an infringement offence, that is a moving vehicle offence, detected by the equipment or system; and 15
- (b) the following data in connection with the offence:
- (i) 1 or more electronic images (or sequences of electronic images) connected with the infringement offence;
- (ii) the registration plate of the vehicle involved in the infringement offence; 20
- (iii) the registered person for the vehicle; and
- (c) that the images referred to in **paragraph (b)(i)** are of sufficient quality to be used as evidence in relation to the offence.
- (2) The automated infringement notice system may automatically— 25
- (a) ~~issue an infringement notice in relation to the infringement offence detected by the system; and~~
- (b) ~~serve the infringement notice by serving it, or a copy of it, on the registered person identified by the system—~~
- (i) ~~by post addressed to the person at—~~ 30
- (A) ~~their usual or last known place of residence or business; or~~
- (B) ~~the address they specified in any application or other document under this Act or the Transport (Vehicle and Driver Registration and Licensing) Act 1986; or~~
- (ii) ~~by electronic means addressed to the person at their electronic address (if any) as recorded on the register of motor vehicles or any other register administered by the Agency.~~ 35
- (2) For the purposes of section 139(1), the Agency as enforcement officer (*see section 208A*) is treated as having reasonable cause to believe an infringement

offence has been committed if the automated infringement system verifies the matters set out in **subsection (1)**.

(3) ~~Subsection (2) does not prevent an enforcement officer from doing either or both of the following:~~

(a) ~~issuing an infringement notice for an infringement offence detected by an automated infringement notice system:~~

(b) ~~serving an infringement notice issued under **subsection (2)**.~~

(4) ~~An automated infringement notice system may be operated in a way that allows an enforcement officer to act under **subsection (3)**.~~

139AAB Approval of automated infringement notice system

(1) ~~The Director~~ Minister of Transport may approve an automated infringement notice system for the purposes of **section 139AAA** if satisfied that—

(a) ~~the system is capable of affirming~~ verifying the matters set out in **section 139AAA(1)**; and

(b) ~~the system is capable of being operated in the way described in **section 139AAA(3)**; and~~

(b) the system is capable of collecting, holding, using, and disclosing personal information in accordance with the Privacy Act 2020; and

(c) ~~there is an effective ongoing~~ the system will undergo annually a quality assurance process in place for auditing the capability of that system capabilities referred to in **paragraphs (a) and (b)**.

(2) ~~The Director~~ Minister of Transport may sign and issue a certificate of approval.

(3) A certificate of approval issued under **subsection (2)** is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication The maker must publish it in accordance with the Legislation (Publication) Regulations 2021 LA19 s 74(1)(aa)

Presentation The Minister must present it to the House of Representatives LA19 s 114

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116
This note is not part of the Act.

139AAC Annual quality assurance of automated infringement system

The Agency must ensure that an automated infringement notice system undergoes annually a quality assurance process to ensure the ongoing capability of the system—

(a) to verify the matters set out in **section 139AAA(1)**; and

(b) to collect, hold, use, and disclose personal information in accordance with the Privacy Act 2020.

26A Section 140 amended (Contents of infringement and reminder notices)

After section 140(1), insert:

(1A) For the purposes of subsection (1)(a) and (b), in the case of a speeding offence where the person issuing the infringement notice relies on **section 146A**,—

(a) the place of the offence is the length of road between the 2 detection points in relation to which the point-to-point average speed system operated; and 5

(b) the time of the offence is the whole time during which the vehicle was travelling between the 2 detection points; and

(c) the speed at which it is alleged the driver was travelling is the average speed calculated under **section 146A**; and 10

(d) if more than 1 speed limit applies between the 2 detection points, the applicable speed limit is the average weighted speed limit calculated under **section 146B**.

27 New section 141A inserted (Evidence of capability of automated infringement notice-system) 15

Before section 142, insert:

141A Evidence of ongoing capability of automated infringement notice-system

(1) ~~In proceedings relating to an infringement offence detected by an automated infringement notice system, the production of a certificate of approval (or a document purporting to be a copy of the certificate) of an automated infringement notice system purporting to be signed by the Director under **section 139AAB** is, in the absence of proof to the contrary, sufficient proof that, on the date of the alleged offence, the system was capable of—~~ 20

~~(a) affirming the matters set out in **section 139AAA(1)**; and~~ 25

~~(b) being operated in the way described in **section 139AAA(3)**.~~

(1) In proceedings relating to an infringement offence verified by an automated infringement system, the production of a certificate (or a document purporting to be a copy of the certificate) purporting to be signed by a person authorised for the purpose by the Agency, as to the capability of the automated infringement system referred to in the certificate, is, in the absence of proof to the contrary, sufficient proof that— 30

(a) the system had, within the preceding 12 months, undergone a quality assurance process as required by **section 139AAC**; and

(b) the system was verifying the matters set out in **section 139AAA(1)**; and 35

(c) the system was being operated in a way that collects, holds, uses, and discloses personal information in accordance with the Privacy Act 2020.

(2) A certificate under **subsection (1)**—

- (a) must be, or have been, current on the date of the alleged offence; and
- (b) is not valid if it was given more than 12 months before the date of the alleged offence.
- (3) In any proceedings where a certificate has been produced under this section, the court may, on application made not less than 14 days before the hearing of the charge concerned, and if satisfied that there is good cause to do so, set aside the certificate and require the capability of the automated infringement system to be established by evidence other than the certificate.

27A Section 145 amended (Evidence of approved vehicle surveillance equipment)

In section 145(1), replace “an image produced by means of an exposure taken by approved vehicle surveillance equipment” with “data (including electronic images or a sequence of electronic images) produced by approved vehicle surveillance equipment”.

28 New sections 146A to 146DE inserted

After section 146, insert:

146A Average speed treated as actual speed

- (1) In proceedings against a person for a speeding offence, the average speed of the relevant vehicle between 2 detection points on a road calculated by a point-to-point average speed system must be treated as being the speed at which the vehicle was actually travelling between those 2 detection points.
- (2) The average speed of a vehicle between 2 detection points on a road is to be calculated using the following formula (and expressed in kilometres per hour rounded down to the next whole number):

$$(d \times 3.6) \div t$$

where—

d is the surveyed distance (expressed in metres and rounded down to the next whole number) ~~between the 2 detection points~~

t is the period (expressed in seconds) between the time when the vehicle passes the first detection point and the time when it passes the second detection point.

- (3) In this section and **sections 146B to 146D**, unless the context otherwise requires,—

~~accurate, in relation to data referred to in the definition of distances, means the data has a degree of uncertainty less than $0.01 \times DT$~~

data, in relation to a speeding offence detected by a point-to-point average speed system, means any form of data (including electronic images or a sequence of electronic images) about any 1 or more of the following:

- (a) the time of any event recorded (including the time a vehicle passed a detection point): 5
- (b) the position of a vehicle on a road at any given time:
- (c) the direction in which a vehicle is moving:
- (d) the characters on a vehicle's registration plate:
- (e) the average speed of a vehicle between 2 detection points:
- (f) any speed limit or speed limits between ~~the~~ 2 detection points: 10
- (g) any self-test, diagnostic, or other data about how the system is operating.

detection point means a point on a road at which an item of approved traffic surveillance equipment that is part of a point-to-point average speed system detects the presence of a motor vehicle

~~**distances**, in the formula in **section 146B**, means —~~ 15

- ~~(a) distances derived from existing data about the relevant length of road, if those data are accurate; or~~
- ~~(b) distances measured for the purposes of this section by a cadastral surveyor licensed under the Cadastral Survey Act 2002 in accordance with the method —~~ 20
 - ~~(i) determined and published by the Director for measuring surveyed distance; and~~
 - ~~(ii) modified as necessary~~

~~**DT** means distance travelled (expressed in metres)~~

element, of a point-to-point average speed system, means any 1 or more of the following: 25

- (a) the 2 items of approved vehicle surveillance equipment at the detection points:
- (b) the location of the 2 detection points:
- (c) the surveyed distance between those 2 detection points: 30
- (d) if only 1 speed limit applies between those 2 detection points, that speed limit:
- (e) if more than 1 speed limit applies between those 2 detection points,—
 - (i) those speed limits; and
 - (ii) when those speed limits apply; and 35
 - (iii) ~~the location of those speed limits, including the surveyed distance over which each applies~~ the intermediate surveyed distance for each speed limit; and

- (iv) the weighted average speed limit between those 2 detection points, as calculated under **section 146B** ~~(if that calculation is practicable)~~

intermediate surveyed distance, in a case where 2 or more speed limits apply between 2 detection points, the distance along the length of road where each speed limit applies—

- (a) measured by a cadastral surveyor licensed under the Cadastral Survey Act 2002 in accordance with the method determined and published by the Director after consulting with the Surveyor-General appointed under that Act; and
- (b) published by the Director for the purposes of this section and **sections 146B and 146D**

~~**point-to-point average speed system** means a system that consists of 2 items of approved vehicle surveillance equipment that have, or are associated with other equipment or software that has, the ability to calculate the average speed of a motor vehicle between 2 detection points~~

~~**surveyed distance** means the distance along a length of road that is subject to a speed limit (whether it is the distance between 2 detection points, when there is only 1 speed limit, or the distance to which each speed limit applies for the purposes of **section 146B**) between 2 detection points to which 1 or more speed limits apply—~~

- (a) ~~measured for the purposes of this section~~ by a cadastral surveyor licensed under the Cadastral Survey Act 2002 in accordance with the method determined and published by the Director after consulting with the Surveyor-General appointed under that Act; and
- (b) ~~published by the Director for the purposes of this section~~ under **sections 146B and 146D**.

146B Weighted average speed limit between 2 detection points

- (1) This section applies if more than 1 speed limit applies between 2 detection points on a length of road along which the average speed of a vehicle is to be calculated for the purposes of **section 146A**.
- (2) The speed limit for the purpose of that calculation is the average weighted speed limit calculated under **subsection (3)**.
- (3) The average weighted speed limit for a length of road between 2 detection points is to be determined using the following formula, and expressed in kilometres per hour rounded up to the next whole number:

$$d_t \div ((d_1 \div s_1) + (d_2 \div s_2) + \dots (d_n \div s_n))$$

where—

d_t is the ~~total~~ surveyed distance (expressed in metres and rounded down to the next whole number) ~~between the 2 detection points~~

$d_1, d_2 \dots d_n$ are the ~~surveyed intermediate~~ surveyed distances ~~over which the speed limits~~ (expressed in metres and rounded down to the next whole number) over which the speed limits between the 2 detection points apply

$s_1, s_2 \dots s_n$ are the speed limits that apply between the 2 detection points.

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146C Evidence relating to average speed

(1) This section applies to proceedings for a moving vehicle offence in which the ~~prosecution relies on~~ average speed of the vehicle under section 146A ~~is relied on.~~

(2) In those proceedings, the production of data ~~(including electronic images)~~ relating to the alleged speeding offence and purporting to be generated by a point-to-point average speed system is, in the absence of proof to the contrary, sufficient evidence of the accuracy of that data.

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(3) In those proceedings, the production of a notice published under **section 146D** describing an element of a point-to-point average speed system is, in the absence of proof to the contrary, sufficient evidence of that element.

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(4) In cases to which **section 146B** applies, the weighted average speed limit calculated under that section—

(a) must be treated as the applicable speed limit for the purpose of the calculation of a vehicle's average speed under **section 146A**; and

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(b) must be treated as a speed limit in provisions under this Act (for example, Part 2 of Schedule 1B of the Land Transport (Offences and Penalties) Regulations 1999) that impose different penalties for speeding offences depending on the degree to which a speed limit is exceeded, and those provisions apply accordingly.

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(5) This section does not limit or affect any other evidence of the speed of a motor vehicle in proceedings for a moving offence.

~~(6) In this section, unless the context otherwise requires, **electronic images** includes a sequence of electronic images.~~

146D Publication of matters relating to point-to-point average speed system

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(1) The Director must publish—

(a) the elements of a point-to-point average speed system; and

(b) the method by which a surveyed distance is to be measured for the purpose of the operation of any point-to-point average speed system.

(2) The Director must publish those matters by notice—

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(a) in the *Gazette*; and

(b) on an Internet site maintained by the Agency.

146E Traffic control devices informing drivers of system

- (1) If the Agency installs a point-to-point average speed system on a road, it must at the same time install and maintain 1 or more traffic control devices informing drivers that a point-to-point average speed system is present at that location.
- (2) The validity of proceedings to which **section 146A or 146B** applies is not affected if a sign that has been installed under **subsection (1)** is obscured, defaced, damaged, or removed by any person.

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29 Section 199 amended (Agency to maintain register of driver licences)

In section 199(2)(a), after “address,”, insert “electronic address (if they have an electronic address that is known to the Agency).”.

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30 Section 199A amended (Register of transport service licences)

- (1) After section 199A(2)(c), insert:

(ca) the holder’s business or personal electronic address (if they have an electronic address that is known to the Agency):

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- (2) After section 199A(2)(d), insert:

(da) the business or personal electronic address of any person in control (if they have an electronic address that is known to the Agency):

31 ~~Section 208 amended (Appointment of enforcement officers and dangerous goods enforcement officers)~~

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~~In section 208(3)(a)(i), replace “and 139” with “139, and **139AAA(3)**”.~~

31A Section 208A amended (Agency is enforcement officer for certain infringement offences)

- (1) In section 208A, after “section 139”, insert “or **139AAA**”.

- (2) In section 208A(b),—

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(a) after “surveillance equipment”, insert “or a point-to-point average speed system”;

(b) after “the equipment”, insert “or system”.

32 Section 210 replaced (Service of notices)

Replace section 210 with:

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210 How notices and requests are given, served, or made

- (1) This section describes—

(a) how a notice required to be given, sent, or served under this Act (other than an infringement notice) may be given, sent, or served; and

(b) how a request in writing under section 118 may be made.

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- (2) The notice or request may be given, sent, served, or made by—
- (a) causing it to be delivered to the relevant person, or to be left at—
 - (i) the person’s usual or last known place of residence or business; or
 - (ii) at the address specified by the person in any application or other document under this Act or the Transport (Vehicle and Driver Registration and Licensing) Act 1986; or
 - (b) causing it to be sent—
 - (i) by post addressed to the person at the place or address referred to in **paragraph (a)**; or
 - (ii) by electronic means addressed to the person at their electronic address (if any) as recorded on the register of motor vehicles or any other register administered by the Agency.
- (3) A notice or request that is sent to a person—
- (a) by post must, unless the contrary is shown, be treated as having been given, served, or made when it would have been delivered in the ordinary course of post and, in proving the delivery, it is sufficient to prove that the letter was properly addressed and posted:
 - (b) by electronic means must, unless the contrary is shown, be treated as having been given, served, or made at the time the electronic communication first enters an information system that is outside the control of the person giving or serving the notice or making the request and, in proving the sending, it is sufficient to prove that the electronic communication was properly addressed and sent.

33 Section 233 amended (Interpretation matters applying to this Part)

In section 233(1), replace the definition of **personal information** with: 25

personal information means the following information about a person registered or previously registered in respect of a motor vehicle:

- (a) their name:
- (b) their physical address:
- (c) their electronic address (if they have an electronic address): 30
- (d) if the person is an individual, their date of birth and driver licence number:
- (e) any other information about the person that is on the register

34 Section 241 amended (Authorised access to name and address only)

In section 241(1), replace “names and addresses” with “names, addresses, and electronic addresses (if any)”. 35

35 Section 249 amended (Circumstances when motor vehicle may be seized and impounded)

After section 249(2)(b)(i), insert:

- (ia) the electronic address of the driver (if the driver has an electronic address); and

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36 Schedule 1 amended

In Schedule 1,—

- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
(b) make all necessary consequential amendments.

Part 2

10

Amendments to other Acts

Subpart 1—Amendments to Sentencing Act 2002

37 Principal Act

This subpart amends the Sentencing Act 2002.

38 Section 128 amended (Confiscation of motor vehicle)

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In section 128(1)(b), replace “52A(1)” with “52A(1)(c)”.

39 Section 129 amended (Confiscation of motor vehicle after subsequent offence)

- (1) ~~In section 129(1)(a), replace “52A(1)” with “52A(1)(c)”.~~

- (2) After section 129(4), insert:

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(4A) Despite subsection (3), if the subsequent offence is against section 52A(1)(a) or (b) of the Land Transport Act 1998, the court must—

- (a) make a confiscation order under subsection (3); or
(b) order that the vehicle be forfeited to the Crown under **section 142AAB.**

40 New sections 142AAA to 142AAF and cross-heading inserted

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After section 142, insert:

Forfeiture of vehicles of fleeing drivers

142AAA Interpretation of terms used in sections 142AAB to 142AAF

The definitions set out in section 127 apply, with all necessary modifications, to **sections 142AAB to 142AAF.**

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142AAB Forfeiture of vehicle driven by fleeing driver

- (1) This section applies if a person is convicted of an offence against section 52A(1)(a) or (b) of the Land Transport Act 1998.
- (2) The court may make an order under **subsection (3)** if satisfied that, at the time of the conviction, the offender or a substitute for the offender owns or has an interest in the motor vehicle that was used in the commission of the offence.
- (3) The court may order that the motor vehicle be forfeited to the Crown.
- (4) Section 128(3A) to (5) applies, with any necessary modifications, to the making of a forfeiture order under this section.

142AAC Offence to sell or dispose of motor vehicle subject to forfeiture order

- (1) This section applies if a motor vehicle—
 - (a) is subject to a forfeiture order under **section 142AAB(3)** or a confiscation order under **section 142AAE(4)**; and
 - (b) has not yet been surrendered to, or seized by, a Registrar, bailiff, or constable.
- (2) A person who sells or disposes of the motor vehicle or any part of the motor vehicle commits an offence and is liable on conviction to a fine not exceeding \$2,000.

142AAD Offence to remove forfeited vehicle

A person who removes or attempts to remove a motor vehicle surrendered to or seized by a bailiff or constable under section 132 (as modified by **section 142AAF**) from the custody of that bailiff or constable, or from the custody of the Registrar of the court (without the approval of the Registrar), commits an offence and is liable on conviction to a fine not exceeding \$200.

142AAE Offender must not acquire new interest in motor vehicle for 12 months

- (1) This section applies if—
 - (a) a court makes an order for the forfeiture of a motor vehicle under **section 142AAB**; or
 - (b) a court has made an order under section 131(2)(a) (as applied by **section 142AAF**) prohibiting an offender from acquiring a motor vehicle for 12 months.
- (2) The offender must not, within 12 months after the date of the order, acquire any interest in any motor vehicle.
- (3) A person who acquires any interest in a motor vehicle in contravention of **subsection (2)** commits an offence and is liable on conviction to a fine not exceeding \$500.

- (4) If a court convicts a person of an offence against this section, then instead of, or in addition to, imposing a fine, the court may order that the motor vehicle concerned be confiscated.
- (5) If a court orders the confiscation of a motor vehicle under **subsection (4)**, sections 129EA, 130, 131 to 135, 136A, 137 (except section 137(3)(g)), and 138 to 142 (as applied and modified by **section 142AAF**) apply accordingly.

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142AAF Modified application of confiscation scheme to forfeiture

- (1) If a court orders the forfeiture of a motor vehicle under **section 142AAB**, the provisions specified in **subsection (2)** apply, with all necessary modifications, to the order, the motor vehicle, the offender and other persons, and in all other respects, in the same way as they apply if a court orders the confiscation of a vehicle under section 128 or 129.
- (2) The following provisions apply:
- (a) sections 129B to 129D (relating to written cautions given to persons with interest in motor vehicles involved in offences):
 - (b) sections 129E and 129EA (relating to appeals against confiscation):
 - (c) section 130 (court may order declaration of ownership to be completed):
 - (d) sections 130A and 131 (relating to the effect of any disposal of a motor vehicle or ownership or other interest in it):
 - (e) sections 132, 134, and 135 (relating to the enforcement of a confiscation order):
 - (f) section 136A (Registrar must apply for deregistration of motor vehicle subject to confiscation and destruction order):
 - (g) section 137 (except section 137(3)(g)) and sections 138 to 141C (relating to the sale of confiscated motor vehicles):
 - (h) section 142 (order may be cancelled on application by bona fide purchaser).
- (3) Modifications to the application of the provisions specified in **subsection (2)** include the following:
- (a) a reference to the confiscation of a motor vehicle, or an order for the confiscation of a motor vehicle, under section 128 must be read as a reference to the forfeiture of a motor vehicle, or an order for the forfeiture of a motor vehicle, under **section 142AAB**:
 - (b) any other reference to the confiscation of a motor vehicle must be read as a reference to the forfeiture of a motor vehicle:
 - (c) a reference to an offence specified in section 128(1) must be read as a reference to an offence against section 52A(1)(a) or (b) of the Land Transport Act 1998 (as referred to in **section 142AAB(1)**):

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	(d) any reference to an offender in connection with an offence specified in section 128 or 129 must be read as a reference to an offender in connection with an offence against section 52A(1)(a) or (b) of the Land Transport Act 1998 (as referred to in section 142AAB(1)):	
	(e) any other reference to section 128 must be read as a reference to section 142AAB :	5
	(f) any reference to any section specified in subsection (2) must be read as a reference to that section as applied and modified by this section.	
41	Schedule 1AA amended	
	In Schedule 1AA,—	10
	(a) insert the Part set out in Schedule 2 of this Act as the last Part; and	
	(b) make all necessary consequential amendments.	
	Subpart 2—Amendments to Summary Proceedings Act 1957	15
42	Principal Act	
	This subpart amends the Summary Proceedings Act 1957.	
43	Section 2 amended (Interpretation)	
	In section 2(1), insert in its appropriate alphabetical order:	
	impoundment period , in relation to a motor vehicle that is impounded under the Land Transport Act 1998, means,—	20
	(a) for a vehicle impounded under section 96, 96AAB , or 96A of that Act, the 28-day period for which the vehicle would otherwise be required to be impounded:	
	(b) for a vehicle impounded under section 96AAA of that Act, the 6-month period for which the vehicle would otherwise be required to be impounded	25
	(2) In section 2, definition of infringement notice , paragraph (g), after “139”, insert “or 139AAA ”.	
44	Section 100 amended (Seizure of motor vehicles impounded under Land Transport Act 1998)	30
	(1) In section 100(1), delete “section 96 or 96A of”.	
	(1) In section 100(1), after “96”, insert “, 96AAA, 96AAB ,”.	
	(2) In section 100(2), replace “102 or 110” with “102, 102A , or 110”.	

45 Section 100E amended (Release of property if fine and other costs paid or if certain appeals successful)

- (1) In section 100E(1)(b), after “96”, insert “, **96AAA, 96AAB**,”.
- (2) In section 100E(4),—
 - (a) delete “section 96 or 96A of”: 5
 - (b) replace “28-day period for which the vehicle would otherwise be required to be impounded under that Act” with “impoundment period”.
- (3) ~~In section 100E(6), replace “28-day period for which the motor vehicle would otherwise be required to be impounded under section 96 or 96A of that Act” with “impoundment period”.~~ 10
- (3) In section 100E(6),—
 - (a) replace “28-day period for which the motor vehicle would otherwise be required to be impounded under section 96 or 96A of that Act” with “impoundment period”:
 - (b) replace “102 or 110” with “102, **102A**, or 110”. 15
- (4) After section 100E(7), insert:
- (8) In subsections (4) and (6), **impoundment period** means,—
 - (a) ~~for a vehicle impounded under section 96, **96AAB**, or 96A of the Land Transport Act 1998, the 28-day period for which the vehicle would otherwise be required to be impounded:~~ 20
 - (b) ~~for a vehicle impounded under **section 96AAA** of the Land Transport Act 1998, the 6-month period for which the vehicle would otherwise be required to be impounded.~~

45A Section 100F amended (Release of property to certain owners)

- (1) In section 100F(5), after “96”, insert “, **96AAA, 96AAB**,”. 25
- (2) In section 100F(5)(a)(i), replace “28-day period for which the vehicle would otherwise be required to be impounded under that Act” with “impoundment period”.

45B Section 100G amended (Determination of claim by owners)

- (1) In section 100G(5), after “96”, insert “, **96AAA, 96AAB**,”. 30
- (2) In section 100G(5)(a)(i), replace “28-day period for which the vehicle would otherwise be required to be impounded under that Act” with “impoundment period”.

45C Section 100H amended (Lessor may apply to Registrar)

- In section 100H(4),— 35
- (a) after “96”, insert “, **96AAA, 96AAB**,”:

- (b) replace “28-day period of impoundment for which the motor vehicle would otherwise be required to be impounded under that Act” with “impoundment period”.
- 45D Section 100L amended (Sale of secured property by secured party or by court)** 5
- In section 100L(3),—
- (a) after “96”, insert “, **96AAA, 96AAB,**”:
- (b) replace “28-day period of impoundment for which the motor vehicle would otherwise be required to be impounded under that Act” with “impoundment period”. 10
- 45E Section 100M amended (Certain payments required before release to lessor or secured party takes effect)**
- In section 100M(1)(a), after “96”, insert “, **96AAA, 96AAB,**”.
- 45F Section 100P amended (Sale or disposal of property)**
- (1) In section 100P(2), after “96”, insert “, **96AAA, 96AAB,**”. 15
- (2) In section 100P(2)(a), replace “28-day period for which the motor vehicle would otherwise be required to be impounded under that Act” with “impoundment period”.
- (3) In section 100P(6),—
- (a) after “96”, insert “, **96AAA, 96AAB,**”: 20
- (b) replace “28-day period for which the motor vehicle would otherwise be required to be impounded under that Act” with “impoundment period”.
- (4) In section 100P(7), after “96”, insert “, **96AAA, 96AAB,**”.
- (5) In section 100P(7)(a), replace “28-day period for which the vehicle would otherwise be required to be impounded under that Act” with “impoundment period”. 25
- 45G Section 100R amended (Application of proceeds of sale of personal property)**
- In section 100R(1)(a), after “96”, insert “, **96AAA, 96AAB,**”.
- Subpart 3—Amendments to Privacy Act 2020 30
- 45H Principal Act**
- This subpart amends the Privacy Act 2020.
- 45I Schedule 4 amended**
- In Schedule 4, under the heading “*New Zealand Transport Agency records*”, after the item relating to rail licensing register, insert: 35

<u>Traffic offence and infringement enforcement and document processing</u>	<u>Traffic offence and infringement enforcement processing, including infringement fees enforcement and preparation of documents</u>	<u>Police (access is limited to obtaining information for the purposes of—</u> (a) <u>conducting road policing activities and enforcing the Land Transport Act 1998 (including any rules and regulations made under that Act):</u> (b) <u>preventing or lessening a serious threat to public health or public safety, or the life or health of an individual, where a motor vehicle is or is likely to be involved:</u> (c) <u>helping to locate vehicles that were involved, or were likely to be involved, in the commission of offences)</u> <u>Ministry of Justice (access is limited to obtaining information for the purpose of processing cases before a court)</u> <u>Legal Services Commissioner (access is limited to obtaining information for the purpose of processing cases before a court, and for determining an application for a grant of legal aid relating to a criminal matter)</u>
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Part 3

Amendments to secondary legislation

Subpart 1—Amendments to Land Transport (Offences and Penalties) Regulations 1999

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|-----------|---|-----------|
| 46 | Principal regulations | 5 |
| | This subpart amends the Land Transport (Offences and Penalties) Regulations 1999. | |
| 47 | Regulation 8 amended (Impoundment of motor vehicles under section 96 of Act) | |
| (1) | In the heading to regulation 8, delete “ under section 96 of Act ”. | 10 |

- (2) In regulation 8, replace “and to the storage provider under section 96 of the Act” with “and to the vehicle recovery service ~~provider~~ operator and the storage provider under section 96 (including as applied by **sections 96AAA and 96AAB**) of the Act”.

47A Regulation 8A amended (Impoundment of motor vehicles under section 96A of Act) 5

In regulation 8A, replace “and to the storage provider” with “and to the vehicle recovery service operator and the storage provider”.

48 Schedule 4 amended

- (1) In Schedule 4, form, Part 1, above “Driver’s full name:”, insert: 10
~~[Include only in notice served on driver]~~
Do not include in notice to registered person unless registered person is also driver

- (1A) In Schedule 4, form, Part 1, driver’s details, after “Full address:”, insert:
Electronic address:

- (2) In Schedule 4, form, Part 1, above “Registered person’s full name:”, insert: 15
~~[Include only in notice served on registered person, owner, or operator]~~
Do not include in notice to driver unless driver is also registered person

- (2A) In Schedule 4, form, Part 1, registered person’s details, after “Full address:”, insert:
Electronic address: 20

- (2B) In Schedule 4, form, Part 1, registered person’s details, after “Driver licence number”, insert:
[Include in all notices]

- (3) In Schedule 4, form, Part 1, in the text under the heading “**Advice to driver or operator or owner or registered person**”, revoke paragraph (d). 25

- (4) In Schedule 4, form, Part 1, after the heading “**The vehicle is seized and impounded for 28 days**”, insert:

Advice to registered person

I am seizing and impounding, or seizing and authorising the impoundment of, the motor vehicle described below for 6 months because I believe, on reasonable grounds, that the vehicle was driven on a road while the driver failed to stop or to remain stopped in the circumstances referred to in **section 96AAA** of the Land Transport Act 1998 (the Act). 30

The vehicle is seized and impounded for 6 months.

- (5) In Schedule 4, form, Part 2, paragraph 4(d) and (e), replace “section 96(1A), (1AA), or (1AB)” with “section 96(1A) or (1AA) or **96AAA**”. 35

- (6) In section 4, form, Part 2, paragraph 4(f), replace “section 96(1AB)” with “section **96AAB**”.

49 Schedule 4A amended

- (1) In Schedule 4A, form, Part 1, above “Driver’s full name:”, insert:
~~[Include only in notice served on driver]~~Do not include in notice to registered person unless registered person is also driver
- (1A) In Schedule 4A, form, Part 1, driver’s details, after “Full address:”, insert: 5
Electronic address:
- (2) In Schedule 4A, form, Part 1, above “Registered person’s full name:”, insert:
~~[Include only in notice served on registered person]~~Do not include in notice to driver unless driver is also registered person
- (2A) In Schedule 4A, form, Part 1, registered person’s details, after “Full address:”, 10
 insert:
Electronic address:

49A Schedule 5 amended

- (1) In Schedule 5, form, driver’s details, after “Full address:”, insert: 15
Electronic address:
- (2) In Schedule 5, form, Transport Service Operator’s details, after “Full address:”,
 insert:
Electronic address:
- (3) In Schedule 5, form, under the statement “**The vehicle driven or operated by you is seized and impounded for 28 days.**”, replace “given to the owner of an 20
 impounded vehicle” with “given to the registered person for an impounded vehicle (or the owner of an impounded vehicle that is not registered)”.
- (4) In Schedule 5, form, under the heading “*Release of vehicle*”, replace “you are 25
 the owner of the motor vehicle that has been seized and impounded” with “you are the registered person for the motor vehicle that has been seized and impounded (or the owner of that vehicle if it is not registered)”.
- (5) In Schedule 5, form, under the heading “*What are my appeal rights?*”,—
 (a) replace “to the owner or a person authorised by the owner” with “to the 30
 registered person (or the owner if the vehicle is not registered) or a person authorised by the registered person (or owner)”;
 (b) replace “to the owner if the Police” with “to the registered person (or the owner if the vehicle is not registered) if the Police”.
- (6) In Schedule 5, form, under the heading “*Vehicle and personal property may be 35
 sold by storage provider*”, paragraph (b), replace “the vehicle owner or a person authorised by the owner” with “the registered person (or the owner if the vehicle is not registered) or a person authorised by the registered person (or owner)”.

49B Schedule 6 amended

In Schedule 6, form, under the heading “*Notes*”,—

- (a) in the second occurring paragraph (b), replace “the owner of the vehicle named in Part 2” with “the registered person for the vehicle named in Part 2”;
- (b) in the second occurring paragraph (c), replace “the owner of the motor vehicle” with “the registered person for the motor vehicle”.

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Subpart 1A—Amendments to Land Transport (Infringement and Reminder Notices) Regulations 2012

49C Schedule 1 amended

- (1) In Schedule 1, form, details of user of vehicle, after “Full address:”, insert:
Electronic address:
- (2) In Schedule 1, form, under the heading “**Payment of infringement fee(s)**”, replace “*or posted*” with “*posted, or sent by electronic means*”.

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49D Schedule 1A amended

- (1) In Schedule 1A, form, under the heading “**To:**”, after “Full address:”, insert:
Electronic address:
- (2) In Schedule 1A, form, under the heading “**Payment of infringement fee(s)**”, replace “*or posted*” with “*posted, or sent by electronic means*”.

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49E Schedule 2 amended

- (1) In Schedule 2, form, under the heading “**To**”, after “Full address:”, insert:
Electronic address:
- (2) In Schedule 2, form, under the heading “**Alleged infringement offence details**”, final item, replace “*or posted*” with “*posted, or sent by electronic means*”.
- (3) In Schedule 2, form, under the heading “**Details of speeding offence (if applicable)**”,—
 - (a) after “Speed limit”, insert “or average speed limit”;
 - (b) after “Alleged speed”, insert “or average speed”;
 - (c) after “Limit exceeded by”, insert “or average speed limit exceeded by”.
- (4) In Schedule 2, form, under the heading “**Defences relating to moving vehicle offences and special vehicle lane offences**”, paragraph 8(c)(i), after “occupation,”, insert “electronic address,”.

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49F Schedule 3 amended

- (1) In Schedule 3, form, under the heading “**To heavy motor vehicle user**”, after “Full address:”, insert:
Electronic address:

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- (2) In Schedule 3, form, under the heading “**Payment of overloading infringement fee(s)**”, replace “*or posted*” with “*posted, or sent by electronic means*”.

49G Schedule 5 amended

- (1) In Schedule 5, form,—
- (a) under the heading “**To defendant**”, after “Full address:”, insert: 5
Electronic address:
- (b) after “*the applicable speed limit*”, insert “*(or the average speed limit, if applicable)*”:
- (c) after “*the speed*”, insert “*(or the average speed, if applicable)*”.
- (2) In Schedule 5, form, under the heading “**Defences relating to moving vehicle offences and special vehicle lane offences**”, paragraph 8(c)(i), after “occupation,”, insert “electronic address,”. 10
- (3) In Schedule 5, form, under the heading “**Defences relating to stationary vehicle offences and special vehicle lane offences**”, paragraph 12(c)(i), after “occupation,”, insert “electronic address,”. 15

49H Schedule 6 amended

- (1) In Schedule 6, form, under the heading “**To driver of vehicle/registered person of the vehicle**”, after “Full address:”, insert: 20
Electronic address:
- (2) In Schedule 6, form, under the heading “**To driver of vehicle/registered person of the vehicle**”, paragraph (b)(i), after “name and address”, insert “(or electronic address)”.

49I Schedule 7 amended

- (1) In Schedule 7, form, under the heading “**To defendant**”, after “Full address:”, insert: 25
Electronic address:
- (2) In Schedule 7, form, under the heading “**To defendant**”, paragraph (b)(i), after “name and address”, insert “(or electronic address)”.

49J Schedule 8 amended

- (1) In Schedule 8, form, under the heading “**To user of vehicle**”, after “Full address:”, insert: 30
Electronic address:
- (2) In Schedule 8, form, under the heading “**Defences relating to special vehicle lane offences**”, paragraph 8(c)(i), after “occupation,”, insert “electronic address,”. 35

Subpart 1B—Amendments to Land Transport (Requirements for Storage and Towage of Impounded Vehicles) Regulations 1999

49K Principal regulations

This subpart amends the Land Transport (Requirements for Storage and Towage of Impounded Vehicles) Regulations 1999.

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49L Regulation 2 amended (Interpretation)

(1) In regulation 2, definition of **arrangement**,—

- (a) after “97”, insert “or **97A**”:
- (b) after “96,”, insert “**96AAA, 96AAB**,”.

(2) In regulation 2, definition of **impounded vehicle**, after “96,”, insert “**96AAA, 96AAB**,”.

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49M Regulation 12 amended (Payment arrangements)

(1) In regulation 12(2),—

- (a) replace “the owner of an impounded vehicle” with “the registered person for an impounded vehicle (or the owner of the vehicle if it is unregistered)”:
- (b) replace “the owner’s ability” with “the ability of the registered person or the owner (as applicable)”.

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(2) After regulation 12(2), insert:

(3) However, the storage provider must not enter into any payment arrangement under subclause (1) or (2) in connection with the storage of a motor vehicle that has been impounded under **section 96AAA**.

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Subpart 2—Amendments to Land Transport (Storage and Towage Fees for Impounded Vehicles) Regulations 1999

50 Principal regulations

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This subpart amends the Land Transport (Storage and Towage Fees for Impounded Vehicles) Regulations 1999.

50A Regulation 2 amended (Interpretation)

In regulation 2, insert in its appropriate alphabetical order:

relevant person, in relation to a motor vehicle, means—

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- (a) the registered person for the vehicle if the vehicle is registered; or
- (b) if the vehicle is not registered, the owner of the vehicle

51 Regulation 3 amended (Towage fees for impounded vehicles)

(1AAA) In regulation 3(1), (2), and (3), replace “owner of a motor vehicle” with “relevant person in relation to a motor vehicle”.

(1) In regulation 3(1) and (2), delete “section 96, 96A, or 122 of”.

(1A) In regulation 3(1) and (2),—

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(a) delete “section 96, 96A, or 122 of”;

(b) delete “to the vehicle recovery service operator or storage provider”.

(2) In regulation 3(3), replace “section 102(1)(b)” with “section 102(1)(b), **(1A)(b)**, or **(1B)**”.

(3) In regulation 3(3),—

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(a) after “section 102(3)”, insert “(including as applied by **section 102A**)”;

(b) after “section 102(1)(b)”, insert “or **102A(1)(b)**”.

(4) After regulation 3(3), insert:

(4) The towage fee must be paid,—

(a) for a motor vehicle impounded under section 96, **96AAB**, 96A, or 122 of the Act, to the vehicle recovery service operator or storage operator (*see* section 97(3) of the Act); or

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(b) for a motor vehicle impounded under **section 96AAA** of the Act, to the Agency (*see* **section 97A(4)** of the Act).

52 Regulation 4 amended (Storage fees for impounded vehicles)

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(1AAA) In regulation 4(1), (2), and (3), replace “owner of a motor vehicle” with “relevant person in relation to a motor vehicle”.

(1) In regulation 4(1), delete “section 96, 96A, or 122 of”.

(1A) In regulation 4(1),—

(a) delete “section 96, 96A, or 122 of”;

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(b) delete “to the vehicle recovery service operator or storage provider”.

(2) After regulation 4(1), insert:

(1A) The owner of a vehicle—relevant person in relation to a motor vehicle that is seized and impounded under section 96, **96AAB**, 96A, or 122 of the Act must pay the charges specified in subclause (1) for each of the 28 days of the impoundment.

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(1B) The owner of a vehicle—relevant person in relation to a motor vehicle that is seized and impounded under **section 96AAA** of the Act must pay the charges specified in subclause (1) for each of 182 days.

(3) In regulation 4(2),—

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(a) replace “subclause (1)” with “subclauses (1) to **(1B)**”;

(b) replace “section 96 or 96A” with “section 96, **96AAA**, **96AAB**, or 96A”.

- (4) In regulation 4(3),—
- (a) after “section 102(3)”, insert “(including as applied by **section 102A**)”;
 - (b) after “section 102(1)(b)”, insert “or **102A(1)(b)**”.
 - (a) replace “subclause (1)” with “subclauses (1) to **(1B)**”;
 - (b) replace “~~section 102(1)(a) or section 102(1)(b)~~” with “section 102(1)(a) or (b) or **(1A)(a) or (b)**”.
- (5) After regulation 4(3), insert:
- (4) The storage fee must be paid,—
- (a) for a motor vehicle impounded under section 96, **96AAB**, 96A, or 122 of the Act, to the vehicle recovery service operator or storage operator (*see* section 97(3) of the Act); or
 - (b) for a motor vehicle impounded under **section 96AAA** of the Act, to the Agency (*see* **section 97A(4)** of the Act).
- 53 Regulation 5 amended (Penalty for late payments)**
- In regulation 5(1),—
- (a) replace “owner” with “relevant person” in each place:
 - (b) replace “of an impounded vehicle” with “in relation to an impounded motor vehicle”.

Schedule 1**New Part 7 of Schedule 1 of Land Transport Act 1998 inserted****s 36****Part 7****Provisions relating to Land Transport (Road Safety) Amendment Act 2023** 5**26 Increased penalty for second offence under section 52A**

Section 52A(4), as amended by the Land Transport (Road Safety) Amendment Act **2023**, applies only if the relevant first offence is committed on or after the day on which that Act comes into force.

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Schedule 2

~~New Part 5 of Schedule 1AA of Sentencing Act 2002 inserted~~

s 41

Part 5

~~Provisions relating to Land Transport (Road Safety) Amendment Act 2023~~

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16 ~~Timing of operation of section 129(4A)~~

~~Section 129(4A)~~ applies only if the relevant first offence under section 129(1)(a) is committed on or after the day on which the Land Transport (Road Safety) Amendment Act **2023** comes into force.

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Legislative history

16 May 2023
18 May 2023

Introduction (Bill 251–1)
First reading and referral to Justice Committee