

Chair
Cabinet

LAND TRANSPORT (INFRINGEMENT AND REMINDER NOTICES) REGULATIONS 2012

LAND TRANSPORT AMENDMENT ACT 2011 COMMENCEMENT ORDER 2012

Proposal

1. This paper proposes that Cabinet authorise the submission to the Executive Council of the:
 - Land Transport Amendment Act 2011 Commencement Order 2012 (the Order)
 - Land Transport (Infringement and Reminder Notices) Regulations 2012 (the Regulations)

Background

2. The Courts and Criminal Matters Bill was an omnibus Bill that provided for the enhancement of the courts' powers and processes for the collection of fines, reparation and other monetary penalties, and civil debts.
3. The Bill was divided into twenty Amendment Bills by the Committee of the Whole House and these Bills were passed in July 2011. One of these Bills became the Land Transport Amendment Act 2011.
4. The Order brings into force sections 12 to 16 of the Land Transport Amendment Act 2011 which deal with powers of parking wardens, information that needs to be provided in statutory declarations and particulars that need to be set out in traffic infringement and reminder notices.
5. Therefore, new regulations are required to replace the Land Transport (Infringement and Reminder Notices) Regulations 1998 to reflect these changes.

Comment

6. Currently, a person can apply under section 78B of the Summary Proceedings Act 1957 to have proceedings to enforce payment of an infringement fine set aside on the grounds that he or she did not receive the reminder notice for the infringement. This provision is exploited by people who fail to comply with their legal obligation to keep their personal information up to date on the Motor Vehicle Register, therefore, almost guaranteeing they will not receive a reminder notice.

7. In 2004, Cabinet agreed that the grounds of appeal under section 78B of the Summary Proceedings Act 1957 should not be available to people who failed to comply with their legal obligations in relation to the Motor Vehicle Register, unless they could prove that they had made reasonable attempts to comply [SDC Min (04) 31/10; confirmed in 2008 – SDC Min (08) 14/10 refers]. The Summary Proceedings Amendment Act 2011, another Amendment Act created by the Courts and Criminal Matters Bill, amends the Summary Proceedings Act 1957 to give effect to this decision.
8. Sections 15 and 16 of the Land Transport Amendment Act 2011 amend the Land Transport Act 1998 to ensure people receive full information in infringement notices as, after 1 August 2012, they may not be eligible to challenge an infringement after it has been filed in court on the grounds of non-receipt of the reminder notice. The actual information required to be provided is set down in the Regulations which revoke and replace the Land Transport (Infringement and Reminder Notices) Regulations 1998.

The Order

9. Section 2(2) of the Land Transport Amendment Act 2011 empowers the Governor-General to bring into force provisions of this Act by Order in Council.
10. The Order brings sections 12 to 16 of the Land Transport Amendment Act 2011 into force on 1 August 2012.
11. Section 12 of the Land Transport Amendment Act 2011 amends the information that parking wardens can request from people when enforcing provisions relating to stationary vehicle offences and special vehicle lane offences. Sections 13 and 14 make changes to information that needs to be provided in statutory declarations relating to moving vehicle offences, special vehicle lane offences and stationary vehicle offences.
12. Section 16 of the Land Transport Amendment Act 2011 substitutes a new section 140(2) of the Land Transport Act 1998, which requires reminder notices to contain “the same particulars, or substantially the same particulars, as the infringement notice”. The particulars set down in the new section 140(1) must be in each infringement notice relating to the Land Transport Act 1998. This requirement means changes to the infringement notices are required to ensure sufficient particulars are provided at an earlier stage. This is because a person may no longer be able to challenge an infringement after it has been filed in court on the basis they did not receive a reminder notice.
13. The Order does not introduce any new policy.

The Regulations

14. Section 167(1)(l) of the Land Transport Act 1998 empowers the Governor-General to make regulations, by Order in Council, to prescribe forms for the purposes of the Act.
15. The Regulations replace the Land Transport (Infringement and Reminder Notices) Regulations 1998 to reflect the amendments made by the Land Transport Amendment Act 2011. The Regulations have an in force date of 1 August 2012.
16. The Regulations also generally update the language of the traffic infringement and reminder notices to reflect changes in other related legislation.

Related paper

17. This paper is related to the paper submitted by the Minister for Courts titled "*Courts and Criminal Matters Bill: Regulations and Orders*" which deals with other commencement orders and amendment regulations arising out of the implementation of the Courts and Criminal Matters Bill. The Summary Proceedings Amendment Act 2011 is one of the Acts brought into force by that paper. It is proposed that the amendment regulations and commencement orders outlined in that paper also come into force on 1 August 2012.

Timing and the 28-day rule

18. The Regulations and the Order have a commencement date of 1 August 2012, to align with the commencement date of the Summary Proceedings Amendment Act 2011 and the Road User Charges Act 2012.
19. To ensure issuing agencies have sufficient time to train staff, make technology changes and print notices before the Regulations and Order come into force, the Regulations and Order would need to be made by the Administrator of the Government on 5 June 2012, so that they may be notified in the *New Zealand Gazette* on 7 June 2012.
20. No waiver of the 28-day rule is sought.

Compliance

21. The Regulations and Order comply with the:
 - 21.1 principles of the Treaty of Waitangi
 - 21.2 rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
 - 21.3 principles and guidelines set out in the Privacy Act 1993
 - 21.4 relevant international standards and obligations
 - 21.5 LAC Guidelines: *Guidelines on the Process and Content of Legislation, a publication of the Legislation Advisory Committee*

Regulations Review Committee

22. There are no grounds for the Regulations Review Committee to draw the Regulations to the attention of the House under Standing Order 315.

Certification by Parliamentary Counsel

23. The Parliamentary Counsel Office has certified the Regulations and the Order as being in order for submission to the Executive Council.

Regulatory Impact Analysis

24. A regulatory impact analysis was prepared in accordance with the necessary requirements and submitted at the time that Cabinet Committee approval of the policy relating to the Regulations was sought.

Publicity

25. Due to their administrative nature, no publicity is planned for these changes.

Consultation

26. The Ministry of Justice and the Police have been consulted on this paper. The Department of the Prime Minister and Cabinet has been informed.
27. In addition, the NZ Transport Agency, the Parking Association and major local authorities have been consulted on the Regulations.
28. The Minister of Transport has agreed to the submission of this paper.

Recommendations

29. The Associate Minister of Transport recommends that the Committee:
- (a) **note** that the Land Transport Amendment Act 2011 Commencement Order 2012 will bring sections 12 to 16 of the Land Transport Amendment Act 2011 into force on 1 August 2012
 - (b) **note** that the Land Transport (Infringement and Reminder Notices) Regulations 2012 will replace the Land Transport (Infringement and Reminder Notices) Regulations 1998, to reflect amendments made by the Land Transport Amendment Act 2011
 - (c) **authorise** the submission to the Executive Council of the Land Transport Amendment Act 2011 Commencement Order 2012
 - (d) **authorise** the submission to the Executive Council of the Land Transport (Infringement and Reminder Notices) Regulations 2012



Hon Simon Bridges
Associate Minister of Transport

Dated: 29 May 2012



Cabinet

CAB Min (12) 19/11

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Minute of Decision

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Land Transport (Infringement and Reminder Notices) Regulations 2012 and Land Transport Amendment Act 2011 Commencement Order 2012

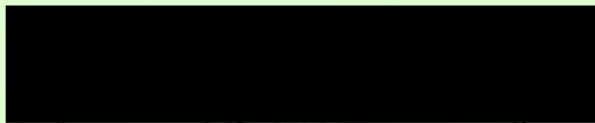
Portfolio: Associate Transport

On 5 June 2012, Cabinet:

- 1 **noted** that:
 - 1.1 the Courts and Criminal Matters Bill, which provided for the enhancement of the courts' powers and processes for the collection of fines, reparation and other monetary penalties, and civil debts, was divided into 20 Amendment Bills, which were passed in July 2011;
 - 1.2 note that one of the Amendment Bills became the Land Transport Amendment Act 2011;
- 2 **noted** that the Land Transport Amendment Act 2011 Commencement Order 2012 will bring sections 12 to 16 of the Land Transport Amendment Act 2011, which deal with the powers of parking wardens, information that needs to be provided in statutory declarations, and particulars that need to be set out in traffic infringement and reminder notices, into force on 1 August 2012;
- 3 **noted** that the Land Transport (Infringement and Reminder Notices) Regulations 2012 (the regulations) will replace the Land Transport (Infringement and Reminder Notices) Regulations 1998, to reflect amendments made by the Land Transport Amendment Act 2011;
- 4 **authorised** the submission to the Executive Council of the:
 - 4.1 Land Transport Amendment Act 2011 Commencement Order 2012 [PCO 15496/6.0];
 - 4.2 Land Transport (Infringement and Reminder Notices) Regulations 2012 [PCO 15781/10.0];

5 noted that the regulations will come into force on 1 August 2012.

Withheld under Section 9(2)(a) of the Official Information Act 1982



Secretary of the Cabinet

Reference: CAB (12) 262

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