

20 May 2024

Chris Webb  
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REF: OIA-15254

Dear Chris

**Request made under the Official Information Act 1982**

Thank you for your email of 30 April 2024 requesting information relating to the granting of exemptions to NZ Post for the utility of Paxsters under the Official Information Act 1982 (the Act). I shall address each of your queries in turn:

***Can you tell me what the specific requirements were that NZ Post had to meet?***

The Paxster exemptions for NZ Post were granted under section 166 of the Land Transport Act 1998 (the Act), which outlines that the Agency may, if the Agency considers it appropriate and upon such conditions as the Agency considers appropriate, exempt a person, vehicle, rail vehicle, or land transport related service from a specified requirement in a land transport rule. The criteria for an exemption under S166(2) was as follows:

Before granting an exemption under this section, the Agency must be satisfied in the circumstances of each case that the risk to safety will not be significantly increased by the granting of the exemption and that:

- a) the requirement has been substantially complied with and that further compliance is unnecessary; or
- b) the action taken or provision made in respect of the matter to which the requirement relates is as effective or more effective than actual compliance with the requirement; or
- c) the prescribed requirements are clearly unreasonable or inappropriate in the particular case; or
- d) events have occurred that make the prescribed requirements unnecessary or inappropriate in the particular case.

This means the requirements which NZ Post had to meet in order to be granted the exemption, were consideration of safety, determination of risk to safety and whether the risk to safety was significantly increased. At the time, the primary mode of transportation for NZ Post was bicycles. The determination was made that the Paxster offered a greater level of protection compared to a bicycle.

***If my organisation was able to demonstrate the same or better controls and requirements compared to NZ Post is there any reason why an exemption would not be granted?***

All exemptions are assessed on their own merits, using supporting evidence that a vehicle meets or exceeds current standards, or alternatively in this case, shows that it minimises current risks associated with the vehicles currently in service. It is also worth noting that in the interim, the legislation by which exemptions are granted has changed. The Director of Land Transport now grants exemptions under section 168D of the Act, which states that the Director may, if the Director thinks it appropriate, exempt 1 or more named or specified persons, vehicles, vehicle components, rail vehicles, land transport-related services, or other things from 1 or more specified requirements in a regulation or rule made under this Part; or exempt any class of person, vehicle, vehicle component, rail vehicle, land transport-related service, or other thing from 1 or more specified requirements in a regulation or rule made under this Part.

The Director must not grant an exemption unless satisfied that the exemption is no broader than is reasonably necessary to address the matters that gave rise to the proposed exemption; and it is appropriate to grant an exemption considering:

- i) the Agency's objective in section 94 of the *Land Transport Management Act 2003*; and
- ii) the need to maintain or improve land transport safety; and
- iii) whether the exemption supports the response to an emergency or other event; and
- iv) any other matter that the Director considers appropriate in the circumstances.

To provide context to the above, section 94 of the Land Transport Management Act 2003 states that the objective of the Agency is to undertake its functions in a way that contributes to an effective, efficient, and safe land transport system in the public interest.

If you would like to discuss the specifics of the vehicles, and the activities they will be undertaking, then please outline your request in an application to [exemptions@nzta.govt.nz](mailto:exemptions@nzta.govt.nz)

Yours sincerely



**Nicole Botherway**  
Senior Manager, Safer Vehicles