

[AS REPORTED FROM THE GOVERNMENT ADMINISTRATION
COMMITTEE]

House of Representatives, 12 September 1989.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 14 September 1989.

Words struck out are shown in italics within double bold round brackets, or with double black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

[Clauses 207A to 216C and the Schedule to this Bill were formerly clauses 207A to 216C and the Tenth Schedule to the Transport Law Reform Bill (No. 2): 156-2]

Hon. W. P. Jeffries

TRANSPORT AMENDMENT (NO. 3)

ANALYSIS

Title	
1. Short Title and commencement	
207A. Interpretation	210. Search warrants relating to road user charges offences
207B. General penalties	210A. Overloading of Crown vehicles
208. Further penalty in certain cases where person driving vehicle used in transport service	211. Removal and retention of hubometers by authorised officers
208A. Issue of limited licence to disqualified person	212A. Restriction of heavy traffic on roads
208B. Infringement offences	213. New heading and sections substituted
209. Entitlement to infringement fees	<i>Driving Hours and Logbooks</i>
209A. Speed limits in built-up areas	70B. Driving hours
209B. Speed exemption notices	70C. Driver logbooks
209C. Correction of cross-references in principal Acts	70D. Offences and proceedings, concerning logbooks and driving hours
	213A. New heading and sections inserted

No. 156—3D

Price
incl. GST \$6.50

<i>Hazardous Substances</i>	215. Traffic surveys
70E. Definition of Hazardous substance, etc.	215A. Regulations
70F. Duties of operators of vehicles transporting hazardous substances	216. New sections inserted
70G. Consignors to advise of presence of hazardous substances	79. Certificates of fitness
70H. Driver to have licence with hazardous substance endorsement	79A. Revocation of certificate of fitness
214. Minister may ensure roading safety	79B. Certificates of loading
	216A. Notice of accidents to be given to Secretary
	216B. General penalty for offences
	216C. Infringement offences Schedule

A BILL INTITULED

An Act to amend the Transport Act 1962

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Transport Amendment Act (No. 3) 1989, and shall be read together with and deemed part of the Transport Act 1962 (hereinafter referred to as the principal Act).

(2) Except as otherwise provided in this Act, this Act shall come into force on the 1st day of October 1989.

207A. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

New

“‘Land Transport Fund’ means the Fund within the Crown Bank Account referred to in section 65 of the Transit New Zealand Act 1989:

“‘Transit New Zealand’ means the authority known as Transit New Zealand established under Parts II to VIII of the Transit New Zealand Act 1989:”.

(2) The said section 2 (1) is hereby amended by repealing the definitions of the terms “approved operational plan”, “approved transport section of a regional planning scheme”, “approved urban transport scheme”, and “urban transport area”.

(3) The said section 2 (1) is hereby amended by repealing the definition of the term “goods service”, and substituting the following definitions:

New

“ ‘Goods service’, and ‘goods service licence’ have the same meanings as in **section 2** of the **Transport Services Licensing Act 1989**:”.

5 (4) The said section 2 (1) is hereby amended by repealing the definitions of the terms “harbour”, “harbour ferry”, and “harbour-ferry service”, and substituting the following definitions:

10 “ ‘Gross laden weight’, in relation to a motor vehicle, means—

“(a) Subject to **paragraphs (b) and (c)** of this definition, the greatest of the following weights:

15 “(i) Any weight specified (subsequent to the latest modification thereof, if any) as the gross laden weight of the vehicle by the manufacture of the vehicle:

20 “(ii) Any weight specified as the gross laden weight of the vehicle, or of a vehicle of that kind, by the Secretary for Transport, by notice in the *Gazette* or by notice to an owner of the vehicle:

25 “(iii) The weight of the vehicle, together with the load that the vehicle is for the time being carrying, including any equipment and accessories:

“(b) Where evidence is not adduced in respect of all 3 weights referred to in **paragraph (a)** of this definition, the greater of the weights, or (as the case may be) the only weight, in respect of which evidence is adduced:

30 “(c) Where no evidence is adduced in respect of any of the weights referred to in **paragraph (a)** of this definition, the total of the unladen weight of the vehicle and the weight of the maximum load that the vehicle may safely carry:

35 “ ‘Hazardous substance’ has the same meaning as in **section 70E** of this Act:

40 “ ‘Heavy motor vehicle’ means a motor vehicle (other than a motorcar that is not used, kept, or available for the carriage of passengers for hire or reward) the gross laden weight of which exceeds 3500 kilograms:

“ ‘Large passenger service vehicle’ has the same meaning as in **section 2** of the **Transport Services Licensing Act 1989**:”.

New

(5) The said section 2 (1) is hereby amended by repealing the definitions of the terms “passenger-service” and “passenger-service vehicle”, and substituting the following definitions:

“ ‘Passenger service’, ‘passenger service licence’, and ‘passenger service vehicle’ have the same meanings as in **section 2** of the **Transport Services Licensing Act 1989**.”

(6) The said section 2 (1) is hereby amended by repealing the definitions of the terms “rental car”, “rental service”, and “rental vehicle”, and substituting the following definitions:

“ ‘Rental service’, ‘rental service licence’, and ‘rental service vehicle’ have the same meanings as in **section 2** of the **Transport Services Licensing Act 1989**.”

(7) The said section 2 (1) is hereby amended by repealing the definition of the term “service”, and substituting the following definitions:

“ ‘Service’ means a transport service:

“ ‘Small passenger service vehicle’ has the same meaning as in **section 2** of the **Transport Services Licensing Act 1989**.”

(8) The said section 2 (1) is hereby amended by repealing the definition of the term “transport licence”, and substituting the following definitions:

“ ‘Transport service’, ‘transport service licence’, and ‘transport service vehicle’ have the same meanings as in **section 2** of the **Transport Services Licensing Act 1989**.”

(9) The said section 2 (1) is hereby amended by inserting, after the definition of the term “vehicle”, the following definitions:

“ ‘Vehicle recovery service’, ‘vehicle recovery service licence’, and ‘vehicle recovery service vehicle’ have the same meanings as in **section 2** of the **Transport Services Licensing Act 1989**.”

(10) The said section 2 (1) is hereby amended by repealing the definitions of the terms “Charges Appeal Authority”, “container ship”, “continuous licence”, “contract”, “contract vehicle”, “district”, “fares”, “Licensing Appeal Authority”, “Licensing Authority”, “public body”, and “temporary licence”.

(11) The Local Government Amendment Act (No. 3) 1977 is hereby consequentially amended by repealing so much of Part II of the Third Schedule as relates to the definition of the term “public body” in section 2 (1) of the Transport Act 1962.

New

- (12) References in the principal Act and in any regulations made under that Act to terms repealed by this section, being terms that relate to any transport service, transport service licence, or vehicle, or to any class of any such service or licence, or vehicle, shall, so far as may be and unless the context otherwise requires, be deemed to be references to the service, licence, or vehicle, or class thereof, that most closely approximates to that referred to by the term repealed.
- (13) Subsections (3) to (12) of this section shall come into force on the 1st day of November 1989.

- 207B. General penalties**—(1) Section 30 of the principal Act (as substituted by section 3 (1) of the Transport Amendment Act (No. 2) 1988) is hereby amended by repealing subsection (2).
- (2) This section shall come into force on the 1st day of November 1989.

- 208. Further penalty in certain cases where person driving vehicle used in transport service**—(1) The principal Act is hereby amended by inserting after section ~~(30D)~~ 30AC (as *inserted*) substituted by section (6) 3(1) of the Transport Amendment Act ~~((No. 3) 1983)~~ (No. 2) 1988) the following section:

- “(30E) 30AD. Where any person is convicted of an offence against any of sections 55 (2), 58 (1), 58A (4), 58B (5), 58C (5), 58E (1), and 58E (2) of this Act, being an offence that—
- “(a) Was committed on or after the 1st day of ~~(September)~~ November 1989; and

Struck Out

- “(b) Related to the driving, or attempted driving, by that person of a vehicle being used under a transport service licence (other than a rental service licence) or in circumstances where a transport licence (other than a rental service licence) is required,—
- that person shall, in addition to any other penalty the Court may impose, be disqualified for life from driving any vehicle

Struck Out

being used in a passenger service, goods service, or vehicle recovery service.”

New

“(b) Related to the driving or attempted driving by that 5
person of a vehicle being used in a transport service
(other than a rental service),—

the Court shall, in addition to any other penalty the Court may impose, and notwithstanding section 30AC of this Act, disqualify that person from driving any vehicle being used in a 10
transport service (other than a rental service) for such period, being not less than 1 year and 1 day and not more than 10 years, as the Court thinks fit.

“(2) Nothing in **subsection (1)** of this section shall limit the power of the Court under any other provision of this Act to 15
disqualify a person for a period exceeding 10 years.”

208A. Issue of limited licence to disqualified person—

(2) Section 38 (1) of the principal Act (as substituted by section 9 of the Transport Amendment Act (No. 3) 1983) is hereby amended by inserting, after the expression “subsection 20
(1A)”, the expression “or **subsection (1B)**”.

(3) Section 38 of the principal Act is hereby amended by inserting, after subsection (1A) (as so substituted), the following subsection:

“(1B) No person who is disqualified from driving any vehicle 25
being used in a passenger service, goods service, or vehicle recovery service by virtue of **section 30AD** of this Act shall be entitled to apply under this section for an order authorising the person to obtain a limited licence that would authorise the person to drive a vehicle being used in a passenger service, 30
goods service, or vehicle recovery service.”

New

(4) Section 38 (2) of the principal Act (as substituted by section 5 (1) of the Transport Amendment Act (No. 3) 1978) is hereby amended—

- 5 (a) By omitting from paragraph (a) (ii) of the proviso the words “subsection (1), subsection (2A), or subsection (3) of section 30”, and substituting the words “subsections (1) to (4) of section 30AA or subsection (1) of subsection (2) of section 30AB”;
- 10 (b) By omitting from paragraph (b) of the proviso (as substituted by section 24 (e) of the Transport Amendment Act 1987) the words “subsection (1) or subsection (2A) or subsection (3) of section 30”, and substituting the words “subsections (1) to (4) of section 30AA or subsection (1) or subsection (2) of section 30AB”.

15 (5) **Subsections (2) and (3)** of this section shall come into force on the **1st day of November 1989**.

208B. Infringement offences—Section 42A of the principal Act (as substituted by section 17 of the Summary Proceedings Amendment Act 1987) is hereby amended by inserting, after subsection (2), the following subsection:

20 “(2A) For the purposes of any proceedings in respect of an infringement offence that is an offence against the **Transport Law Reform Act (No. 2) 1989** specified in **Part VI** of the Second Schedule to this Act, the expressions ‘traffic officer’ and ‘officer’ include enforcement officers within the meaning of that Act.”

209. Entitlement to infringement fees—(1) Section 43 of the principal Act (as substituted by section 6 (1) of the Transport Amendment Act 1987) is hereby amended by repealing ~~(subsection)~~ subsections (1) and (2), and substituting the following subsection:

Struck Out

35 “(2) All overloading infringement fees received under section 42A or section 69C of this Act by an enforcement authority or recovered under the Summary Proceedings Act 1957 shall be paid into the Land Transport Fund at the **Crown Bank Account**.”

New

“(1) Subject to subsection (3) of this section, all infringement fees received under section 42A or section 69c of this Act by an enforcement authority or recovered under the Summary Proceedings Act 1957 shall be paid into the Crown Bank Account; except that the enforcement authority may retain such portion of the fees so received as the Minister of Finance from time to time approves as being the expenses incidental to their collection.”

(2) Section 43 (5) of the principal Act (as so substituted) is hereby consequentially amended by omitting the expression “(2)”.

New

209A. Speed limits in built up areas—(1) Section 52 (1) of the principal Act (as substituted by section 8 (3) of the Local Government Amendment Act 1979) is hereby amended by repealing paragraphs (a) and (b), and substituting the following paragraph:

“(a) In any district, or part of a district, of a territorial authority within the meaning of the Local Government Act 1974 that immediately before the 1st day of November 1989—

“(i) Was or formed part of any city or borough or town district as those terms were then defined in that Act; or

“(ii) Was or formed part of any district of a district council (as that term was then defined in that Act) that, immediately before the constitution of the district, was a borough or town district or part of a borough or town district; or”.

(2) This section shall come into force on the 1st day of November 1989.

209B. Speed exemption notices—(1) The principal Act is hereby amended by inserting, after section 52, the following section:

“52A. (1) Any notice given by the Minister at any time before or after the commencement of this section under section 52 (2)

New

of this Act or regulation 21 (2) of the Traffic Regulations 1976 (or under section 36 of the Transport Act 1949 or regulation 27 or regulation 27A of the Traffic Regulations 1956) in respect of any road shall,—

- 5 “(a) Whether or not that road was named in the notice or identified by reason of its location in a defined area; and
 “(b) Notwithstanding any change in the name of the road, or
 10 in the name, boundaries, or identity of the territorial authority in whose district the road is or was situated,—

continue to have effect in relation to that road until revoked or varied by further notice in the *Gazette* given by the Minister, or
 15 until otherwise specifically revoked or varied by or under this or any other Act.

“(2) The Minister may from time to time, by notice in the *Gazette*, vary or revoke any notice referred to in **subsection (1)** of this section.”

20 (2) Section 52 (1) of the principal Act (as substituted by section 8 (3) of the Local Government Amendment Act 1979) is hereby amended by omitting the expression “section 53”, and substituting the expression “**sections 52A and 53**”.

209c. Correction of cross-references in principal Act—

25 (1) Section 51 (3) (a) of the principal Act is hereby amended—

(a) By omitting from subparagraph (i) (as amended by section 6 (4) (b) of the Transport Amendment Act 1974) the words “subsection (1) or subsection (2A) or subsection (3) of section 30”, and substituting the words
 30 “subsections (1) to (4) of section 30AA or subsection (1) or subsection (2) of section 30AB”:

(b) By omitting from subparagraph (ii) the words “under subsection (2) of that section”, and substituting the words “section 30AA (4) or section 30AC of this Act”.

35 (2) Section 55 (2) of the principal Act (as substituted by section 8 of the Transport Amendment Act (No. 3) 1978) is hereby amended—

- (a) By omitting from paragraph (b) the expression “58A”, and substituting the expression “58B”;
 40 (b) By omitting from paragraph (c) the expression “58B”, and substituting the expression “58C”.

New

(3) Section 55 (5) of the principal Act (as so substituted) is hereby amended—

(a) By omitting the expression “58A”, and substituting the expression “58B”: 5

(b) By omitting the expression “58B”, and substituting the expression “58C”.

(4) Section 65 of the principal Act is hereby amended by omitting the expression “section 30” where it occurs in both subsection (4) (as amended by section 3 (1) of the Transport Amendment Act 1970) and subsection (5) (as substituted by section 18 (4) of the Transport Amendment Act 1974), and substituting in each case the expression “section 30AA”. 10

(5) Section 6 (4) (b) of the Transport Amendment Act 1974 is hereby consequentially repealed. 15

210. Search warrants relating to road user charges offences—The principal Act is hereby amended by inserting, after section 68D, the following section:

“68E. (1) A search warrant issued under section 198 (1) of the Summary Proceedings Act 1957 in relation to any offence that involves road user charges matters may be directed— 20

“(a) To any traffic officer by name, being a traffic officer authorised by the Secretary to execute search warrants; or

“(b) Generally to every such traffic officer; or 25

“(c) In the manner provided by section 198 (2) of the Summary Proceedings Act 1957.

“(2) Where any search warrant to which this section relates is directed to any traffic officer by name or generally to every traffic officer authorised to execute search warrants, the Summary Proceedings Act 1957 shall apply in all respects as if every reference therein to a constable included a traffic officer. 30

“(3) Any traffic officer executing any search warrant shall, when reasonably requested to do so, produce evidence of the traffic officer’s authority from the Secretary to execute such warrants.” 35

New

5 **210A. Overloading of Crown vehicles**—(1) Section 69c of the principal Act (as substituted by section 23 (1) of the Transport Amendment Act 1987) is hereby amended by
repealing subsections (4) and (5), and substituting the following subsections:

10 “(4) The Permanent Head may, by notice in writing given to the Secretary before the date specified in the notice given pursuant to subsection (2) of this section, object to the last-
mentioned notice on the ground that the amount of the overloading infringement fee specified in the notice exceeds the amount properly payable. The Secretary shall refer the objection to an independent assessor agreed upon by the Secretary and the Permanent Head.

15 “(5) The independent assessor shall consider the objection, and may allow it or dismiss it, and the decision of the independent assessor shall be final. If the objection is dismissed, the appropriate overloading infringement fee shall be payable to the enforcement authority not later than 14 days after the
20 notification of the decision to the objector.

“(6) In this section, the term ‘the Crown’ does not include the New Zealand Railways Corporation or any subsidiary of that Corporation.”

25 (2) This section shall come into force on the 1st day of November 1989.

211. Removal and retention of hubodometers by authorised officers—(1) The principal Act is hereby amended by inserting, after section 69c (as substituted by section 23 (1) of the Transport Amendment Act 1987), the following section:

30 “69D. (1) Any constable, traffic officer who is an officer of the Department, or officer of the Department authorised by the Secretary to exercise any powers under this section (in this section each referred to as an ‘authorised officer’) may remove or require the removal from any (*heavy*) motor vehicle on any
35 road of any hubodometer for the purpose of inspection to determine whether the hubodometer has been modified or tampered with.

40 “(2) Any authorised officer may seize and retain for the purposes of any criminal proceedings, or any proceedings under section 18A of the Road User Charges Act 1977, any

hubodometer on any (*heavy*) motor vehicle on any road, or any hubodometer removed from any such vehicle pursuant to subsection (1) of this section, where the authorised officer believes on reasonable grounds that the hubodometer has been modified or tampered with (otherwise than in accordance with section 22A of the Road User Charges Act 1977), or bears a serial number common to any other hubodometer of the same make. 5

“(3) Any authorised officer may seize and retain for the purposes of any criminal proceedings, or any proceedings under section 18A of the Road User Charges Act 1977, any licence carried or displayed in or on any (*heavy*) motor vehicle on any road, or produced to the authorised officer by any person, where the authorised officer believes on reasonable grounds that the licence has been altered or is expired, invalid, or a forgery. 10 15

“(4) Where any hubodometer or licence is retained by an authorised officer under this section the operator of the vehicle from which the hubodometer is removed or to which the licence relates may cause the vehicle to be moved for such distance, not exceeding 100 kilometres, as may be necessary for the purpose of obtaining a replacement hubodometer or licence, or both; and the vehicle shall be deemed for the purposes of the Road User Charges Act 1977 to be fitted with a proper hubodometer or to have a valid licence displayed, or both, as the case may require, while it is being moved as permitted by this section. 20 25

Struck Out

“(5) Every driver of a heavy motor vehicle shall, whenever directed by a sign displaying the words ‘ALL TRUCKS STOP’, or whenever so directed by a traffic officer, stop the vehicle and keep it stopped so that an authorised officer may determine whether or not to take any action under this section. 30

New

“(6) Every person commits an offence, and is liable on conviction to a fine not exceeding \$5,000, who fails to comply with any requirement made under subsection (1) of this section. 35

New

(2) Section 69A (3) of the principal Act (as inserted by section 22 (2) of the Transport Amendment Act 1987) is hereby amended by adding the words “or **section 69D** of this Act”.

5

Struck Out

212. New sections inserted relating to hazardous substances—The principal Act is hereby amended by inserting, after section 70A, the following sections:

10 “70AA. **Hazardous substances**—(1) The operator of every heavy motor vehicle who knows or ought to have known that any load or part of the load on the vehicle is a hazardous substance shall ensure that—

15 “(a) The vehicle and the load bear appropriate signs and labels indicating the nature of the hazardous substance; and

20 “(b) There is carried inside the driver’s door of the vehicle in a readily accessible position clear instructions on the means of dealing with any spillage or escape of the substance and the procedures for handling and protecting the substance in any emergency.

25 “(2) Every operator of a heavy motor vehicle who fails to comply with **subsection (1)** of this section commits an offence and is liable on conviction to a fine not exceeding \$2,000, and, if that person was the driver of that vehicle or any vehicle towing that vehicle, the Court may order that the person be disqualified from holding or obtaining a licence to drive a heavy motor vehicle for such period as the Court thinks fit.

30 “(3) It shall be a defence to any proceedings for the offence specified in **subsection (2)** of this section if the defendant proves that the defendant did not know and could not reasonably be expected to know that the load or part of the load was a hazardous substance.

35 “(4) It shall be a defence to any proceedings for the offence specified in **subsection (2)** of this section in relation to **subsection (1) (a)** of this section if the defendant proves that the load and the vehicle were labelled in accordance with the New Zealand Standard.

Struck Out

“(5) In any proceedings for the offence specified in **subsection (2)** of this section in relation to **subsection (1) (a)** of this section it shall be presumed that the load on the vehicle contained any hazardous substance for which instructions were carried inside 5 the driver’s door.

“(6) In any proceedings for the offence specified in **subsection (2)** of this section in relation to **subsection (1) (b)** of this section it shall be presumed that labels on the vehicle or the load indicating the presence of a hazardous substance are correct. 10

“(7) In this section, the term ‘hazardous substance’ means any substance referred to in table 3 of New Zealand Standard 5433:1988 entitled Code of Practice for the Transport of Hazardous Substances on Land when the load on the vehicle comprises more than the quantity of the hazardous substance 15 specified in that table; but does not include any substance for which markings are not required by that Standard.

“70AB. **Consignors to advise of presence of hazardous substances**—(1) Every person at whose request goods are to be carried shall inform the person carrying or arranging the 20 carriage of the goods if the goods or part of the goods comprise a hazardous substance and shall inform the person that special precautions and requirements apply to the carriage of the goods.

“(2) **Subsection (1)** of this section shall not apply in the case 25 where the information has been given to the person on a previous occasion or the person to whom the information would otherwise need to be given indicates that it is not necessary to do so.

“(3) Every person who fails to comply with **subsection (1)** of 30 this section commits an offence and is liable on conviction to a fine not exceeding \$2,000.”

New

212A. Restriction of heavy traffic on roads—(1) The principal Act is hereby amended by inserting, after section 70A, 35 the following section:

“70AA. (1) The Minister in the case of a Government road, Transit New Zealand in the case of a State highway the control

New

of which has not been delegated to a territorial authority under Part VI of the Transport Law Reform Act (No. 2) 1989, and the territorial authority in the case of any road under its control, may from time to time, by public notice, direct that any heavy traffic, or any specified kind of heavy traffic defined in the notice, shall not proceed between any 2 places by way of any road or roads specified in the notice.

5

“(2) A copy of every notice under this section shall be displayed in at least 1 prominent position on every road to which the notice applies.

10

“(3) Every person commits an offence who contravenes the requirements of any notice under this section unless the person proves that there was no other way reasonably available for the traffic concerned.”

15

(2) The principal Act is hereby consequentially amended by repealing section 71.

(3) Any notice given under section 71 of the principal Act (as repealed by subsection (2) of this section) and in force immediately before the 1st day of October 1989 shall continue in force under section 70AA of the principal Act (as inserted by subsection (1) of this section) until withdrawn or revoked by the appropriate person or body under that section.

20

213. New heading and sections substituted—(1) The principal Act is hereby amended by repealing sections 70B, 70c, and 70D (as inserted by section 24 of the Transport Amendment Act 1987), and substituting the following heading and sections:

25

New

“Driving Hours and Logbooks

30

“70B. **Driving hours**—(1) No person shall drive any heavy motor vehicle, or any vehicle that is being used under a transport service licence (other than a rental service licence) or in circumstances in which it ought to be being used under such a licence, or any 2 or more such vehicles, and no person shall operate any such vehicle or vehicles, in such a manner that any one person—

35

- “(a) Drives any such vehicle for a continuous period exceeding 5½ hours; or
- “(b) In respect of any 24-hour period during which the person drives any such vehicle—
- “(i) Spends more than a total of 11 hours in 5 driving any such vehicle; or
- “(ii) Works or is on duty for more than a total of 14 hours within that period; or
- “(iii) Does not have at least 10 consecutive hours off duty within that period (not being a 24-hour 10 period that commences during the currency of any such 10-hour off duty period); or
- “(c) In respect of any 7-day period during which the person drives any such vehicle—
- “(i) Works or is on duty for more than a total of 15 70 hours within that period; or
- “(ii) Does not have at least 24 consecutive hours off duty within that period (not being a 7-day period that commences during the currency of any such 24-hour off duty period). 20
- “(2) For the purposes of this section and of **section 70c** of this Act—
- “(a) Any 2 or more periods spent in driving shall be deemed to be a single continuous period unless separated by an interval of not less than half an hour which is 25 available to the driver for rest or during which the driver is off duty:
- “(b) No period shall be counted as available for rest if it is spent by the driver in or on any vehicle referred to in **subsection (1)** of this section, being a vehicle 30 connected with the driver’s business or employment, while that vehicle is moving:
- “(c) The terms ‘working’ and ‘on duty’ include engaging in any of the following activities:
- “(i) Driving a vehicle referred to in **subsection (1)** of 35 this section:
- “(ii) Loading or unloading any such vehicle or waiting for the loading or unloading of any such vehicle:
- “(iii) Maintenance, cleaning (other than unpaid 40 cleaning that occurs during any off duty period of not less than 24 hours), or other activities relating to any such vehicle:

“(iv) Any other activity (whether or not it relates to a vehicle of any kind) relating to the provision of transport services for passengers or goods:

5 “(v) Any paid employment of any kind (whether or not it relates to any transport service or to any vehicle of any kind), including any period of paid employment that is, or is set aside for or available as, a rest period; but does not include paid leave of any kind, or any other period for which payment is made but during which the person is not required to perform any duties unless that period is a period when the person is to be regarded as working or on duty by virtue of any of **subparagraphs (i) to (iv)** of this paragraph:

15 “(d) A person shall be deemed to be off duty only when that person is not working or on duty within the meaning of **paragraph (c)** of this subsection.

“(3) The requirements of this section shall apply in respect of any vehicle referred to in **subsection (1)** of this section whether or not the vehicle is engaged in any transport service or is carrying any load or passengers at any time.

20 “(4) The Secretary may grant partial or total written exemptions from some or all of the requirements of this section in respect of any driver or operator, any class of driver or operator, any service or occasion, any class of services or occasions, or any time spent on any activity or employment, and may impose conditions relating to the exemption and the records to be kept of driving or time spent in terms of the exemption.

30 “(5) Any exemption granted under **subsection (4)** of this section, may be amended or revoked at any time by the Secretary in writing.

“(6) Every person who drives a vehicle referred to in **subsection (1)** of this section, and every person who employs any such person, shall make all relevant time records, wage records, and related employment records in the possession or control of the person available for immediate inspection on demand at any reasonable time by an officer of the Department authorised in writing by the Secretary in respect of the particular case.

40 “(7) Every person commits an offence who fails to comply with any of the requirements of this section or the conditions of any exemption granted under **subsection (4)** of this section, and is liable on conviction—

45 “(a) In the case of a driver, to a fine not exceeding \$2,000, and the person shall (unless the Court for special

reasons relating to the offence thinks fit to order otherwise,) be disqualified from holding or obtaining a licence to drive a heavy motor vehicle and any vehicle being used (*under any*) in the relevant transport service (*licence*) for a period of (~~3 months~~) 1 calendar month 5 or such greater period as the Court thinks fit:

“(b) In any other case, to a fine not exceeding \$10,000.

“(8) It shall be a defence in any proceedings for an offence of failing to comply with this section if the (*Court is satisfied*) defendant proves that the failure to comply with this section 10 was due to unavoidable delay in the completion of any journey arising out of circumstances that could not reasonably have been foreseen by the defendant.

“70c. **Driver logbooks**—(1) Every driver of any vehicle to which this section applies shall maintain a logbook, which shall 15 be in a form approved by the Secretary, containing a clear and legible record of—

“(a) The driver’s name and residential address; and

“(b) All periods spent—

“(i) In driving any vehicle referred to in **section 20 70a (1)** of this Act; and

“(ii) Working or on duty; and

“(iii) As rest periods (being periods of not less than half an hour); and

“(iv) Off duty; and 25

“(c) The relevant starting and finishing dates, times, and (except in the case of off duty periods) places of the periods referred to in **paragraph (b)** of this subsection; and

“(d) The registration number of each vehicle driven; and 30

“(e) Where the vehicle is required to be fitted with a distance recorder by or under the Road User Charges Act 1977, the distance recorder readings at the start and finish of each period of driving.

“(2) Every logbook required to be maintained under **subsection 35 (1)** of this section shall be maintained by the driver in respect of a period of at least 10 days after the last day on which any period spent driving any vehicle is or ought to have been recorded.

“(3) Except as provided in **subsection (4)** of this section— 40

“(a) The date, time, and place of commencement of every period required by **subsection (1)** of this section to be entered in a logbook, and (where driving is involved in any such period) the relevant distance recorder

reading and vehicle registration number, shall be entered in the driver's logbook at the commencement of that period; and

5 “(b) The date, time, and place of finishing of any such period, and, where appropriate, the relevant distance recorder reading, shall be entered in the driver's logbook at the finish of that period.

““(4) Where 2 or more periods spent in driving are deemed by **section 70B (2) (a)** of this Act to constitute a single continuous period—

10 “(a) The driver may enter the relevant dates, times, and places of commencement and finishing, and (except where more than 1 vehicle is driven) the relevant distance recorder readings and vehicle registration number, as if those 2 or more periods were a single period spent in driving; but

15 “(b) Where the driver so elects, the total of those 2 or more periods, together with any time spent between those periods (whether or not such time is actually spent in driving) shall be treated for the purposes of **section 70B (1) (a) and (b)** of this Act as a single continuous period spent in driving.

““(5) Every driver shall—

25 “(a) Retain every logbook required to be maintained by the driver under **subsection (1)** of this section for a period of 12 months after the date of the last entry in the logbook; and

30 “(b) In the case of a driver who is an employee, deliver a copy of the logbook to the driver's employer as soon as practicable after the expiry of 10 days after the last entry in the logbook, and the employer shall retain the copy of the logbook for a period of 12 months after the date of the last entry in the logbook.

35 ““(6) Every driver of any vehicle to which this section applies shall carry with him or her at all times when driving a vehicle to which **section 70B** of this Act applies, and shall (on demand by any constable, traffic officer, or any officer of the Department authorised in writing in that behalf by the Secretary) forthwith

40 produce, any current logbook relating to that day and the previous 10 days that the driver is required by this section to maintain.

45 ““(7) Every person who is required to retain any logbook or any copy of any logbook under **subsection (5)** of this section shall make it and any relevant time records, wage records, and

related employment records available for immediate inspection on demand by the Secretary or an officer of the Department at any reasonable time during the period for which it is required to be retained.

“(8) Every person who fails to comply with any requirement of or demand made under **subsection (5) or subsection (7)** of this section commits an offence and is liable on conviction—

“(a) In the case of a driver, to a fine not exceeding \$2,000, and the person shall, unless the Court for special reasons relating to the offence thinks fit to order otherwise, be disqualified from holding or obtaining a licence to drive a heavy motor vehicle and any transport service (*licence*) for a period of 1 calendar month or such greater period as the Court thinks fit:

“(b) In any other case, to a fine not exceeding \$10,000.

“(9) Except as provided in any notice given under **subsection (10)** of this section, or as provided in **subsection (11)** of this section, this section applies in respect of—

“(a) All passenger-service vehicles:

“(b) All goods-service vehicles that have more than 2 axles:

“(c) All goods-service vehicles that have (*an unladen or tare weight of 5500*) a gross laden weight of 3,500 kilograms or more:

“(d) All goods-service vehicles while being used in conjunction with any other vehicle where the total number of axles of the vehicles exceeds 3:

“(e) All vehicles operated (or that should be operated) under a vehicle recovery service licence:

“(f) Any vehicle or service or class of vehicle or service that is declared by the Governor-General, by Order in Council, to be a vehicle or service or class of vehicle or service to which this section shall apply.

“(10) This section shall not apply in respect of any vehicle or service or class of vehicle declared by the Secretary, by notice in the *Gazette*, to be exempt from this section. Any such exemption may be amended or revoked at any time by the Secretary in writing.

“(11) Nothing in this section shall apply in respect of the driving of any vehicle—

“(a) Operated by the Armed Forces, any ambulance service, any firefighting service, or the Police:

“(b) Owned and operated by a local authority while the vehicle is being used in a rubbish collection service:

“(c) Operated by a passenger service operator whose drivers are working approved rosters of timetabled services (being rosters approved by the Secretary) over distances no greater than ~~(60)~~ 100 kilometres from terminus to terminus.

5

“70D. **Offences and proceedings concerning logbooks and driving hours**—(1) Every person commits an offence who makes or causes to be made any false statement in a logbook or allows any omission to occur in any logbook.

10 “(2) Every person commits an offence who, being the driver of a vehicle to which **section 70c** of this Act applies,—

“(a) On demand by a constable, traffic officer, or any officer of the Department authorised in writing in that behalf by the Secretary fails forthwith to produce a logbook; or

15

“(b) On demand by a constable, traffic officer, or any officer of the Department authorised in writing in that behalf by the Secretary produces a logbook that is false in a material particular, whether or not the driver knows of the falsehood; or

20

“(c) On demand by a constable, traffic officer, or any officer of the Department authorised in writing in that behalf by the Secretary produces a logbook—

25

“(i) That omits a material particular, whether or not the driver knows of the omission; or

“(ii) In which any material particular is entered illegibly or in such a manner that the matters specified in **section 70c(1)** of this Act cannot be readily ascertained.

30 “(3) Every person, not being the driver of the vehicle, commits an offence (who) where the person causes or permits a vehicle to which **section 70c** of this Act applies to be used and—

“(a) A logbook is not maintained in respect of the driving of that vehicle, whether or not the person knows that a logbook is not maintained; or

35

“(b) The logbook maintained in respect of the driving of that vehicle is false in a material particular, whether or not the person knows of the falsehood; or

“(c) The logbook maintained in respect of the driving of that vehicle omits a material particular, whether or not the person knows of the omission.

40

“(4) It shall be a defence to a charge under **subsection (1) or subsection (2) or subsection (3)** of this section if the (Court is satisfied) defendant proves that the proceedings relate to a motor vehicle

that has been exempted from the requirements of this section by a notice given under **section 70c (10)** of this Act.

“(5) In the case of a defendant who was not the driver of the vehicle to which the charge relates, it shall be a defence to a charge under subsection (1), or under paragraph (b) or paragraph (c) of subsection (3), of this section if the (Court is satisfied that, in the case of a defendant who is not the driver of the vehicle) defendant proves that,—

“(a) Reasonable steps were taken by the defendant to prevent the false statement or material omission in 10 the logbook; and

“(b) As soon as reasonably practicable after the false statement or material omission was drawn to the person’s attention by any constable, traffic officer, or officer of the Department authorised to demand 15 the production of logbooks under **section 70c (6)** of this Act, the person produced to the constable or officer a logbook containing no false statement or material omission.

“(6) Except as provided in **subsection (7)** of this section, 20 **subsection (5)** of this section shall not apply unless within 7 days after the service of the summons, or within such further time as the Court may allow, the defendant has delivered to the prosecutor a written notice—

“(a) Stating that the defendant intends to rely on **subsection (5)** 25 of this section; and

“(b) Specifying the reasonable steps that the defendant will claim to have taken.

“(7) In any proceedings relating to a charge to which **subsection (5)** of this section applies, evidence that the defendant 30 took a step not specified in the written notice required by **subsection (6)** of this section shall not, except with the leave of the Court, be admissible for the purpose of supporting a defence under **subsection (5)** of this section.

“(8) In proceedings in respect of an offence against **section 70b** 35 of this Act or **subsection (1), subsection (2), or subsection (3)** of this section, evidence given by a constable, traffic officer, or officer of the Department authorised to demand the production of logbooks under **section 70c (6)** of this Act, or any person who had that status at the time when the alleged offence was 40 committed, as to the contents of any logbook as seen and recorded by that person at the time it was produced shall be *(conclusive)* sufficient evidence of the contents of that logbook, until the contrary is proved by the production to the Court of

the logbook or of a duplicate copy of the logbook made simultaneously with the original logbook.

5 “(9) In any proceedings in respect of an offence against **section 70b** of this Act it shall be presumed, until the contrary is proved, that the contents of any logbook produced to a constable, traffic officer, or other officer authorised to demand production of the logbook are an accurate statement of the truth of the matter required to be recorded in the logbook by **section 70c** of this Act.

10 *Struck Out*

15 “(10) In any proceedings in respect of an offence against **section 70c** of this Act, the tare weight of a vehicle displayed on that vehicle in accordance with regulation 14 of the Heavy Motor Vehicle Regulations 1974 or any regulation made in substitution for that regulation shall be *(conclusive)* sufficient evidence as to the unladen or tare weight of the vehicle until the contrary is proved.

20 “(11) Every person who commits an offence against this section is liable on conviction—

25 “(a) In the case of a driver to a fine not exceeding \$2,000, and the person shall, unless the Court for special reasons relating to the offence thinks fit to order otherwise, be disqualified from holding or obtaining a licence to drive a heavy motor vehicle and any vehicle being used *(under any)* in the relevant transport service *(licence)* for a period of 1 calendar month or such greater period as the Court thinks fit:

“*(b)* In any other case, to a fine not exceeding \$10,000.”

30 (2) Section 24 (1) of the Transport Amendment Act 1987 is hereby consequentially repealed.

Struck Out

(3) Except as provided in **subsection (4)** of this section, this section shall come into force on the **1st day of September 1989**.

35 (4) Nothing in this section shall, before the **1st day of November 1989**, apply in respect of any—

(a) Taxicab or other passenger-service vehicle designed for the carriage of not more than 10 persons including the driver:

Struck Out

(b) Any tow truck or vehicle operated in a vehicle recovery service that was not, before the commencement of this section, a vehicle to which sections 70B to 70D (as repealed by this section) of the principal Act applied. 5

New

(3) This section shall come into force on the 1st day of November 1989.

213A. New heading and sections inserted—(1) The principal Act is hereby amended by inserting, after section 70D 10 (as substituted by section 213 of this Act), the following heading and sections:

“Hazardous Substances

“70E. **Definition of ‘hazardous substance’, etc.**—(1) In this section and in sections 70F to 70H of this Act,— 15

“‘Hazardous substance’ means the substances and items classified as hazardous substances in the New Zealand Standard and listed in Table 10.1 of that Standard; and—

“(a) Includes any substance declared by the 20 Minister by notice in the *Gazette* to be a hazardous substance for the purposes of this section:

“(b) Does not include any substance—

“(i) To the extent that the New Zealand Standard does not require the substance to 25 be labelled or marked, whether by reason of its not exceeding a specified quantity or otherwise; or

“(ii) Declared by the Minister by notice in the *Gazette* not to be a hazardous substance for 30 the purposes of this section:

“‘New Zealand Standard’ means, subject to the provisions of this section, New Zealand Standard 5433:1988 entitled *Code of Practice for the Transport of Hazardous Substances on Land*: 35

“‘Prescribed standard’ means, subject to the provisions of this section, any standard declared by the Minister by

New

notice in the *Gazette* to be a prescribed standard for the purposes of this section.

5 “(2) Subject to the provisions of this section, every reference in this section or in **section 70F** or **section 70G** of this Act—

“(a) To the New Zealand Standard is a reference to that standard, together with any amendments, in force at the date of commencement of this section:

10 “(b) To any prescribed standard, is a reference to the relevant standard, together with any amendments, in force at the date on which the standard is declared by the Minister by notice in the *Gazette* to be a prescribed standard.

15 “(3) The Minister may, in any notice made under this section declaring a standard to be a prescribed standard, limit the purposes for which the standard is to be a prescribed standard, or declare it to be a prescribed standard subject to such modifications as may be specified in the notice.

20 “(4) Where any standard referred to in **paragraph (a)** or **paragraph (b) of subsection (2)** of this section is amended, or any standard is made in substitution for any such standard, the Minister may, by notice in the *Gazette*, adopt that amendment or substituted standard, either wholly or in part and either with or without any modifications.

25 “(5) On the publication of any notice referred to in **subsection (3)** or **subsection (4)** of this section in the *Gazette*, or at such later date as may be specified in the notice, every reference in this section or in **section 70F** or **section 70G** of this Act to the New Zealand Standard or, as the case may require, to any prescribed
30 standard shall be read subject to the terms of that notice.

“(6) The Minister may, by notice in the *Gazette*, amend or revoke any notice made under this section.

35 “**70F. Duties of operators of vehicles transporting hazardous substances**—(1) The operator of every transport service vehicle (other than a rental service vehicle) who knows or ought to know that any load or part of the load on the vehicle is a hazardous substance shall ensure that—

40 “(a) The vehicle and the load bear such signs and labels indicating the nature of the hazardous substance as may be required by the New Zealand Standard; and

New

“(b) The hazardous substance is segregated from other substances in such manner as may be required by the New Zealand Standard; and

“(c) There is carried inside the driver’s door of the vehicle in a readily accessible position such particulars in relation to the hazardous substance as may be prescribed in that behalf in regulations made under this Act. 5

“(2) Every operator of a transport service vehicle (other than a rental service vehicle) who fails to comply with **subsection (1)** of this section commits an offence, and is liable on summary conviction to a fine not exceeding \$5,000, and, if that person was the driver of that vehicle or any vehicle towing that vehicle, the Court may order that the person be disqualified from holding or obtaining a licence entitling the person to drive any transport service vehicle or heavy motor vehicle for such period as the Court thinks fit. 10 15

“(3) It shall be a defence in any proceedings for an offence under **subsection (2)** of this section if— 20

“(a) The defendant proves that the defendant did not know and could not reasonably be expected to know that the load or part of the load was a hazardous substance; or

“(b) In relation to an offence of failing to comply with **subsection (1) (a)** of this section, the defendant proves that the load and the vehicle were marked and labelled in accordance with the requirements of any prescribed standard; or 25

“(c) In relation to an offence of failing to comply with **subsection (1) (b)** of this section, the defendant proves that the hazardous substance was segregated in accordance with the requirements of any prescribed standard; or 30

“(d) In relation to an offence of failing to comply with **subsection (1) (c)** of this section, the defendant proves that the vehicle carried information in accordance with the requirements of any prescribed standard. 35

“(4) In any proceedings for an offence under **subsection (2)** of this section, it shall be presumed, in the absence of proof to the contrary, that— 40

New

5 “(a) In relation to an offence of failing to comply with paragraph (b) or paragraph (c) of subsection (1) of this section, where any marks or labels on the vehicle or the load indicated the presence of a hazardous substance, a hazardous substance was present on the vehicle or in the load, and the substance was—

10 “(i) Of the nature indicated by the mark or label; and

15 “(ii) Of the quantity (if any) indicated by the mark or label;

“(b) In relation to an offence of failing to comply with paragraph (a) or paragraph (c) of subsection (1) of this section, the load on the vehicle contained any hazardous substance for which information was carried inside the driver’s door, and the hazardous substance was in the quantity (if any) specified in that information.

20 “70G. **Consignors to advise of presence of hazardous substances**—(1) Every person at whose request goods are to be carried shall, in writing, inform the person carrying or arranging the carriage of the goods if the goods or part of the goods comprise a hazardous substance and shall notify the person of such particulars in relation to the hazardous

25 substance as may be prescribed in that behalf in regulations made under this Act.

“(2) Every person who fails to comply with subsection (1) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$50,000.

30 “(3) It shall be a defence in any proceedings for an offence against this section if the defendant proves that in all the circumstances of the case it was not practicable to inform the person in writing, and the nature of the goods had been sufficiently drawn to the person’s attention, whether orally or

35 by way of prominent labelling or otherwise.

“70H. **Drivers to have licence with hazardous substance endorsement**—(1) Every person commits an offence who, on or after the 1st day of January 1991, drives any vehicle being used in a transport service if all or part of the load of that vehicle or

40 any vehicle being towed by that vehicle is a hazardous substance, unless—

New

- (a) That person has an endorsement on his or her driver's licence indicating that the person has, within the past 5 years, completed a hazardous substances course approved by the Secretary under **section 48 (2) (d)** of the Transport (Vehicle and Driver Registration and Licensing) Act 1986; or 5
- (b) The hazardous substance is of such a nature or such a quantity that no such endorsement is required pursuant to regulations made under that Act. 10
- “(2) Every person who commits the offence specified in **subsection (1)** of this section is liable on summary conviction to a fine not exceeding \$2,000 and the Court may order that the person be disqualified from holding or obtaining a licence entitling the person to drive any transport service vehicle or heavy motor vehicle for such period as the Court thinks fit. 15
- “(3) It shall be a defence to any proceedings for the offence specified in **subsection (1)** of this section if the defendant proves that the defendant did not know and could not reasonably be expected to know that the load or part of the load was a hazardous substance.” 20
- (2) This section shall come into force on the **1st day of May 1990**.

214. Minister may ensure roading safety—The principal Act is hereby amended by inserting, immediately before section 75, the following section: 25

“74A. If at any time the (Secretary) Minister has cause to believe that any road is not in a safe condition the (Secretary) Minister may inquire into the circumstances, and if in the (Secretary's) Minister's opinion Transit New Zealand or the territorial authority in control of the road has not carried out work which the (Secretary) Minister reasonably considers necessary and justified in the interests of public safety,— 30

“(a) The (Secretary) Minister may in writing advise Transit New Zealand ((as established under Parts II to VIII of the Transport Law Reform Act (No. 2) 1989)) or the territorial authority of the need for such work; and 35

“(b) Transit New Zealand, or the territorial authority as the case may be, shall upon being so advised exercise its powers under that Act to remove the cause of danger to public safety.” 40

215. Traffic surveys—The principal Act is hereby amended by inserting, after section 76B, the following section:

5 “76c. (1) No local authority or other person shall conduct any traffic survey that is likely to involve the stopping, delay, or diversion of vehicles without the prior written consent of the Secretary.

“(2) Any such consent may be conditional, and if any condition is not complied with the Secretary may direct that the survey be discontinued.”

10 *New*

215A. Regulations—(1) Section 77 (1) of the principal Act is hereby amended by inserting, after paragraph (ee), the following paragraph:

15 “(ef) Prescribing or authorising the Secretary to prescribe or approve matters in relation to the design, construction, equipment, condition, and inspection of vehicles that may be used in connection with transport services or any class of transport services; providing for and regulating the issue, duration, conditions, and revocation of certificates of fitness and permits for such vehicles; and generally
20 prescribing the conditions upon or subject to which they may be used and regulating the use thereof:”.

(2) Section 77 (1) of the principal Act is hereby amended by
25 inserting, after paragraph (j), the following paragraph:

“(ja) Prescribing standards, specifications, or codes of practice for building, altering, or maintaining any road, or related property, in the interests of safety:”.

216. New sections inserted—(1) The principal Act is
30 hereby amended by repealing section 79 (as inserted by section 2 of the Transport Amendment Act (No. 2) 1983), and substituting the following sections:

35 “79. **Certificates of fitness**—(1) No person shall use any motor vehicle to which this section applies unless there is in force in respect of that vehicle a certificate of fitness and a certificate of loading issued in accordance with regulations made under this Act.

“(2) In addition to the powers conferred by section 9 of the Ministry of Transport Act 1968, the Secretary is hereby
40 authorised to delegate to any officer of a local authority the

powers of the Secretary in relation to certificates of fitness and certificates of loading.

“(3) The Secretary or any officer of the Department who is authorised to issue certificates of fitness may, in any case where a vehicle that is not to be used in a transport service does not qualify for the issue of a certificate of fitness but is nevertheless in a safe condition, issue a permit that shall have effect for a specified period of not more than 28 days from the day of issue as if it were a certificate of fitness. 5

“(4) Any permit issued under the authority of **subsection (3)** of this section shall be subject to such conditions relating to the use of the vehicle as the person issuing the permit considers appropriate; and every operator of any vehicle to which a permit applies shall ensure that all such conditions are complied with. 10 15

“(5) Subject to **subsection (7)** of this section, this section applies to the following vehicles:

Struck Out

- “(a) Every motor vehicle used under a transport service licence: 20
- “(b) Every heavy motor vehicle that is designed principally for the carriage of passengers (other than a motorcar that is not used, kept, or available for the carriage of passengers for hire or reward):
- “(c) Every goods-service vehicle that is a heavy motor vehicle. 25

New

- “(a) Every passenger service vehicle:
- “(b) Every rental service vehicle:
- “(c) Every vehicle recovery service vehicle:
- “(d) Every goods service vehicle (as that term is defined in **section 2** of the **Transport Services Licensing Act 1989**) with a gross laden weight of 3,500 kilograms or more, other than a vehicle whose gross laden weight exceeds 3,500 kilograms by reason only of **subparagraph (iii) of paragraph (a)** of the definition of the term ‘gross laden weight’ in section 2 of this Act: 30 35
- “(e) Every motor vehicle not operated under a rental service licence that is used as a place of abode:
- “(f) Every heavy motor vehicle that—

by the Secretary if *(he or she)* the Secretary believes on reasonable grounds that the vehicle does not comply with the requirements for the issue of a certificate of fitness or permit.

“(2) The Secretary shall revoke any such certificate of fitness or permit by giving notice in writing of the revocation to the holder of the certificate or permit. 5

“(3) The holder of any certificate of fitness or permit who receives a notice under **subsection (2)** of this section shall forthwith remove the certificate or permit from the vehicle and return it to the Secretary. 10

“(4) The Secretary or any officer of the Department authorised by the Secretary may remove any revoked or expired certificate of fitness or permit from any vehicle.

“**79B. Certificates of loading**—(1) The Secretary shall issue a certificate of loading to the owner of every vehicle for which a certificate of fitness or permit is issued. 15

“(2) Every certificate of loading shall be in a form provided by the Secretary.

“(3) The owner of every vehicle in respect of which a certificate of loading is in force shall ensure that it is kept in a good and legible condition, and displayed on the vehicle to which it relates so as to be readily visible to the driver and, in the case of a passenger service vehicle, any passengers at any time when there is required, by **section 79 (1)** of this Act, to be a current certificate of fitness or permit in force in respect of that vehicle. 20 25

“(4) Every certificate of loading shall continue in force until it is deemed to be revoked under **subsection (5)** of this section.

“(5) A certificate of loading shall be deemed to be revoked if the vehicle or any component or equipment of the vehicle is adapted, modified, or replaced in such a manner as to *(reduce)* alter the load-carrying capacity of the vehicle. 30

“(6) Every person commits an offence, and is liable on summary conviction to the penalties specified in section 30 (1) of this Act, who operates a vehicle *(with a load in excess of that)* in excess of the weight or load specified in the certificate of loading for that vehicle at any time when the certificate is required to be displayed under **subsection (3)** of this section.” 35

Struck Out

(2) Section 30 (2) of the principal Act (as inserted by section 3 (1) of the Transport Amendment Act (No. 2) 1988) is hereby consequentially repealed.

5 (3) The following enactments are hereby consequentially repealed:

- (a) Section 19 of the Transport Amendment Act (No. 2) 1985;
- (b) Section 29 of the Transport Amendment Act 1987;
- (c) Section 15 of the Transport Amendment Act (No. 2) 1988.

10 *New*

(4) This section shall come into force on the **1st day of November 1989**.

15 (5) Nothing in **section 79** of the principal Act (as inserted by **subsection (1)** of this section) shall require a certificate of fitness or certificate of loading to be obtained in respect of any vehicle that was not required to have such a certificate immediately before the commencement of this section until the earlier of—

(a) In the case of—

20 (i) A passenger service vehicle or a vehicle recovery service vehicle, the **1st day of April 1990**;

(ii) Any other vehicle, the **1st day of June 1990**; or

25 (b) The first day after the **31st day of October 1989** on which the vehicle no longer has a current warrant of fitness, or such later date as may be specified for the purposes of this section (whether generally or in relation to any vehicle or class of vehicles) by regulations made under this Act.

216A. Notice of accidents to be given to Secretary—

30 (1) Section 81 (1) of the principal Act is hereby amended by omitting the words “passenger service, goods service, or rental service licensed under Part VII of this Act”, and substituting the words “transport service”.

(2) This section shall come into force on the **1st day of November 1989**.

35 **216B. General penalty for offences—**(1) Section 193 of the principal Act is hereby amended by repealing subsections (1A) and (1B).

New

(2) The following enactments are hereby consequentially repealed:

(a) Section 12 of the Transport Amendment Act (No. 2) 1965;

(b) Section 16 of the Transport Amendment Act (No. 2) 1967. 5

(3) This section shall come into force on the **1st day of November 1989**.

216c. Infringement offences—(1) The principal Act is hereby amended by repealing the Second Schedule (as substituted by section 4 (1) of the Transport Amendment Act 10 1988, and amended by section 17 of the Transport Amendment Act (No. 2) 1988), and substituting the Second Schedule set out in the **Tenth Schedule** to this Act.

(2) The following enactments are hereby consequentially repealed:

(a) Section 4 of the Transport Amendment Act 1988, and the Schedule to that Act: 15

(b) Section 17 of the Transport Amendment Act (No. 2) 1988.

(3) This section shall apply in respect of offences committed on or after the 1st day of November 1989. 20

New

SCHEDULE Section 216c
 NEW SECOND SCHEDULE TO TRANSPORT ACT 1962
 "SECOND SCHEDULE" Section 42A
 "INFRINGEMENT OFFENCES AND FEES"
PART I
PARKING OFFENCES

Offence	Infringement Fee (in addition to any towage fee—see below)
Any parking offence involving parking on a road in breach of a local authority bylaw, in excess of a period fixed by a meter or otherwise, where the excess time is—	
Not more than 30 minutes ..	\$10 or such lesser amount as is fixed by the local authority
More than 30 minutes but not more than 1 hour	\$14 or such lesser amount as is fixed by the local authority
More than 1 hour but not more than 2 hours	\$20 or such lesser amount as is fixed by the local authority
More than 2 hours but not more than 4 hours	\$30 or such lesser amount as is fixed by the local authority
More than 4 hours	\$34 or such lesser amount as is fixed by the local authority
Any other parking offence ..	\$40

Towage fee: Where expenses are incurred by an enforcement authority in respect of the movement or proposed movement under section 68B (1) (c) or section 68BA (2) (b) of this Act of the vehicle involved in the offence (whether or not the vehicle is in fact moved), the infringement fee shall be the total of the amount specified above in respect of the offence and the amount of the appropriate towage fee (including any goods and services tax payable in respect of the towage fee).

New

SCHEDULE—*continued*
 “SECOND SCHEDULE—*continued*
 “INFRINGEMENT OFFENCES AND FEES—*continued*
 PART II
 SPEEDING OFFENCES

Offence	Infringement Fee \$
Any speeding offence, where the speed exceeds the speed limit by—	
Not more than 10 kilometres an hour	30
More than 10 kilometres an hour but not more than 15 kilometres an hour	60
More than 15 kilometres an hour but not more than 20 kilometres an hour	90
More than 20 kilometres an hour but not more than 25 kilometres an hour	120
More than 25 kilometres an hour but not more than 30 kilometres an hour	160
More than 30 kilometres an hour but not more than 35 kilometres an hour	210
More than 35 kilometres an hour but not more than 40 kilometres an hour	280
More than 40 kilometres an hour but not more than 45 kilometres an hour	370
More than 45 kilometres an hour but not more than 50 kilometres an hour	490

New

SCHEDULE—*continued*
 “SECOND SCHEDULE—*continued*
 “INFRINGEMENT OFFENCES AND FEES—*continued*
 PART III
 TABLE NO. 1—INDIVIDUAL AXLES

Overloading Offence	Infringement Fee for that Axle \$
Where the axle weight recorded or calculated, reduced by the appropriate amount specified in clause 5 of this Part, exceeds the maximum permitted weight on the axle by—	
Not more than 500 kg	150
More than 500 kg but not more than 1,000 kg ..	350
More than 1,000 kg but not more than 1,500 kg	600
More than 1,500 kg but not more than 2,000 kg	900
More than 2,000 kg but not more than 2,500 kg	1,250
More than 2,500 kg but not more than 3,000 kg	1,700
More than 3,000 kg but not more than 3,500 kg	2,250
More than 3,500 kg but not more than 4,000 kg	2,900
More than 4,000 kg but not more than 4,500 kg	3,650
More than 4,500 kg but not more than 5,000 kg	4,550
More than 5,000 kg but not more than 5,500 kg	5,600
More than 5,500 kg but not more than 6,000 kg	6,850
More than 6,000 kg but not more than 6,500 kg	8,300
More than 6,500 kg	10,000

New

SCHEDULE—*continued*“SECOND SCHEDULE—*continued*”“INFRINGEMENT OFFENCES AND FEES—*continued*”PART III—*continued*

TABLE NO. 2—GROUPS OF TWO OR MORE CONSECUTIVE AXLES AND ALL AXLES OF A VEHICLE OR COMBINATION OF VEHICLES

Overloading Offence	Infringement Fee for the Sum of Axle Weights \$
Where the total of the recorded or calculated weights on the axles, reduced by the appropriate amount specified in clause 5 of this Part, exceeds the maximum permitted weight by—	
Not more than 1,000 kg	150
More than 1,000 kg but not more than 2,000 kg ..	350
More than 2,000 kg but not more than 3,000 kg	600
More than 3,000 kg but not more than 4,000 kg	900
More than 4,000 kg but not more than 5,000 kg	1,250
More than 5,000 kg but not more than 6,000 kg	1,700
More than 6,000 kg but not more than 7,000 kg	2,250
More than 7,000 kg but not more than 8,000 kg	2,900
More than 8,000 kg but not more than 9,000 kg	3,650
More than 9,000 kg but not more than 10,000 kg	4,550
More than 10,000 kg but not more than 11,000 kg	5,600
More than 11,000 kg but not more than 12,000 kg	6,850
More than 12,000 kg but not more than 13,000 kg	8,300
More than 13,000 kg	10,000

Individual axle weights

1. For each axle the weight on which exceeds the maximum permitted weight for such an axle, the appropriate overloading infringement fee shown in Table No. 1 shall be payable.

Two or more consecutive axle weights

2. For each group of 2 or more consecutive axles of a vehicle or combination of vehicles the total of the weights of which exceeds the total of the weights permitted on a group of 2 or more consecutive axles with the recorded distance between the centres of the first and last axle of the group, the appropriate overloading infringement fee shown in Table No. 2 shall be payable.

New

<p>SCHEDULE—<i>continued</i> “SECOND SCHEDULE—<i>continued</i> “INFRINGEMENT OFFENCES AND FEES—<i>continued</i> PART III—<i>continued</i></p>	
<p><i>Total axle weight of a vehicle or combination of vehicles</i></p>	
<p>3. For each vehicle the total of the axle weights of which exceeds the permitted total of axle weights for a vehicle with the recorded distance between the centres of the first and last axle of the vehicle, the appropriate overloading infringement fee shown in Table No. 2 shall be payable.</p>	
<p>4. For each combination of vehicles the total of the axle weights of which exceeds the permitted total of axle weights for a combination of vehicles with the recorded distance between the centre of the first axle of the first vehicle and the centre of the last axle of the last vehicle, the appropriate overloading infringement fee shown in Table No. 2 shall be payable.</p>	
<p><i>Weighing Tolerances</i></p>	
<p>5. The axle weight recorded or calculated or, in the case of an offence referred to in Table No. 2 of this Part, the total of the recorded or calculated weights on the axles, shall be reduced by the following amounts:</p>	
<p>(a) On any front steering axles (excluding any axles on a trailer) for which the legal maximum weight does not exceed 11 tonnes</p> <p>(b) For any weight recorded or calculated where the legal maximum weight does not exceed 11 tonnes, except in a case to which paragraph (a) of this clause applies</p> <p>(c) For any weight recorded or calculated where the legal maximum weight exceeds 11 tonnes but does not exceed 33 tonnes</p> <p>(d) For any weight recorded or calculated where the legal maximum weight exceeds 33 tonnes but does not exceed 60 tonnes</p> <p>(e) For any weight recorded or calculated where the legal maximum weight exceeds 60 tonnes</p>	<p>0.3 tonnes</p> <p>0.5 tonnes</p> <p>1.00 tonne</p> <p>1.5 tonnes</p> <p>3.0 tonnes</p>

New

SCHEDULE—*continued*
 “SECOND SCHEDULE—*continued*
 “INFRINGEMENT OFFENCES AND FEES—*continued*
 PART IV

OFFENCES AGAINST ROAD USER CHARGES ACT 1977

1. *Excess Weight Offences*

Excess Weight Offence	Infringement Fee* \$
Where the gross weight of the vehicle, reduced by an amount equal to 5 percent of the maximum gross weight specified in the licence, exceeds the maximum gross weight specified in a distance licence, supplementary licence, or time licence by—	
Not more than 1,000 kg	200
More than 1,000 kg but not more than 2,000 kg	400
More than 2,000 kg but not more than 3,000 kg	600
More than 3,000 kg but not more than 4,000 kg	1,000
More than 4,000 kg but not more than 5,000 kg	1,500
More than 5,000 kg but not more than 6,000 kg	2,000
More than 6,000 kg but not more than 7,000 kg	2,500
More than 7,000 kg but not more than 8,000 kg	3,000
More than 8,000 kg but not more than 9,000 kg	3,500*
More than 9,000 kg but not more than 10,000 kg	4,000*
More than 10,000 kg but not more than 11,000 kg	5,000*
More than 11,000 kg but not more than 12,000 kg	6,500*
More than 12,000 kg but not more than 13,000 kg	8,000*
More than 13,000 kg	10,000*

* Where the infringement offence notice is issued in respect of an offence against section 23 (1) (a) of the Road User Charges Act 1977 (being an offence of operating a vehicle in excess of the maximum weight specified in a distance licence or a supplementary licence or a time licence), the infringement fee shall be \$3,000 or such lesser amount as is specified in this Table.

New

<p>SCHEDULE—<i>continued</i> “SECOND SCHEDULE—<i>continued</i> “INFRINGEMENT OFFENCES AND FEES—<i>continued</i> PART IV—<i>continued</i> OFFENCES AGAINST ROAD USER CHARGES ACT 1977—<i>continued</i> 2. Distance Recorder Offences</p>	
Distance Recorder Offence	Infringement Fee* \$
<p>Operating a motor vehicle, or being owner of a motor vehicle on a road, when the reading of a distance recorder exceeds the maximum reading specified in the licence carried in the vehicle at the time of the offence (being an offence against ((<i>section 5 (d) or</i>)) subsection (1) or subsection (2) of section 23 of the Road User Charges Act 1977)</p>	<p>An amount calculated at 3 times the road user charges payable for the particular vehicle type number as specified in Part I of the Third Schedule to the Road User Charges Act 1977. For the purposes of this calculation the road user charges shall be determined on the difference between the reading on the distance recorder and the maximum reading specified in the licence, in integral multiples of 1,000 kilometres and disregarding any excess over such multiple that is less than 1,000 kilometres.*</p>
<p>* Provided that where the infringement offence notice is issued in respect of an offence against section 23 (1) (a) of the Road User Charges Act 1977 (being an offence of operating a vehicle where the reading on the distance recorder exceeds the maximum reading specified in the distance licence), the infringement fee shall not exceed \$3,000.</p>	

New

SCHEDULE—*continued*
 “SECOND SCHEDULE—*continued*
 “INFRINGEMENT OFFENCES AND FEES—*continued*
 PART V

OFFENCES AGAINST TRANSPORT ACT 1962 (OTHER THAN SPEEDING AND
 OVERLOADING OFFENCES)

Offence against Section	Brief Description of Offence	Infringement Fee \$
64	Failure in certain cases to stop to ascertain railway line clear	150
68B (2B)	Failure to comply with notice directing vehicle not to be used on any road	400
68B (2C)	Removing, obscuring, or rendering indistinguishable a notice directing vehicle not to be used on any road	400
68B (5)	Failure to release vehicle towed away, in certain circumstances	150
68BA ((5)) (6)	Failure to release vehicle towed away, in certain other circumstances	150
69A (3)	Failure to comply with direction to stop heavy motor vehicle or drive vehicle to weighing device	1,000
69A (4)	Failure to comply with direction or requirement relating to off-loading of heavy motor vehicle	500
70A (2)	Failure to comply with direction relating to securing of load on heavy motor vehicle	500
79 (1)	Use of vehicle without certificate of fitness or certificate of loading	350
80 (2)	Obstruction, etc., in relation to inspection of vehicle required to have certificate of fitness	200

New

SCHEDULE—*continued*
 “SECOND SCHEDULE—*continued*
 “INFRINGEMENT OFFENCES AND FEES—*continued*

PART VI

OFFENCES AGAINST PART I TRANSPORT SERVICES LICENSING ACT 1989

1. *Offences against Act generally*

Section	Brief Description of Offence	Infringement Fee \$
5 (3)	Acting as agent for unlicensed transport service	350
18 (6)	Failure to produce driver identification card on request by enforcement officer	150
33 (3)	Failure to notify change of address	150
33 (3)	Failure to notify change of personnel	350
35 (2)	Failure to supply particulars of driver	350
40 (4)	Failure to obtain or retain certificate of responsibility	75
41 (3)	Failure to display particulars of licence holder on goods service vehicle	350
42 (3)	Failure to display particulars of licence holder on large passenger service vehicle	350
42 (3)	Failure to maintain or make available complaints register	350

New

SCHEDULE— <i>continued</i> “SECOND SCHEDULE— <i>continued</i> “INFRINGEMENT OFFENCES AND FEES— <i>continued</i> PART VI— <i>continued</i> OFFENCES AGAINST PART I TRANSPORT SERVICES LICENSING ACT 1989 2. <i>Offences against Small Passenger Service Rules (section 43 (2) of Act and Part I of Fourth Schedule)</i>		
Rule	Brief Description of Offence	Infringement Fee \$
1 (2)	Failure to produce copy of exemption	75
3	Failure to comply with requirements for signs	350
4	Failure to comply with requirements on advertising	75
5, 6	Failure to display schedule of fares, etc.	500
7	Displaying unregistered fares, etc.	150
9	Failure to display operator identification	500
11	Failure to maintain or make available complaints register	500
12 (other than sub-clause (4) (d))	Failure to comply with drivers' duties	150
13 (2)	Accepting hire within 20 metres of designated stand	75
14	Failure to observe requirements relating to designated stands	75
15	Obstruction of other vehicles or public way	150
16	Offences relating to meters	500
17	Vehicle not in good and clean repair	75
19	Contravention of multiple hiring rules	150
20	Smoking in vehicle without agreement	75

New

SCHEDULE—continued
“SECOND SCHEDULE—continued
“INFRINGEMENT OFFENCES AND FEES—continued
PART VI—continued
OFFENCES AGAINST PART I TRANSPORT SERVICES LICENSING ACT 1989
3. Offences against Vehicle Recovery Service Rules (section 44 (2) of Act and Part II of Fourth Schedule)

Rule	Brief Description of Offence	Infringement Fee \$
2	Failure to display operator identification	500
4	Failure to comply with requirements on advertising	75
5	Failure to maintain control of passengers	350
5	Failure to comply with direction of enforcement officer or other authorised person	350
6	Carrying unauthorised animals	75
7	Failure to complete tow authority, etc.	500
9	Deviation or delay when touring	150
10	Failure to prevent damage or loss	350
12	Failure to maintain or make available complaints register	500

4. Offences against Rental Service Rules (section 45 (2) of Act and Part III of Fourth Schedule)

Rule	Brief Description of Offence	Infringement Fee \$
1 (2)	Failure to inspect driver's licence, etc.	75
2 (3)	Failure to give copy of agreement to hirer	75
3 (1)	Failure to offer insurance, etc.	150

New

SCHEDULE—*continued*
 “SECOND SCHEDULE—*continued*
 “INFRINGEMENT OFFENCES AND FEES—*continued*
 PART VII
 OFFENCES AGAINST TRAFFIC REGULATIONS 1976

Offence against Regulation	Brief Description of Offence	Infringement Fee \$
26	Offences relating to dangerous substances on roads	150
27	Operating unsafe vehicles and loads	150
[Part II generally]	Offences against Part II (which relates to driving rules) not otherwise specified in this Part of this Schedule, and not being a speeding or a parking offence against regulation 21, regulation 23, or regulation 25	75
44B	Careless riding of cycle or moped	75
[Part III generally]	Offences against Part III (which relates to rules for cycles and mopeds) not otherwise specified in this Part of this Schedule	35
[Part IV generally]	Offences against Part IV (which relates to animal traffic)	35
48E	Failure to observe restrictions affecting cycles, mopeds, and motorcycles	35
50	Failure to use flag to indicate excess dimensions	75
[Part V generally]	Offences against Part V (which relates to loading and dimensions) not otherwise specified in this Part of this Schedule	200
[Part VI generally]	Offences against Part VI (which relates to pedestrians)	35

New

SCHEDULE—*continued*
 “SECOND SCHEDULE—*continued*
 “INFRINGEMENT OFFENCES AND FEES—*continued*
 PART VII—*continued*
 OFFENCES AGAINST TRAFFIC REGULATIONS 1976—*continued*

Offence against Regulation	Brief Description of Offence	Infringement Fee \$
64	Failure to fit or display additional lamps on heavy motor vehicles	150
68	Failure to comply with requirements for brakes	150
70	Failure to comply with requirements for steering	150
71	Failure to comply with requirements for tyres	150
77	Operating vehicle with dangerous fittings	150
78, 78A, 78C	Failure to comply with requirements for seat belts	150
80	Operating vehicle so corroded or weakened as to be unsafe	150
85	Failure to comply with warrant of fitness requirements	150
85	Failure to comply with certificate of fitness requirements	350
87	Use of vehicle contrary to terms of notice issued in respect of vehicle damaged in accident	400
[Part VII generally]	Offences against Part VII (which relates to equipment) not otherwise specified in this Part of this Schedule	75
[Part XII generally]	Offences against Part XII (which relates to traffic signs)	75
134	Failure to report damage to other vehicles or property	200

New

SCHEDULE—*continued*
 “SECOND SCHEDULE—*continued*
 “INFRINGEMENT OFFENCES AND FEES—*continued*
 PART VIII
 OFFENCES AGAINST REGULATION 18 (1) OF HEAVY MOTOR VEHICLE
 REGULATIONS 1974

Regulation to which Offence Relates	Brief Description of Offence	Infringement Fee \$
5 (5) 7 (5)	Unlawful use of Class C road Failure to comply with conditions of permit to exceed weight limits	350 350
8 (1)	Operation of vehicle with excessive tyre pressure	150
8 ((2)) (3)	Failure to comply with conditions of permit to exceed maximum tyre pressure	150
10	Failure to comply with provisions relating to prohibition on certain heavy traffic	350
11	Failure to comply with provisions relating to protection of bridges	500
13	Use, etc., of devices to alter axle weights	350
14	Failure to mark tare weight	150
16	Unlawful erection of signs; interference with prescribed signs, etc.	150
16A	Failure to comply with vehicle standards, etc.	350
17	Failure to comply with requirements of traffic officer, obstruction, etc.	350

New

SCHEDULE—*continued*
 “SECOND SCHEDULE—*continued*
 “INFRINGEMENT OFFENCES AND FEES—*continued*
 PART IX
 OTHER OFFENCES

Offence against Provision	Brief Description of Offence	Infringement Fee \$
Section 5, Transport (Vehicle and Driver Registration and Licensing) Act 1986	Using, etc., unlicensed motor vehicle or motor vehicle that does not have registration plates affixed in the prescribed manner	200
Section 37 (3), Transport (Vehicle and Driver Registration and Licensing Act) 1986	Driving never having held driver's licence	350
Section 37 (4), Transport (Vehicle and Driver Registration and Licensing) Act 1986	Driving with licence no longer in force, or licence inapplicable to vehicle	55
Section 41 (4), Transport (Vehicle and Driver Registration and Licensing) Act 1986	Failure to produce driver's licence	55
Regulations 11 (1), (2), (3), and 18, Goods Service (Constructional) Regulations 1936	Failure to comply with any provision of the regulations, and related offences	150
Regulation 11 (1), Vehicular Traffic Road Closure Regulations 1965	Use of closed road otherwise than in terms of permit	150
Regulation 76, Passenger Service Vehicle Construction Regulations 1978	Failure to comply with any provisions of the regulations or any provision or restriction in a certificate of loading, and related offences	150
Any provision of the Transport (Drivers Licensing) Regulations 1987	Failure to comply with appropriate regulation	75

New

SCHEDULE—*continued*
 “SECOND SCHEDULE—*continued*
 “INFRINGEMENT OFFENCES AND FEES—*continued*
 PART IX—*continued*
 OTHER OFFENCES—*continued*

Offence against Provision	Brief Description of Offence	Infringement Fee \$
Any provision of any bylaw involving the use of vehicles, other than a provision— (a) Setting a speed limit; or (b) Imposing a parking prohibition or restriction; or (c) For which any infringement fee is otherwise specified in this Schedule	Failure to comply with appropriate provision	50 ”