

House of Representatives

Supplementary Order Paper

Tuesday, 9 March 2021

Regulatory Systems (Transport) Amendment Bill

Proposed amendments for the consideration of the Committee of the whole House

Key:

- **this is inserted text**
- **~~this is deleted text~~**

Note: This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- **NOT have official status in terms of unamended text**
- **NOT have the status of an as-reported version of the Bill.**

Explanatory note

This Supplementary Order Paper (SOP) amends the Regulatory Systems (Transport) Amendment Bill (the **Bill**).

Amendments to support Legislation Act 2019

This SOP proposes amendments to the Bill to support the commencement of the Legislation Act 2019. That Act establishes a single category of secondary legislation, to make it easier for people to find the law that applies to them and to help Parliament to oversee secondary legislation. The related Secondary Legislation Bill proposes amendments to every provision in every Act that empowers the making of instruments that are legislative in nature, to state that those instruments are secondary legislation. It also proposes consequential amendments in relation to the publication, presentation, and disallowance of those instruments.

This SOP amends the provisions in each Part of the Bill that empower the making of instruments that are legislative in nature to provide that the instruments are secondary legislation. In addition, any publication requirements that were set out in those empowering provisions are relocated into the applicable schedule of transitional provisions. The publication requirements located in the transitional schedules will apply until the main commencement date of the Legislation Act 2019. After that date, the provisions of the Legislation Act 2019 will apply.

Other amendments

Other amendments proposed by this SOP are set out below.

Clause 2 is amended and provides that the Bill will come into force on 1 April 2021.

Part 1

Amendments to Land Transport Act 1998

New clause 6A amends section 157 of the Land Transport Act 1998. Section 157 authorises land transport rules to be made authorising the New Zealand Transport Agency (the **Agency**) to change, or modify the application of, a speed limit that does not comply with prescribed criteria, requirements, or procedures. The amendment provides that the rules may also confer this authority on the Director of Land Transport (the **Director**).

New clause 7A amends the regulation-making power in section 167 of the Land Transport Act 1998. The amendment authorises a regulation to specify that the power of the Director to grant exemptions (*see new section 168D in clause 8*) may be used to grant exemptions from a particular requirement of the regulations. Under *new section 168D*, the Director may grant an exemption from a requirement in a regulation if the regulation itself provides for this.

New clause 7B amends the regulation-making power in section 168AAA of the Land Transport Act 1998, which relates to regulations about the register of land transport

records. The amendments are technical adjustments to improve workability of the provision where the record being registered is a bylaw.

In *clause 8, new section 168D* is amended to—

- provide that the exemption under this section can be used to allow an exemption from a regulation only if the regulation itself provides for this; and
- amend the factors the Director must consider before granting an exemption (*see new section 168D(2)(a) and (b)*)
- adjust the requirements for the publication of exemptions. (For exemptions other than class exemptions, the text of each exemption is not required to be published, but the number and nature of exemptions must be published at intervals not exceeding 3 months.)

Some content that was located in *clause 8, new section 168D* has been moved into *clause 8, new section 168E* as a technical drafting improvement.

In *clause 8, new section 168EA* is amended to make minor technical adjustments to the requirements relating to the making of recommendations to the Governor-General by the Minister in relation to providing for a matter to be dealt with in a transport instrument. The substantive matter that the Minister must be satisfied of (and about which the advice is given) is unchanged.

In *clause 8, new section 168H* is amended to—

- make a minor correction to *new subsection (2)*; and
- omit *new subsection (5)*, which is unnecessary.

New clauses 8A to 8F amend or repeal various provisions in the Land Transport Act 1998 relating to the register of land transport records. These amendments or repeals are—

- to clarify the evidential effect of the register; and
- to remove duplication between the Act provisions and matters that may be provided for in regulations made under section 168AAA; and
- to make other minor clarifications to the provisions.

Clause 10 is amended to update a reference to the Privacy Act 1993 in Schedule 1 of the Land Transport Act 1998 and to make technical drafting changes.

Part 3 Amendments to Maritime Security Act 2004

New clause 15A amends section 64 of the Maritime Security Act 2004, which confers a right of appeal against certain decisions under that Act. The amendment confers a right of appeal against a decision under *new section 77* in relation to an exemption (other than a class exemption).

In *clause 17, new section 77* of the Maritime Security Act 2004 is amended. The amendments—

- add criteria for the granting by the chief executive of exemptions from regulations under that section; and
- provide that this section can be used to allow an exemption from a regulation unless the regulation states that no exemptions from a requirement may be granted.

Part 4

Amendments to Maritime Transport Act 1994

New clause 23B inserts *new sections 40AA to 40AC* into the Maritime Transport Act 1994, which relate to the power of the Director of Maritime New Zealand to grant exemptions. These new provisions are substantially the same as the *new sections 47 and 47A* in the omitted *clause 24*. They have been relocated so that they will appear in the part of the Maritime Transport Act 1994 that deals with maritime rules. *New section 40AA* includes requirements for the publication of exemptions.

New clause 24 repeals section 47 of the Maritime Transport Act 1994.

New clause 24A amends a cross-reference in section 67B of the Maritime Transport Act 2004 to the Director's power to grant exemptions.

In *clause 27*, *new section 395* of the Maritime Transport Act 1994 is amended. This section relates to the power of the Director to grant exemptions from marine protection rules. The amendments are to clarify the section heading and to provide that the power to exempt must not be used if the relevant rule specifically provides that no exemptions from a requirement may be granted. *New section 395A* is added, which provides a right of appeal against a decision under *new section 395* relating to an exemption other than a class exemption.

In *clause 32*, *new section 452AA* is amended. This section enables transport instruments to be provided for in rules or regulations under a maritime Act. The requirements relating to the making of recommendations to the Governor-General by the Minister are adjusted for greater workability. The substantive matter that the Minister must be satisfied of (and about which the advice is given) is unchanged.

In *clause 32*, *new section 452C(5)* is omitted as unnecessary.

New clause 33 makes a technical drafting change.

Part 5

Amendments to Railways Act 2005

In *clause 37A*, *new section 57A* of the Railways Act 2005 is amended. This section relates to the power of the Director of Land Transport to grant exemptions from the requirements of rules made under the Railways Act 2005. The amendment provides that the power to exempt must not be used if the relevant rule specifically provides that no exemptions from a requirement may be granted.

Clause 38 is amended to provide that regulations made under section 59 of the Railways Act 2005 may specify those requirements of the regulations to which the new power of the Director to grant exemptions under *new section 60A* applies.

In *clause 38A*, *new section 60A* is amended to provide that the exemption under this section can be used to allow an exemption from a requirement in a regulation only if the regulation itself provides for this.

New clause 38B amends section 68 of the Railways Act 2005, which provides a right of appeal against decisions by the Director under the Act. The amendment excludes from the right of appeal a decision by the Director relating to a class exemption under *new section 60A*.

New clause 38C amends Schedule 1AA of the Railways Act 2005 to update a reference to the Privacy Act 1993.

Part 6

Amendments to other legislation

Clause 41A is amended to update references to the Privacy Act 1993 in sections 109A, 109B, and Schedule 1AA of the Land Transport Management Act 2003.

Clause 47 and Schedule 5 are omitted. The amendments in *Schedule 5* added references to the Director of Land Transport. These amendments have now been incorporated into the other provisions of the Bill (as the Bill will now have a single commencement date).

Departmental disclosure statement

The Ministry of Transport is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. It provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2021&no=16&>

The Honourable Michael Wood, in Committee, to propose the amendments shown in the following document.

Hon Michael Wood

Regulatory Systems (Transport) Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Regulatory Systems (Transport) Amendment Act **2020**.

2 Commencement

(1) This Act comes into force on the 14th day after the date on which it receives the Royal assent, except as provided in **subsection (2) 1 April 2021**.

(2) **Section 47 and Schedule 5** come into force on the earlier of—

(a) **1 April 2021**; and

(b) a date appointed by the Governor-General by Order in Council.

Part 1 Amendments to Land Transport Act 1998

3 Amendments to Land Transport Act 1998

This Part amends the Land Transport Act 1998.

4 Section 2 amended (Interpretation)

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

class exemption means an exemption granted under **section 168D(1)(b)**
transport instrument means an instrument made under **section 168F**

5 Section 30ZA amended (Agency may grant exemptions or approve alternative fatigue management schemes)

In section 30ZA(1), replace “section 166(2)” with “**168D(2)**”.

5A Section 106 amended (General right of appeal to District Court)

Replace section 106(5) with:

- (5) Subsection (1) does not apply—
- (a) if a right of appeal to the District Court against the decision concerned is conferred by any other section of this Act:
 - (b) to any decision made in relation to a class exemption, including a decision to grant (or not to grant), to amend, or to revoke a class exemption.

6 Section 123 amended (Enforcement officer may seize and impound vehicle for up to 7 days in relation to certain offences)

- (1) In the heading to section 123, replace “7 days” with “**10 working days**”.
- (2) In section 123(1) and (3), replace “7 days” with “10 working days”.

6A Section 157 amended (Rules concerning roads)

In section 157(e)(ii), after “Agency”, insert “or the Director”.

7 Sections 166 and 166A repealed

Repeal sections 166 and 166A.

7A Section 167 amended (Regulations)

After section 167(1)(mb), insert:

(mba) specifying for the purpose of **section 168D(1A)(b)** those requirements of the regulations to which **sections 168D and 168E** apply:

7B Section 168AAA amended (Regulations relating to register of land transport records)

- (1) Replace section 168AAA(1)(b) and (c) with:

- (b) if a bylaw, or a class of bylaws, is in a category of decisions or other things specified by regulations made under paragraph (a),—
- (i) require or authorise a land transport record to be created for the bylaw or class of bylaws; and
 - (ii) prescribe any additional requirements relating to the creation of a land transport record for the bylaw or class of bylaws:
- (2) In section 168AAA(1)(j), replace “amends” with “makes, amends.”.
- (3) In section 168AAA(1)(k)(i), after “bylaw”, insert “(which consequences may include amending, replacing, or revoking the bylaw)”.
- (4) In section 168AAA(3)(a)(ii), replace “the purposes of subsection (1) (a), (b), or (c)” with “any of the purposes in subsection (1)(a) to (l)”.

8 New sections 168D to 168I and cross-headings inserted

After section 168C, insert:

Agency Director may grant exemptions from rules and regulations

168D ~~Agency Director~~ may grant exemptions

- (1) The ~~Agency Director~~ may, if the ~~Agency Director~~ thinks it appropriate,—
- (a) 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
 - (b) 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.
- (1A) The power under **subsection (1)**—
- (a) must not be used to provide an exemption from a requirement of a rule if the relevant rule specifically provides that no exemptions from the requirement may be granted; and
 - (b) may be used to allow an exemption from the requirement of a regulation only if the regulations specify under **section 167(1)(mba)** that this section and **section 168E** apply to that requirement.
- (2) The ~~Agency Director~~ must not grant an exemption unless satisfied that—
- (a) ~~one of the following grounds applies:~~
 - (i) ~~the requirement will be substantially complied with and further compliance is unnecessary;~~
 - (ii) ~~the manner in which the requirement will be fulfilled is as effective as or more effective than actual compliance with the requirement;~~

- ~~(iii) the requirement is clearly unreasonable or inappropriate;~~
 - ~~(iv) events have occurred that make the requirement unnecessary or inappropriate; and~~
 - ~~(b) any risk of harm to the public or the environment will not be significantly increased by granting the exemption.~~
 - ~~(a) the exemption is no broader than is reasonably necessary to address the matters that gave rise to the proposed exemption; and~~
 - ~~(b) it is appropriate to grant the 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.~~
- ~~(3) The Agency may—~~
 - ~~(a) grant an exemption on any terms and conditions that the Agency thinks fit;~~
 - ~~(b) amend or revoke an exemption;~~
 - ~~(e) grant an exemption for an indefinite or limited period;~~
 - ~~(d) replace an exemption either before or when it expires.~~
- ~~(4) An exemption takes effect from the date specified in the exemption (which, for a class exemption, must not be a date earlier than the date on which the exemption is notified in the *Gazette* in accordance with **section 168E(3)(a)**).~~
- ~~(5) An exemption granted for a limited period expires (unless it is sooner replaced or revoked) on the date specified in the exemption.~~
- ~~(6) If the term of an exemption is not specified in the exemption, it has effect for an indefinite period (or until it is replaced or revoked).~~
- ~~(7) The breach of a term or condition of an exemption is a breach of the relevant provision in the regulation or rule to which the exemption relates (unless the terms of the exemption provide otherwise).~~
- ~~(8) This section does not apply if a regulation or rule specifically provides that no exemptions from its requirements may be granted.~~
- ~~(9) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other land transport Act.~~
- ~~(10) The Director must notify the number and nature of exemptions granted under **subsection (1)(a)** in the *Gazette* at intervals not longer than 3 months.~~

(11) A class exemption is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

168E Status and publication of exemptions

- (1) ~~A class exemption is a legislative instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.~~
- (2) ~~Any other exemption is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.~~
- (3) ~~As soon as practicable after granting a class exemption, the Agency must—~~
- (a) ~~notify the exemption in the *Gazette* (and include the text of the exemption); and~~
 - (b) ~~publish the exemption on the Agency's Internet site along with the Agency's grounds (under **section 168D(2)(a)** for granting the exemption.~~
- (4) ~~The Agency must notify any other exemption in the *Gazette* no later than 3 months after the date on which the Agency grants the exemption. Such a notice—~~
- (a) ~~must include the nature of the exemption and the Agency's grounds under **section 168D(2)(a)** for granting it; but~~
 - (b) ~~need not include the text of the exemption.~~

168E General provisions relating to exemptions

- (1) This section applies to exemptions under **section 168D**.
- (2) The Director may—
- (a) grant an exemption on any terms and conditions that the Director thinks fit;
 - (b) amend or revoke an exemption;
 - (c) grant an exemption for an indefinite or limited period;
 - (d) replace an exemption either before or when it expires.
- (3) An exemption takes effect from the date specified in the exemption (which, for a class exemption, must not be a date earlier than the date on which the exemption is published under the Legislation Act 2019).
- (4) An exemption granted for a limited period expires (unless it is sooner replaced or revoked) on the date specified in the exemption.
- (5) If the term of an exemption is not specified in the exemption, it has effect for an indefinite period (or until it is replaced or revoked).

- (6) The breach of a term or condition of an exemption is a breach of the relevant provision in the regulation or rule to which the exemption relates (unless the terms of the exemption provide otherwise).

Transport instruments

168EA Regulations or rules may provide for transport instruments

- (1) A regulation or rule made under a land transport Act may provide for any matter that could be included in that regulation or rule to be dealt with in a transport instrument, ~~but must not do so unless,—~~
- ~~(a) in the case of the Governor-General making the regulation or rule, the Minister has advised the Governor-General that the Minister is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the regulation or rule itself; or~~
 - ~~(b) in the case of the Minister making the rule, the Minister is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself; or~~
 - ~~(c) in the case of the Agency making the rule, the Agency is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself.~~
- (1A) A regulation or rule providing under **subsection (1)** for a matter to be dealt with in a transport instrument may be made only if,—
- (a) in the case of a regulation or rule to be made by the Governor-General, the Minister recommends it after being satisfied that the subject matter is appropriate to be in a transport instrument rather than in the regulation or rule itself; or
 - (b) in the case of a rule to be made by the Minister, the Minister is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself; or
 - (c) in the case of a rule to be made by the Agency, the Agency is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself.
- (2) A regulation or rule that provides for a transport instrument must specify who may make the instrument (the Agency, the Director, or the Secretary).
- (3) A regulation or rule that provides for a transport instrument may—
- (a) provide for a particular transport instrument as amended or replaced from time to time;
 - (b) provide for any transport instrument that may be made for the purposes of that regulation or rule (even if the instrument has not been made at the time the regulation or rule is made);
 - (c) provide for any requirements in relation to the instrument or its creation.

Proposed amendments to

- (4) A transport instrument provided for in a regulation or rule is part of that regulation or rule.
- (5) To avoid doubt,—
 - (a) a transport instrument has effect only to the extent that a regulation or rule made under a land transport Act refers to it; and
 - (b) a breach of a transport instrument is a breach of the regulation or rule that provides for the instrument.
- (6) If a regulation or rule provides for a transport instrument,—
 - (a) a transport instrument made under the regulation or rule is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements); and
 - (b) the regulation or rule must contain a statement to that effect.

168F Agency, Director, or Secretary may make transport instruments

- (1) For the purposes of **section 168EA**, the Agency, Director, or the Secretary may make a transport instrument.
- (6) The Agency must not delegate the power to make, amend, or revoke a transport instrument to any person other than the Director or the Secretary.
- (6A) The Secretary or the Director (as the case may be) must not delegate the power to make, amend, or revoke a transport instrument to any person.

168H Procedures relating to transport instruments

- (1) The Agency, the Director, or the Secretary must not make, amend, or revoke a transport instrument unless satisfied that all persons and organisations that the Agency, the Director, or the Secretary thinks appropriate have been consulted, having regard to the subject matter of the proposed instrument, amendment, or revocation.
- (2) The Agency, the Director, or the Secretary (as the case may be) may ~~approve an amendment to~~ amend a transport instrument without complying with **subsection (1)** if satisfied that the amendment is to correct an error, for example, a grammatical or spelling error, or an error in numbering or cross-referencing.
- (3) ~~A transport instrument is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.~~
- (4) The Agency or the Secretary (as the case may be) must, as soon as practicable after making, amending, or revoking a transport instrument,—
 - ~~(a) notify the instrument, amendment, or revocation in the Gazette (but need not incorporate the text of the instrument, amendment, or revocation); and~~
 - ~~(b) ensure that a copy of the instrument, amendment, or revocation is —~~

- (i) published on the Agency's Internet site; and
 - (ii) available for purchase in hard copy at a reasonable charge.
- (5) A failure to comply with **subsection (4)** does not affect the validity of the regulation or rule that the transport instrument is part of.

168I Incorporation of material in transport instruments

- (1) Section 165 (which provides for the incorporation of material by reference) applies to transport instruments as if—
- (a) transport instruments were rules; and
 - (b) references in that section to the person making the rule were references to the person making the transport instrument.
- (2) To avoid doubt, any material incorporated by reference in a transport instrument is to be treated for all purposes as part of the regulation or rule that provides for the instrument.

8A Section 200B amended (Secondary legislation may require creation of land transport record)

Replace section 200B(1) with:

- (1) Secondary legislation made under a land transport Act may require or authorise a land transport record to be created for a decision or other thing made or done in accordance with that secondary legislation.

8B Sections 200C and 200D repealed

Repeal sections 200C and 200D.

8C Section 200F amended (Purpose of register)

Replace section 200F(a) with:

- (a) to provide conclusive evidence of a land transport record; and

8D Section 200G repealed (When Registrar must create land transport record)

Repeal section 200G.

8E Section 200H amended (Effect of land transport record)

- (1) In the heading to section 200H, replace “Effect” with “Date of effect”.
- (2) Repeal section 200H(2).

8F Section 200O replaced (Certified copy of information on register)

Replace section 200O with:

200O Evidentiary effect of information on register

- (1) **Subsection (2)** applies to a document that—

Proposed amendments to

- (a) appears to be or to represent an image of a land transport record; and
- (b) does not appear to have been altered in any way.
- (2) Unless there is proof to the contrary, the document is conclusive evidence of the contents of the land transport record.
- (3) The Registrar must provide a copy, or a certified copy, of any information on the register to any person who applies for it and pays the prescribed fee or charge (if any).
- (4) A certified copy of information on the register purporting to be signed by the Registrar is conclusive evidence for all purposes that the information in the certified copy is entered in the register.
- (5) The copies referred to in **subsections (3) and (4)** may be provided in electronic form if the Registrar so determines.

9 Section 222 amended (Saving of certain land transport documents)

Repeal section 222(2).

10 Schedule 1 amended

- (1) In Schedule 1, clause 13, replace “section 66 of the Privacy Act 1993” with “section 69 of the Privacy Act 2020”.
- (2) In Schedule 1, after clause 14, insert the **Part 3** set out in **Schedule 1** of this Act.
- (2) In Schedule 1,—
 - (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
 - (b) make all necessary consequential amendments.

Part 3

Amendments to Maritime Security Act 2004

14 Amendments to Maritime Security Act 2004

This Part amends the Maritime Security Act 2004.

15 New sections 6A and 6B inserted

After section 6, insert:

6A Act is maritime Act

- (1) This Act is a maritime Act under section 2(1) of the Maritime Transport Act 1994.
- (2) This has the effect that transport instruments may be made for the purposes of this Act under **section 452A** of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a maritime Act under that Act.

6B Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

15A Section 64 amended (Right of appeal to District Court)

In section 64(1), replace “or section 43” with “section 43, or **section 77** (other than any decision made in relation to a class exemption under **section 77**, including a decision to grant (or not to grant), to amend, or to revoke a class exemption)”.

16 Section 76 amended (Regulations)

- (1) In section 76(2)(a), replace “\$5,000” with “\$10,000”.
- (2) In section 76(2)(b), replace “\$30,000” with “\$50,000”.

17 Section 77 replaced (Exemptions from regulations)

Replace section 77 with:

77 Exemptions from regulations

- (1) The chief executive may, if the chief executive thinks it appropriate,—
 - (a) exempt 1 or more named or specified persons, ships, port facilities, or other things from 1 or more specified requirements in a regulation made under this Act; or
 - (b) exempt any class of person, ship, port facility, or other thing from 1 or more specified requirements in a regulation made under this Act.
- (1A) The chief executive must not grant an exemption unless satisfied that—
 - (a) granting the exemption will not breach New Zealand’s obligations under any convention; and
 - (b) one of the following applies:
 - (i) the requirement has been substantially complied with and further compliance is unnecessary:
 - (ii) the manner in which the requirement has been, or is sought to be, fulfilled is as effective as or more effective than actual compliance with the requirement:
 - (iii) the requirement is clearly unreasonable or inappropriate in this particular case:
 - (iv) events have occurred that make the requirement unnecessary or inappropriate in this particular case; and
 - (c) the risk to security will not be significantly increased by granting the exemption.

- (1B) The power under **subsection (1)** must not be used to provide an exemption from a requirement of a regulation if the relevant regulation specifically provides that no exemptions from the requirement may be granted.
- (1C) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other maritime Act.
- (2) **Sections ~~47~~ 40AA(5), (7), and (8)** ~~(except **subsection (1) and (2)(c)**)~~ **47A and 40AB, and subpart 2 of Part 3 of Schedule 1AA** of the Maritime Transport Act 1994 apply with any necessary modifications to exemptions granted under **subsection (1)**, but, to avoid doubt, the definition of ~~class exemption~~ **class exemption** in ~~section **47(10)** 40AA(8)~~ of the Maritime Transport Act 1994 ~~that Act~~ must be read as referring to a class exemption granted under **subsection (1)(b)** of this section.
- (3) An exemption granted under **subsection (1)(b)** is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

18 Section 81 amended (Consequential amendments)

In section 81(9) and (10), replace “the Schedule” with “Schedule 1”.

19 Schedule amended

In the Schedule heading, after “Schedule”, insert “1”.

20 New Schedule 1AA inserted

Insert the **Schedule 1AA** set out in **Schedule 2** as the first schedule to appear after the last section of the Maritime Security Act 2004.

Part 4

Amendments to Maritime Transport Act 1994

21 Amendments to Maritime Transport Act 1994

This Part amends the Maritime Transport Act 1994.

22 Section 2 amended (Interpretation)

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

maritime Act means—

- (a) the Maritime Security Act 2004; and
- (b) the Maritime Transport Act 1994 (this Act); and
- (c) the Port Companies Act 1988; and
- (d) the Shipping Act 1987; and
- (e) the Ship Registration Act 1992; and
- (f) the Submarine Cables and Pipelines Protection Act 1996

transport instrument means an instrument made under **section 452A**

23 Section 33B amended (Interpretation)

In section 33B, replace the definition of **regional council** with:

regional council means—

- (a) a regional council within the meaning of section 5(1) of the Local Government Act 2002; and
- (b) a unitary authority within the meaning of section 5(1) of that Act; and
- (c) the Chatham Islands Council

23B New sections 40AA to 40AC and cross-heading inserted

After section 40, insert:

Granting of exemptions from maritime rules

40AA Director may grant exemptions from maritime rules

- (1) The Director may, if the Director thinks it appropriate,—
 - (a) exempt 1 or more named or specified persons, ships, maritime products, or other things from 1 or more specified requirements in a maritime rule;
or
 - (b) exempt any class of person, ship, maritime product, or other thing from 1 or more specified requirements in a maritime rule.
- (2) The Director must not grant an exemption unless satisfied that—
 - (a) granting the exemption will not breach New Zealand’s obligations under any convention; and
 - (b) one of the following applies:
 - (i) the requirement has been substantially complied with and further compliance is unnecessary;
 - (ii) the manner in which the requirement has been, or is sought to be, fulfilled is as effective as or more effective than actual compliance with the requirement;
 - (iii) the requirement is clearly unreasonable or inappropriate in this particular case;
 - (iv) events have occurred that make the requirement unnecessary or inappropriate in this particular case; and
 - (c) the risk of harm to the marine environment will not be significantly increased by granting the exemption; and
 - (d) the risk to safety will not be significantly increased by granting the exemption.
- (3) The power under **subsection (1)** must not be used to provide an exemption from a requirement of a rule if the relevant rule specifically provides that no exemptions from the requirement may be granted.

Proposed amendments to

- (4) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other maritime Act.
- (5) The Director must notify the number and nature of exemptions granted under **subsection (1)(a)** in the *Gazette* at intervals not longer than 3 months.
- (6) A class exemption is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).
- (7) The Director's reasons for granting a class exemption must be published with the exemption.
- (8) In this section and **section 40AB**, **class exemption** means an exemption granted under **subsection (1)(b)**.

40AB General provisions relating to exemptions

- (1) This section applies to exemptions under **section 40AA**.
- (2) The Director may—
 - (a) grant an exemption on any terms and conditions that the Director thinks fit;
 - (b) amend or revoke an exemption;
 - (c) grant an exemption for an indefinite or limited period;
 - (d) replace an exemption either before or when it expires.
- (3) An exemption takes effect from the date specified in the exemption (which, for a class exemption, must not be a date earlier than the date on which the exemption is published under the Legislation Act 2019).
- (4) An exemption granted for a limited period expires (unless it is sooner replaced or revoked) on the date specified in the exemption.
- (5) If the term of an exemption is not specified in the exemption, it has effect for an indefinite period (or until it is replaced or revoked).
- (6) The breach of a term or condition of an exemption is a breach of the relevant provision in the rule to which the exemption relates (unless the terms of the exemption provide otherwise).

40AB Status and publication of exemptions from maritime rules

- (1) A class exemption is a legislative instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (2) Any other exemption is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.
- (3) As soon as practicable after granting a class exemption, the Director must—
 - (a) notify the exemption in the *Gazette* (and include the text of the exemption); and

- ~~(b) publish the exemption on the Authority's Internet site along with the Director's grounds (under **section 47(2)(b)**) for granting the exemption.~~
- ~~(4) The Director must notify the number and nature of exemptions referred to in **subsection (2)** in the *Gazette* at intervals not longer than 3 months.~~

40AC Appeal against decision on exemption under section 40AA(1)(a)

~~A person in respect of whom any decision is taken to grant (or not to grant), to amend, or to revoke an exemption under **section 40AA(1)(a)** may appeal against that decision to the District Court under section 424.~~

24 Section 47 replaced (Exemption)

Replace section 47 with:

47 Director may grant exemptions

- ~~(1) The Director may, if the Director thinks it appropriate,—~~
- ~~(a) exempt 1 or more named or specified persons, ships, maritime products, or other things from 1 or more specified requirements in a maritime rule; or~~
 - ~~(b) exempt any class of person, ship, maritime product, or other thing from 1 or more specified requirements in a maritime rule.~~
- ~~(2) The Director must not grant an exemption unless satisfied that—~~
- ~~(a) granting the exemption will not breach New Zealand's obligations under any convention; and~~
 - ~~(b) one of the following applies:~~
 - ~~(i) the requirement has been substantially complied with and further compliance is unnecessary;~~
 - ~~(ii) the manner in which the requirement has been fulfilled is as effective or more effective than actual compliance with the requirement;~~
 - ~~(iii) the requirement is clearly unreasonable or inappropriate in this particular case;~~
 - ~~(iv) events have occurred that make the requirement unnecessary or inappropriate in this particular case; and~~
 - ~~(c) the risk of harm to the marine environment will not be significantly increased by granting the exemption; and~~
 - ~~(d) the risk to safety will not be significantly increased by granting the exemption.~~
- ~~(3) The Director may—~~

Proposed amendments to

- (a) grant an exemption on any terms and conditions that the Director thinks fit;
 - (b) amend or revoke an exemption;
 - (c) grant an exemption for an indefinite or limited period;
 - (d) replace an exemption either before or when it expires.
- (4) An exemption takes effect from the date specified in the exemption (which, for a class exemption, must not be a date earlier than the date on which the exemption is notified in the *Gazette* in accordance with **section 47A(3)(a)**).
- (5) An exemption granted for a limited period expires (unless it is sooner replaced or revoked) on the date specified in the exemption.
- (6) If the term of an exemption is not specified in the exemption, it has effect for an indefinite period (or until it is replaced or revoked).
- (7) The breach of a term or condition of an exemption is a breach of the relevant provision in the rule to which the exemption relates (unless the terms of the exemption provide otherwise).
- (8) This section does not apply if a rule specifically provides that no exemptions from its requirements may be granted.
- (9) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other maritime Act.
- (10) In this section and **section 47A**, **class exemption** means an exemption granted under **subsection (1)(b)**.

47A Status and publication of exemptions

- (1) A class exemption is a legislative instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (2) Any other exemption is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.
- (3) As soon as practicable after granting a class exemption, the Director must—
- (a) notify the exemption in the *Gazette* (and include the text of the exemption); and
 - (b) publish the exemption on the Authority's Internet site along with the Director's grounds (under **section 47(2)(b)**) for granting the exemption.
- (4) The Director must notify any other exemption in the *Gazette* no later than 3 months after the date on which the Director grants the exemption. Such a notice—
- (a) must include the nature of the exemption and the Director's grounds under **section 47(2)(b)** for granting it; but

(b) need not include the text of the exemption.

24 Section 47 repealed (Exemption)

Repeal section 47.

24A Section 67B amended (Other offences)

In section 67B(1), replace “section 47” with “**section 40AA**”.

25 Section 201 amended (Regulations)

- (1) In section 201(1)(c)(i), replace “\$5,000” with “\$10,000”.
- (2) In section 201(1)(c)(ii), replace “\$30,000” with “50,000”.

25A Section 206 repealed (Dispensing powers of Director)

Repeal section 206.

26 Section 394 amended (Regulations)

- (1) In section 394(1)(f)(i), replace “\$5,000” with “\$10,000”.
- (2) In section 394(1)(f)(ii), replace “\$30,000” with “50,000”.
- (3) In section 394(1)(h)(i), replace “\$5,000” with “\$10,000”.
- (4) In section 394(1)(h)(ii), replace “\$30,000” with “50,000”.

27 Section 395 replaced (Exemptions)

Replace section 395 with:

395 Exemptions Director may grant exemptions from marine protection rules

- (1) The Director may, if the Director thinks it appropriate,—
 - (a) exempt 1 or more named or specified persons, ships, marine protection products, offshore installations, pipelines, reception facilities, items of real or personal property, or other things from 1 or more specified requirements in a marine protection rule; or
 - (b) exempt any class of person, ship, marine protection product, offshore installation, pipeline, reception facility, real or personal property, or other thing from 1 or more specified requirements in a marine protection rule.
- (2) The Director must not grant an exemption unless satisfied that—
 - (a) granting the exemption will not breach New Zealand’s obligations under any convention; and
 - (b) one of the following applies:
 - (i) the requirement has been substantially complied with and further compliance is unnecessary:

Proposed amendments to

- (ii) the manner in which the requirement has been, or is sought to be, fulfilled is as effective as or more effective than actual compliance with the requirement;
 - (iii) the requirement is clearly unreasonable or inappropriate in this particular case;
 - (iv) events have occurred that make the requirement unnecessary or inappropriate in this particular case; and
 - (c) the risk to safety will not be significantly increased by granting the exemption; and
 - (d) the granting of the exemption will not significantly increase the risk of harm,—
 - (i) for a marine protection rule on ballast water, to the environment, human health, property, or resources; or
 - (ii) for any other marine protection rule, to the marine environment.
- (2A) The power under **subsection (1)** must not be used to provide an exemption from a requirement of a rule if the relevant rule specifically provides that no exemptions from the requirement may be granted.
- (2B) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other maritime Act.
- (3) **Sections 47(3) to (10) and 47A 40AA(5), (7), and (8) and 40AB** apply with any necessary modifications to exemptions granted under **subsection (1)**, but, to avoid doubt, the definition of ~~class exemption~~ class exemption in **section 47(10) 40AA(8)** must be read as referring to a class exemption granted under **subsection (1)(b)**.
- (4) An exemption granted under **subsection (1)(b)** is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).
- 395A Appeal against decision on exemption under section 395(1)(a)**
A person in respect of whom any decision is taken to grant (or not to grant), to amend, or to revoke an exemption under **section 395(1)(a)** may appeal against that decision to the District Court under section 424.

28 Section 429A amended (Membership of Authority)

In section 429A(1), replace “5 members” with “at least 5, but no more than 7, members”.

29 Section 443 amended (Delegation of Director’s functions or powers to employees of Authority)

After section 443(4)(b), insert:

- (c) the power under **section 452A** to make, amend, or revoke a transport instrument (as prohibited by **subsection (6)** of that section).

30 Section 444 amended (Delegation of Director’s functions or powers to persons outside Authority)

After section 444(2)(e), insert:

- (f) the power under **section 452A** to make, amend, or revoke a transport instrument (as prohibited by **subsection (6)** of that section).

31 Section 451 amended (Further general provisions in respect of rules)

In section 451(4)(b), replace “Agency” with “Authority”.

32 New sections 452AA to 452D and cross-heading inserted

After section 452, insert:

Transport instruments

452AA Regulations or rules may provide for transport instruments

- (1) A regulation or rule made under a maritime Act may provide for any matter that could be included in that regulation or rule to be dealt with in a transport instrument, ~~but must not do so unless,—~~
 - ~~(a) in the case of the Governor-General making the regulation or rule, the Minister has advised the Governor-General that the Minister is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the regulation or rule itself; or~~
 - ~~(b) in the case of the Minister making the rule, the Minister is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself; or~~
 - ~~(c) in the case of the Director making the rule, the Director is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself.~~
- (1A) A regulation or rule providing under **subsection (1)** for a matter to be dealt with in a transport instrument may be made only if,—
 - (a) in the case of a regulation or rule to be made by the Governor-General, the Minister recommends it after being satisfied that the subject matter is appropriate to be in a transport instrument rather than in the regulation or rule itself; or
 - (b) in the case of a rule to be made by the Minister, the Minister is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself; or
 - (c) in the case of a rule to be made by the Director, the Director is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself.
- (2) A regulation or rule that provides for a transport instrument must specify which of the persons listed in **section 452A(8)** may make the instrument.

- (3) A regulation or rule that provides for a transport instrument may—
 - (a) provide for a particular transport instrument as amended or replaced from time to time;
 - (b) provide for any transport instrument that may be made for the purposes of that regulation or rule (even if the instrument has not been made at the time the regulation or rule is made);
 - (c) provide for any requirements in relation to the instrument or its creation.
- (4) A transport instrument provided for in a regulation or rule is part of that regulation or rule.
- (5) To avoid doubt,—
 - (a) a transport instrument has effect only to the extent that a regulation or rule made under a maritime Act refers to it; and
 - (b) a breach of a transport instrument is a breach of the regulation or rule that provides for the instrument.
- (6) If a regulation or rule provides for a transport instrument,—
 - (a) a transport instrument made under the regulation or rule is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements); and
 - (b) the regulation or rule must contain a statement to that effect.

452A Specified person may make transport instruments

- (1) For the purposes of a maritime Act, a specified person may make a transport instrument.
- (6) A specified person must not delegate the power to make, amend, or revoke a transport instrument.
- (8) In this section and **section 452C**, **specified person** means 1 or more of the following:
 - (a) the Authority;
 - (b) the Director;
 - (c) the Secretary;
 - (d) the Crown entity appointed as the Designated Authority under section 7 of the Maritime Security Act 2004.

452C Procedures relating to transport instruments

- (1) The specified person must not make, amend, or revoke a transport instrument unless satisfied that all persons and organisations that the specified person thinks appropriate have been consulted, having regard to the subject matter of the proposed instrument, amendment, or revocation.
- (2) The specified person may approve an amendment to a transport instrument without complying with **subsection (1)** if satisfied that the amendment is to

correct an error, for example, a grammatical or spelling error, or an error in numbering or cross-referencing.

- (3) A transport instrument is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (4) The specified person must, as soon as practicable after making, amending, or revoking a transport instrument,—
- (a) notify the instrument, amendment, or revocation in the *Gazette* (but need not incorporate the text of the instrument, amendment, or revocation); and
 - (b) ensure that a copy of the instrument, amendment, or revocation is—
 - (i) published on the Authority’s Internet site; and
 - (ii) available for purchase in hard copy at a reasonable charge.
- (5) A failure to comply with **subsection (4)** does not affect the validity of the regulation or rule that the transport instrument is part of.

452D Incorporation of material in transport instruments

- (1) Section 452 (which provides for the incorporation of material by reference) applies to transport instruments as if—
- (a) transport instruments were rules; and
 - (b) references in that section to the person making the rule were references to the person making the transport instrument.
- (2) To avoid doubt, any material incorporated by reference in a transport instrument is to be treated for all purposes as part of the regulation or rule that provides for the instrument.

33 ~~Schedule 1AA amended~~

~~In Schedule 1AA, after clause 5, insert the **Part 3** set out in **Schedule 3** of this Act.~~

33 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the Part set out in **Schedule 3** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Part 5 Amendments to Railways Act 2005

34 Amendments to Railways Act 2005

This Part amends the Railways Act 2005.

36 New section 6A inserted (Act is land transport Act)

After section 6, insert:

6A Act is land transport Act

- (1) This Act is a land transport Act under section 2(1) of the Land Transport Act 1998.
- (2) This has the effect that—
 - (a) transport instruments may be made for the purposes of this Act under **section 168F** of that Act; and
 - (b) enforceable undertakings may be given for the purposes of this Act in accordance with section 112A of that Act; and
 - (c) a land transport record may be required to be created for the purposes of this Act in accordance with section 200B of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a land transport Act under that Act.

37 Section 57 amended (General provisions concerning making of rules)

In section 57, replace “to 166” with “and 165”.

37A New section 57A inserted (Exemptions from requirements in rules)

After section 57, insert:

57A Exemptions from requirements in rules

- (1) The ~~Agency Director~~ may, if the ~~Agency Director~~ thinks it appropriate,—
 - (a) exempt 1 or more named or specified persons, rail vehicles, rail vehicle components, railway premises, or other things, or any named or specified railway infrastructure, from 1 or more specified requirements in a rule made under this Act; or
 - (b) exempt any class of person, rail vehicle, rail vehicle component, railway premises, railway infrastructure, or other thing from 1 or more specified requirements in a rule made under this Act.
- (1A) The power under **subsection (1)** must not be used to provide an exemption from a requirement of a rule if the relevant rule specifically provides that no exemptions from the requirement may be granted.
- (1B) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other land transport Act.
- (2) **Sections 168D(2) to (9) and (10) and 168E, and subpart 2 of Part 3 of Schedule 1**, of the Land Transport Act 1998 apply with any necessary modifications to exemptions granted under **subsection (1)**, but, to avoid doubt, the definition of ~~class exemption~~ class exemption in section 2(1) of the Land

Transport Act 1998 must be read as referring to a class exemption granted under **subsection (1)(b)** of this section.

- (3) An exemption granted under **subsection (1)(b)** is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

38 Section 59 amended (Regulations)

- (1) After section 59(h), insert:

(ha) specifying for the purpose of **section 60A(1A)** those requirements of the regulations to which **section 60A** applies:

- (2) In section 59, insert as subsection (2):

- (2) Regulations made under this section may incorporate material by reference and, for that purpose, section 165 of the Land Transport Act 1998 applies as if regulations were rules.

38A New section 60A inserted (Exemptions from requirements in regulations)

After section 60, insert:

60A Exemptions from requirements in regulations

- (1) The ~~Agency Director~~ may, if the ~~Agency Director~~ thinks it appropriate,—

- (a) exempt 1 or more named or specified persons, rail vehicles, railway premises, or other things, or any named or specified railway infrastructure, from 1 or more specified requirements in regulations made under section 59; or
- (b) exempt any class of person, rail vehicle, railway premises, railway infrastructure, or other thing from 1 or more specified requirements in regulations made under section 59.

- (1A) This section may be used to allow an exemption from the requirement of a regulation only if the regulations specify under **section 59(ha)** that this section applies to that requirement.

- (1B) This section does not limit or affect any other power of exemption conferred on any person under this Act or any other land transport Act.

- (2) **Sections 168D(2) to (9) and 168E and (10), and 168E, and subpart 2 of Part 3 of Schedule 1,** of the Land Transport Act 1998 apply with any necessary modifications to exemptions granted under **subsection (1)**, but, to avoid doubt, the definition of class exemption in section 2(1) of the Land Transport Act 1998 must be read as referring to a class exemption granted under **subsection (1)(b)** of this section.

- (3) An exemption granted under **subsection (1)(b)** is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

38B Section 68 amended (Appeal to District Court)

After section 68(2), insert:

- (3) This section does not apply to any decision made in relation to a class exemption under **section 60A**, including a decision to grant (or not to grant), to amend, or to revoke a class exemption.

38C Schedule 1AA amended

In Schedule 1AA, clause 3, replace “section 66 of the Privacy Act 1993” with “section 69 of the Privacy Act 2020”.

**Part 6
Amendments to other legislation**

Subpart 1—Miscellaneous amendments to legislation

40 Amendment to Civil Aviation Act 1990

- (1) This section amends the Civil Aviation Act 1990.
(2) In section 72A(2), replace “shall consist of 5 members” with “must have at least 5, but no more than 7, members”.

41 Amendment to Government Roding Powers Act 1989

- (1) This section amends the Government Roding Powers Act 1989.
(2) After section 3, insert:

3A Act is land transport Act

- (1) This Act is a land transport Act under section 2(1) of the Land Transport Act 1998.
(2) This has the effect that—
(a) transport instruments may be made for the purposes of this Act under **section 168F** of that Act; and
(b) enforceable undertakings may be given for the purposes of this Act in accordance with section 112A of that Act; and
(c) a land transport record may be required to be created for the purposes of this Act in accordance with section 200B of that Act.
(3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a land transport Act under that Act.

41A Amendments to Land Transport Management Act 2003

- (1) This section amends the Land Transport Management Act 2003.
(2) After section 7B, insert:

7C Act is land transport Act

- (1) This Act is a land transport Act under section 2(1) of the Land Transport Act 1998.

- (2) This has the effect that—
 - (a) transport instruments may be made for the purposes of this Act under **section 168F** of that Act; and
 - (b) enforceable undertakings may be given for the purposes of this Act in accordance with section 112A of that Act; and
 - (c) a land transport record may be required to be created for the purposes of this Act in accordance with section 200B of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a land transport Act under that Act.
- (3) In section 98(1), replace “6, but no more than 8” with “7, but no more than 9”.
- (4) In section 109A(3) and (4), replace “Privacy Act 1993” with “Privacy Act 2020”.
- (5) In section 109B(5), replace “Privacy Act 1993” with “Privacy Act 2020”.
- (6) In Schedule 1AA, clause 7, replace “section 66 of the Privacy Act 1993” with “section 69 of the Privacy Act 2020”.

42 Amendment to Port Companies Act 1988

- (1) This section amends the Port Companies Act 1988.
- (2) After section 3, insert:

3A Act is maritime Act

- (1) This Act is a maritime Act under section 2(1) of the Maritime Transport Act 1994.
- (2) This has the effect that transport instruments may be made for the purposes of this Act under **section 452A** of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a maritime Act under that Act.

43 Amendment to Road User Charges Act 2012

- (1) This section amends the Road User Charges Act 2012.
- (2) After section 6, insert:

6A Act is land transport Act

- (1) This Act is a land transport Act under section 2(1) of the Land Transport Act 1998.
- (2) This has the effect that—
 - (a) transport instruments may be made for the purposes of this Act under **section 168F** of that Act; and
 - (b) enforceable undertakings may be given for the purposes of this Act in accordance with section 112A of that Act; and

- (c) a land transport record may be required to be created for the purposes of this Act in accordance with section 200B of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a land transport Act under that Act.

44 Amendment to Ship Registration Act 1992

- (1) This section amends the Ship Registration Act 1992.
- (2) After section 5, insert:

5A Act is maritime Act

- (1) This Act is a maritime Act under section 2(1) of the Maritime Transport Act 1994.
- (2) This has the effect that transport instruments may be made for the purposes of this Act under **section 452A** of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a maritime Act under that Act.

45 Amendment to Shipping Act 1987

- (1) This section amends the Shipping Act 1987.
- (2) After section 2, insert:

2A Act is maritime Act

- (1) This Act is a maritime Act under section 2(1) of the Maritime Transport Act 1994.
- (2) This has the effect that transport instruments may be made for the purposes of this Act under **section 452A** of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a maritime Act under that Act.

46 Amendment to Submarine Cables and Pipelines Protection Act 1996

- (1) This section amends the Submarine Cables and Pipelines Protection Act 1996.
- (2) After section 5, insert:

5A Act is maritime Act

- (1) This Act is a maritime Act under section 2(1) of the Maritime Transport Act 1994.
- (2) This has the effect that transport instruments may be made for the purposes of this Act under **section 452A** of that Act.
- (3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a maritime Act under that Act.

Subpart 2—Consequential amendments

47 Amendments relating to Director of Land Transport

Amend the Acts specified in **Schedule 5** as set out in that schedule.

Schedule 1
New Part 3 of Schedule 1 of Land Transport Act 1998 inserted

s 10

Part 3
Provisions relating to Regulatory Systems (Transport) Amendment Act 2020

15 Interpretation

~~In this Part, **amendment Act** means the Regulatory Systems (Transport) Amendment Act **2020**.~~

16 ~~Pre-existing exemptions from requirements in rules made under Part 11~~

~~Any exemption granted under section 166 or 166A before **section 7** of the amendment Act comes into force continues to have effect as if that section had not come into force.~~

Subpart 1—Pre-existing exemptions

15 Interpretation

In this subpart, **amendment Act** means the Regulatory Systems (Transport) Amendment Act **2020**.

16 Pre-existing exemptions from requirements in rules made under Part 11

Any exemption granted under section 166 or 166A before **section 7** of the amendment Act comes into force continues to have effect as if that section had not come into force.

Subpart 2—Provisions relating to Legislation Act 2019

17 Application of Part

This subpart applies until the main commencement date (as defined in clause 2 of Schedule 1 of the Legislation Act 2019).

18 Exemptions granted under **section 168D***Class exemptions*

(1) A class exemption is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

(2) As soon as practicable after granting a class exemption, the Director must—

(a) notify the exemption in the *Gazette* (and include the text of the exemption); and

(b) publish the exemption on the Agency's Internet site.

Other exemptions

(3) An exemption granted under **section 168D(1)(a)** is not a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.

19 Transport instruments

(1) A transport instrument is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

(2) The Agency, the Director, or the Secretary (as the case may be) must, as soon as practicable after making, amending, or revoking a transport instrument,—

(a) notify the instrument, amendment, or revocation in the *Gazette* (but need not incorporate the text of the instrument, amendment, or revocation);
and

(b) ensure that a copy of the instrument, amendment, or revocation is—

(i) published on the Agency's Internet site; and

(ii) available for purchase in hard copy at a reasonable charge.

Schedule 2
New Schedule 1AA inserted into Maritime Security Act 2004

s 20

Schedule 1AA
Transitional, savings, and related provisions

s 6B

Part 1
Provisions relating to Regulatory Systems (Transport) Amendment Act 2020

1 Interpretation

In this Part, **amendment Act** means the Regulatory Systems (Transport) Amendment Act **2020**.

2 Pre-existing exemptions from regulations made under section 77

Any exemption granted under section 77 before **section 17** of the amendment Act comes into force continues to have effect as if that section had not come into force.

Schedule 3
New Part 3 of Schedule 1AA of Maritime Transport Act 1994
inserted

s 33

Part 3
Provisions relating to Regulatory Systems (Transport) Amendment
Act 2020

6 Interpretation

In this Part, ~~amendment Act~~ means the Regulatory Systems (Transport) Amendment Act ~~2020~~.

7 Pre-existing exemptions from regulations made under sections 47 and 395

- (1) Any exemption granted under section 47 before **section 24** of the amendment Act comes into force continues to have effect as if that section had not come into force.
- (2) Any exemption granted under section 395 before **section 27** of the amendment Act comes into force continues to have effect as if that section had not come into force.

Subpart 1—Pre-existing exemptions

6 Interpretation

In this subpart, ~~amendment Act~~ means the Regulatory Systems (Transport) Amendment Act ~~2020~~.

7 Pre-existing exemptions from regulations made under sections 47 and 395

- (1) Any exemption granted under section 47 before **section 24** of the amendment Act comes into force continues to have effect as if that section had not come into force.
- (2) Any exemption granted under section 395 before **section 27** of the amendment Act comes into force continues to have effect as if that section had not come into force.

Subpart 2—Provisions relating to Legislation Act 2019

8 Application of Part

This subpart applies until the main commencement date (as defined in clause 2 of Schedule 1 of the Legislation Act 2019).

9 Bylaws for Crown harbours and facilities

If a responsible Minister makes bylaws under section 33W, the bylaws must be—

- (a) notified in the *Gazette*; and
- (b) published on an Internet site maintained by or on behalf of,—
 - (i) if they are made by the Minister of Conservation, the Department of Conservation; or
 - (ii) if they are made by the Minister of Defence, the New Zealand Defence Force; or
 - (iii) if they are made by the Minister of Local Government, the Department of Internal Affairs.

10 Exemptions granted under section 40AA or 395*Class exemptions*

- (1) An exemption granted under **section 40AA(1)(b) or 395(1)(b)** is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (2) As soon as practicable after granting a class exemption, the Director must—
 - (a) notify the exemption in the *Gazette* (and include the text of the exemption); and
 - (b) publish the exemption on the Authority's Internet site.

Other exemptions

- (3) An exemption granted under **section 40AA(1)(a) or 395(1)(a)** is not a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.

11 Transport instruments

- (1) A transport instrument is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (2) A specified person who makes, amends, or revokes a transport instrument must, as soon as practicable after doing so,—
 - (a) notify the instrument, amendment, or revocation in the *Gazette* (but need not incorporate the text of the instrument, amendment, or revocation); and
 - (b) ensure that a copy of the instrument, amendment, or revocation is—
 - (i) published on the Authority's Internet site; and
 - (ii) available for purchase in hard copy at a reasonable charge.

Schedule 5 Consequential amendments to Acts

s 47

Land Transport Act 1998 (1998 No 110)

In the cross-heading above **section 168D**, replace “Agency” with “Director”.

In the heading to **section 168D**, replace “Agency” with “Director”.

In **section 168D(1)**, replace “Agency” with “Director” in each place.

In **section 168D(2)**, replace “Agency” with “Director”.

In **section 168D(3)**, replace “Agency” with “Director”.

In **section 168D(3)(a)**, replace “Agency” with “Director”.

In **section 168E(3)**, replace “Agency” with “Director”.

In **section 168E(3)(b)**, replace “Agency’s grounds” with “Director’s grounds”.

In **section 168E(4)**, replace “Agency” with “Director” in each place.

In **section 168E(4)(a)**, replace “Agency’s” with “Director’s”.

In **section 168EA(2)**, after “Agency”, insert “, the Director”.

In the heading to **section 168F**, after “Agency”, insert “, Director”.

In **section 168F(1)**, after “Agency”, insert “, the Director”.

In **section 168F(6)**, after “other than” insert “the Director or”.

In **section 168F(6A)**, after “Secretary”, insert “or the Director (as the case may be)”.

In **section 168H(1)**, after “Agency”, insert “, the Director,” in each place.

In **section 168H(2)**, after “Agency”, insert “, the Director”.

In **section 168H(4)**, after “Agency”, insert “, the Director”.

Railways Act 2005 (2005 No 37)

In **section 57A(1)**, replace “Agency” with “Director” in each place.

In **section 60A(1)**, replace “Agency” with “Director” in each place.