

13 April 2022

Dear [REDACTED]

Thank you for your recent letter dated 28 March 2022. I note that your first question has been treated as a request under the Official Information Act 1982. Hopefully you find the information provided below helpful.

1. *I cannot find the statute nor the statutory provision that shows how when and where the Transport Agency was created, would you kindly direct me to the creation documentation?*

The New Zealand Transport Agency (Transport Agency) is established by section 93 of the Land Transport Management Act 2003 (LTMA). Section 93 was inserted into the LTMA by an amendment Act (the Land Transport Management Amendment Act 2008) on 1 August 2008. This means that the Transport Agency was established on 1 August 2008.

2. *If the Transport Agency was created by statute, are the Transport Agency's administrators bound to uphold the statute?*

Yes. The Transport Agency is a Crown entity and is governed by a Board. All decisions of the Board must be in accordance with the LTMA (being the Act that establishes the Transport Agency), the Crown Entities Act 2004 (being the Act that governs how Crown entities must operate) and any other Act that assigns functions or powers to the Transport Agency (the Land Transport Act 1998 for example).

All employees of the Transport Agency carry out functions on behalf of the Board, who is ultimately responsible for all of the actions.

Some useful statutory references are:

Crown Entities Act 2004 (CEA)

- Section 18 which states that any action of a statutory entity (i.e. the Transport Agency) must be for the purpose of performing its functions
- Section 25 which describes a Crown entity Board's role
- Section 53 which outlines the duty to comply with the Crown Entities Act and the entity's Act (i.e. LTMA and other Acts that assign functions to the Agency).

Land Transport Management Act 2003

- Section 95 which sets out the Agency's functions.

3. Part 2 of the Land Transport Act 1998 defines Driver in relation to the vehicle as: includes the rider of a motorcycle or moped or bicycle. Would you confirm that Driver does not include someone driving a car, an automobile, private conveyance, or truck?

Section 2(1) of the Land Transport Act 1998 (LTA) includes the following definition of “driver”:

Driver, in relation to a vehicle, includes the rider of the motorcycle or moped or bicycle; and **drive** has a corresponding meaning.

A driver is any person who drives a vehicle, *and includes* any person who rides a motorcycle, moped or bicycle. The definition of driver applies to all vehicles (including cars, automobiles, private conveyances, and trucks), and clarifies that any person riding a motorcycle, moped or bicycle is “driving” that motorcycle, moped or bicycle.

4. Part 2(a) of the Land Transport Act 1998 defines Vehicle as: means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved. Would you confirm that vehicle does not include a car, automobile, private conveyance, or truck?

A “vehicle” as defined in section 2(1) of the LTA includes a car, automobile, private conveyance, and truck. These vehicles have wheels so fall within the definition of (a), being a contrivance equipped with wheels.

5. Based on above, would you confirm that a living man or woman would not need a licence to operate an automobile?

Any person who drives an automobile (i.e. a car), private conveyance, or truck on a road must have a licence to do so. Section 5(1) of the LTA sets out this requirement:

“A person may not drive a motor vehicle on a road – (a) without an appropriate current driver licence.”


A car, automobile, private conveyance and truck are all motor vehicles.

6. Are you Peter Mersi an agent of the Crown?

Peter, in his role as Chief Executive of the Ministry of Transport (also called the Secretary for Transport) is responsible for the operation of the Ministry of Transport. The Ministry of Transport is a government department which is part of the Crown. Rather than being an agent of the Crown, the Chief Executive of any government department works *for* the Crown.

I hope this clarifies the questions you have asked.

Yours sincerely



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