

Proactive Release

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Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

Listed below are the most commonly used grounds from the OIA.

<u>Section</u>	<u>Description of ground</u>
6(a)	as release would be likely to prejudice the security or defence of New Zealand or the international relations of the New Zealand Government
6(b)	as release would be likely to prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by <ul style="list-style-type: none"> (i) the Government of any other country or any agency of such a Government; or (ii) any international organisation
6(c)	prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
9(2)(a)	to protect the privacy of natural persons
9(2)(b)(ii)	to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
9(2)(ba)(i)	to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public
9(2)(ba)(ii)	to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely otherwise to damage the public interest
9(2)(f)(ii)	to maintain the constitutional conventions for the time being which protect collective and individual ministerial responsibility
9(2)(f)(iv)	to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials
9(2)(g)(i)	to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty
9(2)(h)	to maintain legal professional privilege
9(2)(i)	to enable a Minister of the Crown or any public service agency or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities
9(2)(j)	to enable a Minister of the Crown or any public service agency or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)



31 August 2022

OC220542

Hon Kieran McAnulty

Action required by:

Associate Minister of Transport

Friday, 16 September 2022

cc Hon Michael Wood

Minister of Transport

POLICY APPROVAL - REGULATORY SYSTEMS (TRANSPORT) AMENDMENT BILL

Purpose

The attached Cabinet paper (**Annex Two**) seeks approval for final policy decisions to enable drafting instructions to be issued for assorted regulatory changes to primary legislation for the road, rail and maritime transport systems.

Key points

- The Ministry has committed to a regular series of RSTA bills. Aside from ensuring the regulatory system continues to perform as intended, these bills are important vehicles for enabling Aotearoa New Zealand to meet its international obligations, such as Maritime Labour Conventions, and supporting implementation activities under programmes, such as Road to Zero.
- In May 2022, Cabinet agreed to publicly consult on a package of 33 proposals to amend legislation across land and maritime modes. Consultation ran from 1 June to 8 July 2022, and feedback was received from 23 submitters comprising industry and sector representative groups, territorial authorities (district and regional councils), and sector participants.
- Broadly speaking, consultees agreed with the land proposals, with some submissions highlighting implementation considerations. There was support for the intention of the maritime proposals, with submitters raising additional policy considerations.
- There have been a number of changes to the RSTA proposal list as consulted on:
 - One land proposal concerning the transferral of the roading provisions in the Local Government Act 1974 (LGA 74) to Ministry of Transport-administered legislation has been removed, as it will be progressed through a separate workstream, Reshaping Streets.
 - Two new land proposals have been added in. One proposal concerns the ability of Waka Kotahi to declare a road a State highway. The second new

proposal was consulted on through the Accessible Streets programme, and amends how declarations under section 168A of the Land Transport Act 1998 (LTA) are made.

- One maritime proposal has been withdrawn. This proposal concerned how accidents and incidents are notified to Maritime New Zealand. Further analysis of the legislative provision highlighted a number of other issues which are better addressed through the recently commenced review of the Maritime Transport Act 1994 (MTA).
- This leaves a total of 30 proposals to be progressed through the Regulatory Systems (Transport) Amendment Bill No 2 (RSTA 2). These proposals are outlined in **Annex One** to this briefing, as well as in the recommendation section of the attached Cabinet paper, and Appendices One and Two to the Cabinet paper.
- Changes to some clauses in transport Rules issued under the LTA are also required. As Associate Minister of Transport, you have the authority to approve the Ministry issuing drafting instructions to the Parliamentary Counsel Office for Rule-level changes needed to achieve the proposal outcomes. This briefing paper seeks your approval for the Ministry to issue these drafting instructions.
- There are also three proposals that outline amendments to the Land Transport (Offences and Penalties) Regulations 1999, the Maritime (Offences) Regulations 1998, and the Marine Protection (Offences) Regulations 1998.
- The Cabinet paper seeks approval to issue drafting instructions in respect of changes to these Regulations, noting that these changes will not occur until after RSTA 2 receives royal assent. This is because the amendments to these Regulations are dependent on other RSTA 2 proposals to amend the LTA and the MTA.

Recommendations

We recommend you:

- | | | |
|---|---|--|
| 1 | agree to progress Ministerial consultation on the attached Cabinet paper and its appendices, s 9(2)(i)(ii) | Yes/ No
<input checked="" type="radio"/> Yes <input type="radio"/> No |
| 2 | indicate if you want to discuss the content of the proposals for inclusion in the Regulatory Systems (Transport) Amendment Bill No 2 with officials | Yes/ No
<input type="radio"/> Yes <input checked="" type="radio"/> No |
| 3 | agree the Ministry to issue drafting instructions to the Parliamentary Counsel Office for Rule-level changes. | Yes/ No
<input checked="" type="radio"/> Yes <input type="radio"/> No |



s 9(2)(a)
Manager, Regulatory Policy
 31 / 08 / 2022



 Hon Kieran McNulty
Associate Minister of Transport
 4.9.22

UNCLASSIFIED

- Minister's office to complete:**
- Approved
 - Declined
 - Seen by Minister
 - Not seen by Minister
 - Overtaken by events

Comments

Contacts

Name	Telephone	First contact
s 9(2)(a)		✓

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OFFICIAL INFORMATION ACT 1982

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POLICY APPROVAL - REGULATORY SYSTEMS (TRANSPORT) AMENDMENT BILL

Te Manatū Waka – the Ministry of Transport has a responsibility to care for our regulatory systems

- 1 Regulatory stewardship is a requirement of all government regulatory agencies. It involves taking a whole-of-system, lifecycle view of regulation and treating legislation as an asset that requires maintenance, updating, and sometimes, renewal.
- 2 The legislative framework for the transport sector is significant, with 26 Acts, 15 Regulations and 151 Rules across the three modes (land, aviation and maritime). Regulatory System (Transport) Amendment bills (RSTA bills) are a key way in which we meet our regulatory stewardship obligations, as RSTA bills tend to be omnibus bills, which enable changes to be made across diverse topic areas in numerous Acts at the same time.
- 3 The Ministry of Transport (the Ministry) has committed to a regular series of RSTA bills in its Regulatory Stewardship Plan 2019 – 2022. These bills are important vehicles for ensuring Aotearoa New Zealand meets its international obligations, such as Maritime Labour Conventions, and that the transport system enables implementation activities under programmes such as Road to Zero.
- 4 The first Bill of this series came into force on 30 March 2021. While the first RSTA Bill was progressing through the House, the Ministry, in collaboration with Maritime New Zealand (Maritime NZ) and Waka Kotahi New Zealand Transport Agency (Waka Kotahi), began work on further regulatory system changes. No changes to civil aviation legislation were proposed, as a separate Bill covering civil aviation is currently undergoing its second reading.

In May 2022, Cabinet agreed to publicly consult on a package of 33 proposals across land and maritime modes

- 5 A summary of the proposals across both land and maritime, feedback received, and any changes to the proposals that have occurred since Cabinet approval in May 2022 are provided at Appendix One and Two of the attached Cabinet paper.
- 6 Consultation ran from 1 June to 8 July 2022. Feedback was sought on several proposals to amend provisions across nine pieces of legislation. We received a total of 23 submissions across proposals, comprised of 17 submissions to the land consultation document, and six to the maritime consultation document.
- 7 Along with submissions, the Ministry also engaged directly with a number of interested groups to explain the proposals, their impacts, and hear any feedback on the proposals consultees wanted to provide.

There was broad support for land proposals

- 8 Submissions to the land proposals came from territorial authorities, transport operators, and industry and sector representative groups. Feedback from these

groups indicates at broad support for the proposed changes, with specific support expressed for some proposals.

- 9 Feedback largely centred on implementation considerations, which the Ministry is working into drafting instructions as appropriate. As such, the attached Cabinet paper proposes progressing with these proposals, as consulted on.

A high-level proposal to amend the Director of Land Transport's powers to respond to emergency and time-critical events was also consulted on

- 10 Feedback on this proposal has informed the detailed policy work, with submitters indicating that it is integral the system is able to respond to regulatory safety issues in a timely way, while recognising there needs to be appropriate checks and balances on the use of such powers. The attached Cabinet paper proposes:

10.1 **That new emergency powers for the Director of Land Transport be introduced.** These powers would be 'activated' when either a state of national or local emergency has been declared, an epidemic notice is in force, or otherwise with the agreement of the Minister of Transport that there is an emergency impacting the transport regulatory system. These powers will enable the Director of Land Transport to extend the term of and land transport document (eg, driver licences, motor vehicle registration, Warrants and Certificates of Fitness) to a specified date.

10.2 **That a new power to require a vehicle or class of vehicles to present for inspection by a specified date be introduced.** This power would be used in situations where there is a suspected safety issue with a make or model of a vehicle, but not enough evidence as to its significance to issue a compulsory product recall notice under the Fair Trading Act 1986. This power would support the gathering of evidence as to whether stronger regulatory action in relation to a fault is necessary to prevent injury, damage to property, or death. Failure to present a vehicle for inspection by the specified date could result in that vehicle's Certificate or Warrant of Fitness (CoF/WoF) being revoked, or being unable to have its CoF/WoF renewed at its next due inspection. Driving a vehicle without a CoF/WoF risks a \$200 infringement fee under the Land Transport (Offences and Penalties) Regulations 1999.

10.3 **That a new power to revoke a class of vehicles' CoF/WoF be introduced.** This power would be used when there is significant evidence as to a serious safety concern with a type of vehicle, and it is imperative that these vehicles are not driven on public roads until the issue is resolved. Driving a vehicle without a CoF/WoF risks a \$200 infringement fee under the Land Transport (Offences and Penalties) Regulations 1999. Given the significant impacts use of this power would have on sector participants, the Director of Land Transport would be required to notify the Ministry's Chief Executive of their intention to use this power.

Consultation also included a proposal to incorporate the name 'Waka Kotahi' in legislation referencing the New Zealand Transport Agency

- 11 Since its introduction, te Reo name 'Waka Kotahi' has fast become the agency's commonly-referred to name. Use of te Reo is a key public sector commitment to Te

Tiriti o Waitangi and contributes to Maihi Karauna, the Crown's strategy for Māori language revitalisation.

- 12 Feedback from consultation fully supported recognition of 'Waka Kotahi' in legislation, with several submitters suggesting the name be dual te Reo and English to support clarity. As such, the attached Cabinet paper proposes that the New Zealand Transport Agency's name in legislation be changed to 'Waka Kotahi New Zealand Transport Agency'. This approach is supported by Waka Kotahi.

On maritime, feedback generally supported the intent of the proposals

- 13 Submitters included regional councils that have harbours, and industry representative groups. Feedback generally supported the intent of the proposals, with some submitters raising additional considerations. The key proposals submitters commented on were:

- 13.1 **Proposal 3.2.1 Clarifying the threshold for starting an investigation.** This proposal changes the grounds for commencing an investigation from 'belief' (which insinuates a substantial level of evidence is required) to 'reasonable grounds' (which allows for suspicion that a breach has occurred). This change will enable the Director of Maritime NZ to uncover covert behaviour or latent systemic risks by means of investigation.

- 13.2 **Proposal 3.2.2 Providing certainty that breaches of maritime document holders' duties are grounds for investigation.** This proposal will link the general duties of maritime document holders (set out in section 17 of the Maritime Transport Act 1994 (MTA)) with the Director's power to investigate holders of maritime documents (set out in section 54A of the MTA). At present, the Director of Maritime NZ can only investigate a maritime document-holder where there has been a breach of a requirement as set out in the document they hold. This change will enable the Director of Maritime NZ to investigate document holders on the grounds of not meeting their duties more generally.

- 14 Submitter feedback on these proposals indicated a concern that this change would lead to Maritime NZ commencing investigations unduly. In response to this feedback, officials took a closer look at these proposals, the provisions in the legislation, as well as supporting operational guidance and consider that these changes should not result in undue investigations to the extent submitters considered.
- 15 Since we consulted on the RSTA 2 proposals, the Ministry has commenced a review of the MTA (OC220764 refers). This is the key maritime primary legislation that sets out the obligations and responsibilities of participants in the maritime sector
- 16 As such, the attached Cabinet paper recommends that proposals 3.2.1 and 3.2.2 are progressed as consulted on, with further analysis undertaken as part of the wider review of the MTA.

There have been a number of changes to the RSTA 2 proposal list

- 17 These changes include the addition of two new land proposals, one of which has not been consulted on, as well as the removal of one land proposal.

The first new proposal introduces powers for Waka Kotahi to declare a road a State highway

- 18 Up until 2008, Waka Kotahi had the ability to declare a road they had built a State highway. In 2008, the section of the Government Roding Powers Act 1989 (GRPA) empowering Waka Kotahi to do this was repealed and transferred to the Land Transport Management Act 2003 (the LTMA).
- 19 However, a drafting oversight meant that the definition of 'road' in the LTMA was not updated as a part of this change. Consequentially, the LTMA definition of 'road' does not include those roads built by the Crown (ie, Waka Kotahi). This has meant that Waka Kotahi cannot legally declare a new road it has constructed a State highway.
- 20 To rectify this issue, the attached Cabinet paper proposes amending the definition of 'road' in the LTMA to include reference to roads laid out by or vested in the Crown as a road. The provision will include a statement that prior State highway declarations from 2008 are valid, and remain in force.
- 21 This proposal was not consulted on as a part of the wider RSTA 2 consultation, as it would have essentially meant seeking public feedback on drafting matters. Drafting matters are the responsibility of the Parliamentary Counsel, working with the Ministry. Consultation on this would have posed a legal risk to the discretion of the Parliamentary Counsel Office.

The second new proposal relates to the Accessible Streets package

- 22 As a part of the Accessible Streets package, the Ministry consulted on a proposal to make changes to section 168A of the Land Transport Act 1998 which enables Waka Kotahi to declare a vehicle to not be a motor vehicle, if it meets particular criteria.
- 23 This declaration process has come under scrutiny after complaints to the Regulations Review Committee about the E-Scooters (Declaration not to be motor vehicles) Notice 2018. Complaints centred on a lack of transparency in this process, and a lack of consultation by Waka Kotahi before make the declaration.
- 24 Cabinet are due to consider advice on this proposal at the same time they are to consider the attached Cabinet paper. As indicated in that advice, this proposal is to be progressed through the RSTA 2 Bill and as such, has now been included in the proposal list.

Two proposals have since been removed and will be progressed through other workstreams

- 25 The land consultation document included a proposal to transfer the roading provisions in the LGA 74 to Ministry of Transport-administered legislation, the GRPA.
- 26 This proposal will now be progressed as a part of the Reshaping Streets programme of work, which is also considering changes to the LGA 74 and working to similar timeframes.
- 27 The maritime consultation document included a proposal to standardise the requirements to notify incidents and accidents. At present, there is inconsistency between two subsections of the same provision which creates confusion as to what accidents, incidents and mishaps must be reported. This proposal would clarify that all accidents, incidents and mishaps must be notified to Maritime NZ.

- 28 Feedback on this proposal highlighted concerns that the new requirements would mean reporting of every incident, no matter how minor, and would be more stringent than that required under the Health and Safety at Work Act 2015 (the HSWA).
- 29 The terms 'accident' and 'incident' have particular meanings in legislation that capture only serious matters that a regulator should know about. As such, officials consider this would not increase the reporting requirements on sector participants beyond current levels.
- 30 However, a closer look at the legislative provisions highlighted a number of other issues, including misalignment of terms between the MTA and the HSWA. As such, this proposal has been removed from the RSTA 2 proposal list, and will be considered as part of the wider MTA review.

One maritime proposal has been slightly modified to enable New Zealand to better meet its Maritime Labour Convention 2006 obligations

- 31 In June 2022, the International Labour Organisation made a number of changes to the Code of the Maritime Labour Convention 2006 (the MLC). As a signatory to the MLC, New Zealand is obliged to incorporate these amendments into its legislation and practice.
- 32 One of the amendments relates to seafarer recruitment and placement services, which will likely require a Rule-level change to implement. The current maritime proposal list includes a proposal to amend section 27 of the MTA to enable seafarer recruitment services to charge for the service of placing a seafarer in employment.
- 33 Further analysis of section 27 indicates that rather than an amendment, it is likely this provision will need to be repealed and replaced. This will include the provision for maritime Rules to be made in respect of seafarer recruitment and placement services. This change will enable New Zealand to better align with the earlier amendments to the MLC, as well as this most recent amendment.

There have also been some minor changes to the proposals to amend the Maritime (Offences) Regulations 1999 and the Marine Protection (Offences) Regulations 1999

- 34 These changes constitute some proposed new offences and infringement fees being removed. There will likely be further changes required as the drafting of the RSTA Bill and Regulations are worked through. The Cabinet paper notes that further proposed offences and infringement fees may be removed as the analyses is refined and drafting progresses, and requests permission for the to make technical changes as a result of this process.

This leaves a total of 33 proposals to be progressed through the RSTA 2 Bill or associated legislation changes

- 35 These proposals are set out in **Annex One** of this briefing, as well as in the recommendations section of the attached Cabinet paper, and Appendices One and Two of the Cabinet paper.
- 36 Consequential amendments will be needed to other parts of primary legislation to give effect to a number of the proposals. For example, section 23 of the LTA will need to be amended to provide for the legal recognition of a driver licence that has been extended using the Director of Land Transport's emergency power.
- 37 Other amendments may also be required to the Land Transport (Road User) Rule 2004. As Associate Minister, you have the authority to approve the Ministry of Transport to issue drafting instructions to the Parliamentary Counsel Office about Rule-level changes that are essential to achieving proposal outcomes. This paper seeks your agreement for the Ministry to issue those drafting instructions concerning Rule-level changes.
- 38 Changes which propose amendments to the Land Transport (Offences and Penalties) Regulations 1999, the Maritime (Offences) Regulations 1998, and the Marine Protection (Offences) Regulations 1998, will be progressed after the RSTA 2 Bill receives royal assent. This is because they are contingent on the Act-level proposals to amend the maximum penalty that can be set through regulations made under the MTA (proposal 5.1 in the maritime discussion document).
- 39 As such, the attached Cabinet paper proposes that drafting instructions to amend these Regulations are issued, noting that actual changes to the offences and penalties will not occur until after the Bill is passed.

Risks

- 40 The key risk to the RSTA 2 Bill is timing, and the potential implications further delays have on the safety camera work under Road to Zero, as well as the ability for RCAs to continue using electronic servicing for documents and automated infringement processes.
- 41 Concurrent to the RSTA 2 Bill, the Ministry is working with the Ministry of Justice and New Zealand Police on an October report back on proposals to deal with fleeing drivers ^{s 9(2)(f)(iv)}. As part of this advice, Cabinet decisions will be sought on how to progress this work. We anticipate that these proposals will not fit within the current scope of the Criminal Activity Intervention Legislation Bill. In this instance, we anticipate that a separate road safety bill may be progressed.
- 42 If this is the case, this would provide an opportunity to transfer average speed, electronic service of documents and automated infringements from the RSTA 2 Bill to a potential road safety bill. This would support the expansion of road safety cameras and the work Waka Kotahi is carrying out in relation to preparing for a transfer of the camera safety network.

- 43 The proposal to amend the Director of Land Transport's powers during emergency and time-critical events was only consulted on at a high level. There is a risk that some stakeholders have strong views about the specific options we are proposing to progress. There is also a risk with progressing with the two maritime proposals around investigations, despite submitters feedback (proposals 3.2.1 and 3.2.2).
- 44 The select committee process will provide further opportunity for interested parties to have their say on all of the proposals in the RSTA 2 Bill.

Privacy Impact Assessments

- 45 Two of the land proposals require Privacy Impact Assessments (PIAs):
- 45.1 Proposal 1.2 Clarifying the enforcement of point-to-point speeding offences
- 45.2 Proposal 1.3 Providing for the future use of automated infringement offences.
- 46 A PIA for Proposal 1.2 has been completed. This PIA covers the use of point-to-point cameras for the purposes of enforcing speeding offences, distracted driving offences, and seatbelt wearing.
- 47 A PIA for Proposal 1.3 has been partially completed, but requires expansion to consider an automated infringement system with no human oversight. The completed PIA will be provided to Cabinet when approval to introduce the RSTA 2 Bill to the House is sought. The Ministry will also address any privacy aspects that are raised during the drafting process.

Regulatory Impact Assessments

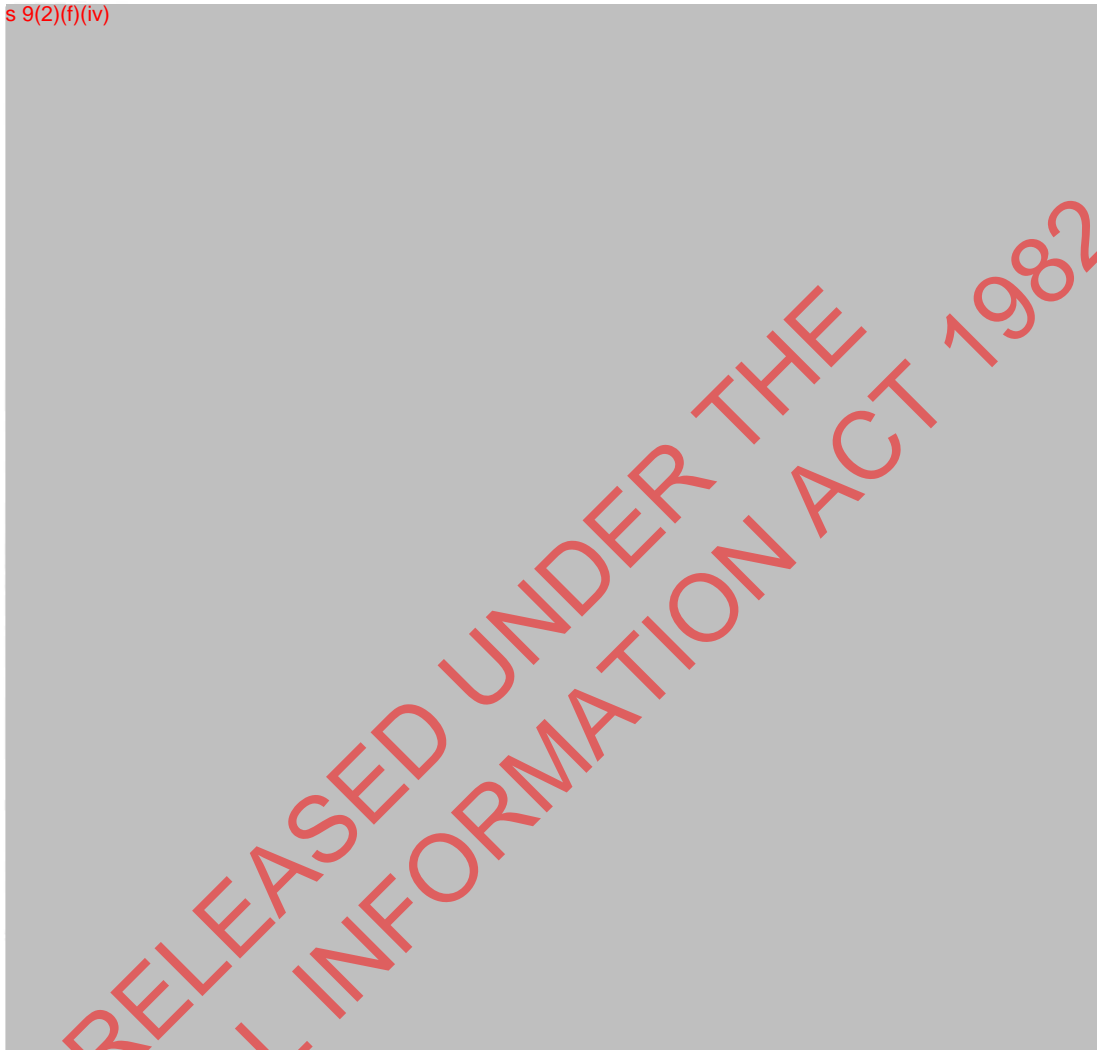
- 48 For four of the land proposals, the impact analysis requirements apply. Three Regulatory Impact Statements (RISs) were provided at the time Cabinet agreed to publicly consult on land transport proposals. The remaining RIS is provided at Appendix Three to the attached Cabinet paper.
- 49 Regulatory Impact Analyses for the maritime proposals formed part of the maritime consultation document. RISs were required for three maritime proposals, two of which covered through the consultation document, with the final RIS provided at Appendix Four to the Cabinet paper.
- 50 All RISs provided for the RSTA 2 proposals have received a 'meets' from their respective Assessment Panels, excepting the Maritime and Marine Protection Regulations RIS which received a 'partially meets'.

Next Steps

- 51 s 9(2)(f)(iv)
- Departmental stakeholders have been informed of these delays through regular progress meetings and risks to proposals have been discussed.

- 52 Given the RSTA 2 Bill will amend several pieces of transport legislation, it is considered additional drafting time may be required. A revised timeframe for the RSTA 2 Bill is set out in the below table. This timing has been agreed to by the Parliamentary Counsel Office.

s 9(2)(f)(iv)



53

In Confidence

Office of the Associate Minister of Transport

Cabinet Economic Development Committee

Policy approval - Regulatory Systems (Transport) Amendment Bill No 2

Proposal

- 1 This paper seeks approval for final policy decisions to enable drafting instructions to be issued for assorted regulatory changes to primary legislation for the road, rail and maritime transport systems.
- 2 These proposals will improve the regulatory system. In the case of the maritime transport system, a number of proposals ensure compliance with the Maritime Labour Convention 2006 (the MLC), and in the case of the land transport system, support the implementation of other priority projects, such as Road to Zero.

Relation to government priorities

- 3 Significant investment in transport was signalled by the Government in the Speech from the Throne. In Budget 2021, Aotearoa New Zealand saw substantial investment to accelerate our recovery and rebuild from COVID-19, which must be matched with an effective and efficient transport regulatory framework to ensure successful outcomes for this investment. Regulation and investment are two key levers for Government. Regulatory stewardship activities, such as these proposed regulatory changes, help to support the effectiveness of the Government's vision and expectations for the transport system.
- 4 The maintenance and improvement of the transport legislative framework through regulatory systems Bills is a core regulatory stewardship activity. Te Manatū Waka – The Ministry of Transport (the Ministry) maintains and administers the transport regulatory system. Like all government departments, the Ministry is required under the Public Service Act 2020 to proactively promote stewardship of the legislation it administers. This is also a key part of the Government Expectations for Good Regulatory Practice.

Executive Summary

- 5 The Ministry has a responsibility to monitor and care for the transport regulatory system, and uses a regulatory stewardship approach that encompasses a system-wide view across transport regulation. An effectively functioning regulatory system uses appropriate mechanisms and tools to ensure that it is consistent, fit-for-purpose and up-to-date.
- 6 The legislative framework for the transport sector is significant: there are 26 transport-related Acts, 15 Regulations, and 151 Rules across the three modes of transport (land, aviation, and maritime). Regulatory System (Transport) Amendment (RSTA) bills allow a variety of changes to be made to numerous Acts in an Omnibus process. This enables the Ministry to make technical, moderate impact, but crucial improvements to the transport legislative framework.
- 7 In this paper I request approval to issue drafting instructions for, and include in this Regulatory System (Transport) Amendment Bill (RSTA 2 Bill), 32 proposals across 6 Acts, as well as amendments to 3 Regulations. Cabinet agreed to consult on a

IN CONFIDENCE

majority of proposals earlier this year in May (CAB-22-MIN-0177 / DEV-22-MIN-0110)

- 8 Submitter feedback generally supported the intent of the proposals across land and maritime modes. Specific support was expressed for a number of proposals, and feedback largely centred on implementation considerations.
- 9 As such, I am proposing we progress with the proposals as drafted. While the content of the proposals has remained unchanged following consultation, additional proposals have been added to the Regulatory System Transport Amendment Bill No 2 (RSTA 2 Bill) proposal list, while others have been slightly modified or removed to be considered in other workstreams:
 - 9.1 Two land proposals have been added. One proposal is around the ability of Waka Kotahi New Zealand Transport Agency (Waka Kotahi) to declare a road a State Highway. The other proposal is related to the Accessible Streets package and concerns changes to how Waka Kotahi makes declarations under section 168A of the Land Transport Act 1998 (the LTA). I outline the content of these proposals later in this paper.
 - 9.2 One land proposal has been removed. This proposal relates to the transfer of the roading provisions set out in the Local Government Act 1974 (the LGA 74) to Ministry of Transport-administered legislation (proposal 5.1). This proposal will be progressed as part of the Reshaping Streets project.
 - 9.3 One maritime proposal has been removed. The proposal was to amend the incident and mishap notification requirements (proposal 4.2). Further analysis has identified a number of other issues with the legislative provision, which are better addressed through the wider review of the Maritime Transport Act 1994 (the MTA), currently underway.
 - 9.4 One maritime proposal has been modified (proposal 4.1.1). This proposal relates to a recent MLC amendment, to which New Zealand is a signatory. It is considered this change will likely constitute a Rule-level (as opposed to Act-level) change, and the RSTA 2 Bill already has related proposals to better align with earlier MLC requirements.
- 10 There were also two land proposals which were publicly consulted on at a high-level. The first relates to amending the Director of Land Transport's powers during emergency and time-critical events (proposal 5.3). Consultation feedback has informed the detailed policy work for this proposal, which is outlined in this paper for Cabinet's consideration.
- 11 The second proposal relates to the inclusion of te reo Māori name 'Waka Kotahi' in legislation referencing 'the New Zealand Transport Agency'. Consultation did not include specific options for how te reo Māori name would be incorporated, but rather sought feedback on how consultees felt about including this name in legislation.

Background

- 12 Our legislative framework is an often-overlooked asset. If legislation is not maintained and improved regularly, it underperforms or fails, and the consequences are not just a loss of productivity and opportunity, but the real danger of injury and loss of life.

- 13 The legislative framework for the transport sector is significant: there are 26 transport-related Acts, 15 Regulations, and 151 Rules across the three modes of transport (land, aviation, and maritime).
- 14 Te Manatū Waka – the Ministry of Transport (the Ministry) has a responsibility to monitor and care for transport regulatory systems, taking a regulatory stewardship approach. This involves the robust development of quality regulation that effectively and efficiently contributes to the transport system’s objectives and outcomes.
- 15 To support effective regulatory stewardship, the Ministry has committed to a series of Regulatory System Transport Amendment (RSTA) bills in its Regulatory Stewardship Plan 2019 – 2022. Aside from ensuring the regulatory system performs as intended, these bills are important vehicles for enabling Aotearoa New Zealand to meet its international obligations, such as the Code of the Maritime Labour Convention 2006 (the MLC), and supporting implementation activities under programmes such as Road to Zero.
- 16 The first Bill of this series came into force on 30 March 2021, and made a number of moderate improvements to primary transport regulation. While the first RSTA Bill was progressing through the House, the Ministry began work for further regulatory system improvements, alongside Maritime New Zealand (Maritime NZ) and Waka Kotahi New Zealand Transport Agency (Waka Kotahi).
- 17 This work formed the basis of 34 proposals to amend both land and maritime legislation through the Regulatory System Transport Amendment Bill No 2 (RSTA 2 Bill), as well as through amendments to Regulations made under the LTA and MTA. In May 2022, Cabinet agreed to publicly consult on these proposals (CAB-22-MIN-0177 / DEV-22-MIN-0110). No changes to civil aviation legislation were proposed, as a separate Bill covering civil aviation is currently undergoing its second reading.
- 18 Consultation ran from 1 June to 8 July 2022. Feedback was sought on several proposals to amend provisions across ten pieces of legislation, including six Acts and three Regulations, for both land and maritime modes. Proposals were organised under five key objectives:
- 18.1 **Improving the effective use of technology.** This includes proposals such as enabling electronic service of regulatory notices, average speed camera use, and automated infringement processing.
- 18.2 **Clarifying the regulatory roles, responsibilities and requirements in the regulatory system.** Proposals under this objective include introducing proactive road closure powers for Waka Kotahi on the State Highway network, and updating the definition of ‘convention’ in maritime legislation.
- 18.3 **Maintaining safety through responsive regulatory action.** This includes introducing reactive accident and incident investigation powers for the rail safety regulator (Waka Kotahi), and refining Maritime NZ’s powers of investigation.
- 18.4 **Addressing inconsistencies, improving system efficiencies, and removing duplication.** Proposals under this objective include simplifying the land Rule consultation process, and various proposals to enable Aotearoa New Zealand to better meets its MLC obligations.

- 18.5 **Modernising transport legislation to ensure it is fit-for-purpose.** This includes updating the maximum level of fines and infringement fees that can be set through regulations in the Maritime Transport Act 1994 (the MTA) and the Land Transport Act 1998 (the LTA), as well as proposed changes to actual offences and penalty levels in various land and maritime regulations.

We received a total of 23 submissions across land and maritime proposals

- 19 We have received 17 submissions to the land consultation document, and six to the maritime consultation document. Along with submissions, the Ministry also engaged directly with a number of interested groups, including the Road Controlling Authority (RCA) Forum, and the New Zealand Shipping Federation to explain the proposals, their impacts, and hear any feedback on the proposals consultees wanted to provide.
- 20 A summary of the proposals across both land and maritime, feedback received, and any changes to the proposals that have occurred since Cabinet approval in May 2022, are provided at **Appendix One** and **Appendix Two** respectively.

There was broad support for land proposals

- 21 Submissions to the land proposals were received from a number of territorial authorities (district and city councils), transport operators, motor vehicle industry representative groups, sector representative groups, as well as from sector participants themselves.
- 22 Feedback from these groups indicated broad support for the proposed changes, with a number of submitters providing specific support for particular proposals. Comments from submitters largely centred on implementation considerations, which the Ministry is working into the drafting instructions as appropriate. As a result of this, the land proposals remain unchanged following consultation.

There have been some changes to the land proposal list for RSTA 2

- 23 Two land proposals have been added. This includes a proposal to enable Waka Kotahi to declare a road a State Highway. This proposal has its origins in a drafting oversight that occurred in 2008, which saw the transferral of this power to a different piece of transport legislation. This proposal was not consulted on, as it would have meant seeking public feedback on drafting instructions which presents a legal risk and is the dominion of the Parliamentary Counsel Office (PCO).
- 24 The other late addition to the land proposals concerns declarations made by Waka Kotahi under section 168A of the LTA. This provision enables Waka Kotahi to declare a vehicle not to be a motor vehicle, where particular criteria have been met. Cabinet are due to consider advice on this provision as part of the Accessible Streets package.
- 25 Additionally, two land proposal which were consulted on have been pulled from the RSTA 2 Bill proposal list. The first proposal concerns the transferral of the roading provisions in the Local Government Act 1974 (the LGA 74) to the Government Roothing Powers Act 1989 (the GRPA). This proposal will now be progressed as a part of the Reshaping Streets programme, which is also considering changes to the LGA 74. The second proposal concerns amendments to the LTA to remove the restriction on cost-recovery when Road Controlling Authorities set up resident parking schemes. This proposal has since been removed to be reconsidered alongside wider work being undertaken in the Ministry's Parking Review.

Amending the Director of Land Transport's powers to respond to emergency and time critical events

- 26 The proposal in the consultation document did not include specific options, but outlined the potential scope of these powers and scenarios where we anticipate the powers could be applied. Questions were also posed to submitters, to prompt consideration of this issue.
- 27 A number of submitters noted the need for the system to be able to respond quickly when regulatory issues arise, particularly where there is a risk to safety. However, submitters also stressed that any changes to the Director of Land Transport's powers to respond to emergency and time-critical situations must ensure there is appropriate accountability and oversight over the use of these powers. Submitter feedback has informed the detailed policy work and recommendations, which I outline in this paper.

The Director of Land Transport has a particular role in relation to participant entry into, and exit from, the land transport system

- 28 This covers the issuance, renewal, suspension, revocation and imposition of conditions on land transport documents, and the enforcement of requirements around these activities. These are 'statutorily independent' powers, meaning the Director of Land Transport cannot be ordered by any other actor to use these powers, or be directed on how the powers should be applied.
- 29 Entry into the land transport system is largely managed through land transport documents – these include driver licences, vehicle licences (registrations) and Certificates and Warrants of Fitness (CoFs and WoFs). Requirements around which land transport documents a participant must have, and the terms of that document, are set out in the LTA, with more detailed requirements specified in rules and regulations made under it.

The COVID-19 response highlighted limitations with how the Director of Land Transport's powers can be applied to land transport documents

- 30 One of the impacts of lockdowns on the land transport system is that it prevented people from renewing their expired, or expiring, land transport documents (for example, driver licences, motor vehicle licences, and Certificates and Warrants of Fitness). To provide regulatory relief to holders of these expired and expiring documents, the Minister and Governor-General made amendment rules and regulations to extend the term of these documents.
- 31 Without intervention, a significant number of people's documents would have expired during lockdown, leaving system participants without certainty as to whether they could legally use their vehicles to access essential services, or if their vehicle insurance policy was still valid. Additionally, public transport operators faced pressures as older drivers stopped driving, but new drivers who had completed training were unable to obtain their new driver licence which could not be physically printed and sent to them.
- 32 Analysis at the time confirmed there were no other actors or legislative levers in the system that were able to provide regulatory relief. While the Director of Land Transport has reasonably broad powers over land transport documents, the legislation limits the application of these powers by only enabling them to be applied on an individual basis, or requiring that amendments be made to secondary legislation (for example, Regulations made under the LTA) to empower the Director of Land Transport to grant an exemption.

Looking ahead, it is likely New Zealand will experience further disruptions to the land transport system

- 33 Disruptions could be caused by another pandemic or a natural disaster such as an earthquake or mass regional flooding. There are also future scenarios that could implicate the land transport system. For example, a defect in the lithium-ion batteries of electric vehicles causing fire, or a software failure in automated vehicles (self-driving cars) rendering them unsafe to use.
- 34 Until such situations arise, it is difficult to determine the impacts they will have, or how significant the risks posed may be. While it is possible to use amendment rules and regulations to provide relief to document holders (as we did during the COVID-19 response), this was shown not to be the best use of officials or Ministers' time during an emergency, where more significant concerns – and business as usual activities – urgently require attention.

As a result of consultation, I propose introducing new emergency powers for the Director of Land Transport over land transport documents

- 35 These powers would be 'activated' when:
- 35.1 A national or local emergency declaration is made (under the Civil Defence and Emergency Management Act 2002), or
- 35.2 An epidemic notice (under the Epidemic Preparedness Act 2006) is in force, or
- 35.3 Where the Minister of Transport agrees that there is an emergency.
- 36 Activation of these powers would enable the Director of Land Transport to extend the term of any class of land transport document for which they are responsible, to a specified date.
- 37 Motor vehicle licences (registrations) are subject to a continuous licensing requirement. This means an extension to the term of registrations could result in loss of revenue for Waka Kotahi, as people would not be required to back-pay the period from when their registration was due to expire, to the new extended expiration date.
- 38 To address this issue, the provision in the legislation setting out these powers will follow a similar form as it did during the COVID-19 regulation amendment to extend the term of registrations. This would specify that despite receiving an extension to their motor vehicle licence (registration), a person will still be liable to pay the applicable prescribed fees and accident insurance levies from the date the registration would have expired, to the new extended date.
- 39 This proposal will also require amendments to the driver licensing provisions in section 23 of the LTA to recognise the legal status of a driver licence covered under an emergency extension.

I also propose introducing two new powers for the Director of Land Transport in respect of vehicle product safety regulation

- 40 The first power I am proposing would enable the Director of Land Transport to require any vehicle, or class of vehicles, to present for inspection by a specified date. Failure to do so could result in either that vehicle's CoF or WoF being revoked, or being unable to have their CoF or WoF renewed at their next due inspection.

- 41 This power provides for an initial evidence-gathering mechanism, which could then be used to support a compulsory product recall under product safety regulation, if it is deemed necessary.
- 42 People who drive a vehicle without a current CoF or WoF would be liable for a \$200 infringement fee under the Land Transport (Offences and Penalties) Regulations 1999. This acts as an additional incentive for people to present their vehicle for an inspection in relation to a potential safety issue.
- 43 The second power I am proposing would enable the Director of Land Transport to revoke the CoF or WoF of a class of vehicles on the grounds of not meeting safety requirements. This proposal provides a stronger lever for the Director of Land Transport to use, where there is evidence a class of vehicles poses a safety risk to the land transport system and its participants.
- 44 Given this power would immediately render it illegal to drive vehicles covered under this notice, I propose that the Director of Land Transport be required to notify the Ministry's Chief Executive of their intention to revoke a class of CoFs or WoFs. However, the Director of Land Transport would not be required to have the Ministry's Chief Executive's approval, as this would interfere with the statutorily independent functioning of the Director of Land Transport.
- 45 Together, these two powers provide a spectrum of actions the Director of Land Transport can take, depending on the level of evidence as to the significance and scope of a potential vehicle safety issue.

Changes to include the name 'Waka Kotahi' in the New Zealand Transport Agency's legislation

- 46 The consultation document did not provide specific options for how 'Waka Kotahi' should be incorporated, but rather sought the views of consultees on whether they agreed the name should be legislatively recognised. This is because the naming of a Crown Entity is a significant decision to take, that it is within the remit of the Cabinet.
- 47 While the name 'Waka Kotahi' was gifted to the New Zealand Transport Agency in 2008, te reo Māori name started being used more frequently in 2019, when Waka Kotahi updated its logo and branding. Since then, this name has fast become its commonly-referred to name. Use of te reo Māori is a key public sector commitment to Te Tiriti o Waitangi and contributes to Maihi Karauna, the Crown's strategy for Māori language revitalisation.
- 48 Feedback from consultation fully supported recognition of 'Waka Kotahi' in legislation. A couple of submitters raised that the name should be dual te reo Māori and English, to avoid confusion and support clarity. The Ministry has been working with Waka Kotahi to agree a name that incorporates te reo Māori name 'Waka Kotahi' in transport legislation.
- 49 As a result of this work, and consultation feedback, I propose that the name 'Waka Kotahi New Zealand Transport Agency' be the legally recognised name for the New Zealand Transport Agency.
- 50 This proposal will require consequential amendments to all primary and secondary legislation where 'New Zealand Transport Agency' is explicitly referred to, and will be carried out as part of the RSTA 2 Bill process. This change will not invalidate any contracts or other uses of the current legal name.

Two land proposals have since been added to the land proposal list

51 As stated earlier, there have been two late additions to the final land proposal list for RSTA 2.

The first proposal relates to the ability of Waka Kotahi to declare a road a State Highway

52 State highways are Crown-owned roads that play a vital role in ensuring the safe and efficient movement of people and goods nationwide, and provide crucial links through to local networks.

53 Up until 2008, Waka Kotahi could build a road and declare it a State highway under section 60 of the GRPA. In 2008, this section was repealed and the power to declare State highways was transferred to section 103 of the Land Transport Management Act 2003 (the LTMA).

54 However, a drafting oversight meant that the definition of 'road' in the LTMA was not updated as part of this change. The LTMA's definition of 'road' focuses on existing roads and roads created by local authorities, not by the Crown. This means that Waka Kotahi cannot legally declare a new road it has constructed as a State Highway.

55 This issue creates a clear inconsistency between the Waka Kotahi function to construct a new State Highway, and the ability to declare a new road as a State Highway.

56 To rectify this issue, I propose amending the definition of road in the LTMA to include reference to roads laid out by or vested in the Crown as a road. To ensure the validity of State highway declarations and any enforcement activities that occurred from 2008 onwards, I also propose inserting a provision into the LTMA that states that prior State highway declarations from 2008 are valid, and remain in force.

57 This proposal was not consulted on as a part of the wider RSTA 2 consultation. This is because it would have essentially meant seeking public feedback on drafting matters which are the responsibility of the PCO, working with the Ministry. Consulting on this proposal would have posed a legal risk to the discretion PCO is permitted in drafting legislation.

The second proposal relates to the Accessible Streets package

58 Through the Accessible Streets package, the Ministry consulted on a proposal to make changes to section 168A of the LTA which enables Waka Kotahi to declare a vehicle to not be a motor vehicle if it meets particular criteria.

59 The declaration process has come under scrutiny after complaints to the Regulations Review Committee about the E-Scooters (Declaration not to be motor vehicles) Notice 2018. Complaints centred on a lack of transparency in the declarations process, and a lack of consultation by Waka Kotahi before making the declaration.

60 Cabinet are also due to consider amendments to improve the workability and transparency of the declaration process. This includes requiring that Waka Kotahi have regard to how the declaration will contribute to a safe, inclusive and environmentally sustainable land transport system, and that Waka Kotahi conduct an appropriate level of consultation prior to making a declaration.

61 I propose that these changes to section 168A of the LTA and how declarations are made by Waka Kotahi be progressed through the RSTA 2 Bill, as these changes fall within the scope of regulatory stewardship.

On the maritime discussion document, feedback generally supported the intention of the proposals

62 Submitters to the maritime proposals included regional councils that have harbours, and industry representative groups. Feedback from these submitters generally supported the intention of the proposals, with some submitters raising additional considerations.

Two maritime proposals will progress as consulted on, with further consideration forming part of the MTA review

63 As a part of consultation, we asked for feedback on proposed legislative changes relating to the investigation of maritime transport document holders (proposals 3.2.1 and 3.2.2). Both of these proposals relate to section 54A of the MTA, which sets out when the Director of Maritime NZ may require a holder of a maritime document to undergo an investigation.

64 Engagement generally agreed with the intent of these proposals, however, some submitters raised concerns with proposal 3.2.1 in particular, which would enable the Director of Maritime NZ to commence an investigation on 'reasonable grounds'. Submitters' key concerns were that this change would lead to Maritime NZ commencing investigations unduly, and that it lowers the evidential threshold too much, and introduces too much subjectivity.

65 In response to this feedback, officials reconsidered proposals 3.2.1 and 3.2.2, their legislative provisions, as well as supporting operational guidance and maritime rules. Officials consider that these proposals should not result in Maritime NZ commencing investigations unduly.

66 Since we consulted on the RSTA 2 proposals, the Ministry has commenced a review of the MTA. This is the key maritime primary legislation that sets out the obligations and responsibilities of participants in the maritime sector.

67 As a result of these considerations, I am proposing that we progress with proposals 3.2.1 and 3.2.2 as consulted on, but consider the overall framework for maritime investigations as part of the MTA review.

One maritime proposal will be deferred and considered as part of the wider MTA review

68 We also consulted on changes to how incidents and accidents are notified to Maritime NZ (proposal 4.2). This was to address an inconsistency between two different subsections of the same provision in the MTA, sections 31(1) and 31(3)(b), which set out requirements around what events must be reported.

69 Some submitters were of the view that the proposed change would require more stringent reporting requirements than that set out under the Health and Safety at Work Act 2015 (the HSWA). Additionally, some submitters considered that this change would mean a large number of minor incidents would need to be reported, which could lead to perverse outcomes.

70 With respect to how incidents and accidents are notified to Maritime NZ, the guidance is clear that mishaps that do not result in serious harm do not need to be

reported. The terms 'accident' and 'incident' have specific meanings in the legislation that capture only serious matters that a regulator should know about (such as the foundering of a ship even if it does not result in 'serious harm').

71 However, this closer inspection further identified a number of other issues with sections 31(1) and 31(3) that will require more analysis, including misalignment of terms between the MTA and the HSWA.

72 As a result of this consideration, I recommend that this proposal is removed from the RSTA 2 proposal list, and considered as part of the wider MTA review.

There has also been a slight modification to a maritime proposal, to enable New Zealand to better meet its Maritime Labour Convention 2006 obligations

73 On 6 June 2022, the International Labour Organisation made a number of amendments to the Code of the MLC. As a signatory to the MLC, New Zealand is obliged to incorporate these amendments into its legislation and practice. These amendments come into force on 23 December 2024.

74 One of these amendments relates to seafarer recruitment and placement services, and likely requires a Rule-level change to implement it. The current maritime proposal list includes a proposal to amend section 27 of the MTA to enable seafarer and recruitment services to charge for the service of placing a seafarer in employment (proposal 4.1.1). This is to address an inconsistency with respect to what the MLC requires, and what the MTA presently prohibits.

75 Further analysis has identified that section 27 will likely require repealing and replacing in its entirety. This is because a new provision which empowers the making of maritime Rules in respect of seafarer recruitment and placement services is needed. This will enable New Zealand to better align with the earlier amendments to the MLC, as well as this most recent amendment.

There have been some minor changes to the maritime proposals to amend the Maritime (Offences) Regulations 1998 and the Marine Protection (Offences) Regulations 1998

76 These changes consist of some proposed offences being removed, and the removal of proposed infringement fees for particular offences where further analysis has determined the offences would not be appropriate for an infringement fee.

77 As these changes constitute the removal, rather than the insertion of new offences and infringement fees, I am proposing that the Ministry make these necessary technical changes as the analysis is refined and drafting progresses.

This leaves a total of 32 maritime and land proposals to progress through the RSTA 2 Bill and subsequent Regulation amendments

78 These proposals are set out in the recommendations part of this paper, as well as at Appendices One and Two. This is comprised of 17 maritime proposals, and 15 land proposals.

Proposals concerning amendments to transport regulations will be progressed after RSTA 2 receives Royal Assent

79 I also propose approving amendments to the Land Transport (Offences and Penalties) Regulations 1999, the Maritime (Offences) Regulations 1998, and the Marine Protection (Offences) Regulations 1998. However, drafting instructions to

amend these Regulations will be progressed after the RSTA 2 Bill receives Royal Assent. This is because they are contingent on Act-level proposals progressing, namely land proposal 5.4 and maritime proposal 5.1, which updates the maximum level of fines and infringement fees that can be set through regulations.

- 80 As such, I am proposing that drafting instructions to amend the regulations are issued, noting that actual changes to the regulations will not occur until after the Bill receives royal assent.

Risks

- 81 The key risk to the RSTA 2 Bill is timing, and the potential implications further delays will have on the safety camera work under Road to Zero, as well as the ability for RCAs to continue using electronic servicing for documents and automated infringement processes.
- 82 Concurrent to the RSTA 2 Bill, the Ministry is working with the Ministry of Justice and New Zealand Police on an October 2022 report back on proposals to deal with fleeing drivers s 9(2)(f)(iv) [REDACTED]. As part of this advice, Cabinet decisions will be sought on how to progress this work. There is a possibility that these proposals will not fit within the current scope of the Criminal Activity Intervention Legislation Bill. In this instance, it is anticipated that a separate road safety bill may be progressed.
- 83 If this is the case, this would provide an opportunity to transfer average speed, electronic service of documents and automated infringements from the RSTA 2 Bill to a potential road safety bill. This would support the expansion of road safety cameras and the work Waka Kotahi is carrying out in relation to preparing for a transfer of the camera safety network.
- 84 The proposal to amend the Director of Land Transport's powers during emergency and time-critical events was only consulted on at a high level. There is a risk that some stakeholders have strong views about the specific options we are proposing to progress. There is also a risk with progressing with the two maritime proposals around investigations, despite submitters feedback (proposals 3.2.1 and 3.2.2).
- 85 The select committee process will provide further opportunity for interested parties to have their say on all of the proposals in the RSTA 2 Bill.

Financial Implications

- 86 The proposals outlined in this paper have no financial implications for the Crown.

Legislative Implications

- 87 Proposals will be progressed through the Regulatory Systems (Transport) Amendment Bill No 2, anticipated to be introduced to the House in March 2023. This Bill has been given a priority category 4 on the 2022 Legislation Programme (to be referred to Select Committee in the year).
- 88 There have been delays to progressing the RSTA 2 Bill. These delays are due to resources being redirected to priority work to develop the Criminal Activity Intervention Legislation Bill, of which initial initiatives were announced in July 2022.

Privacy Impact Assessments

- 89 Privacy Impact Assessments (PIAs) are used to identify and assess the privacy risks arising from the collection, use and handling of personal information. With respect to

the land proposals, there are two proposals which constitute either the collection of new personal information, or the use of personal information for new purposes.

The first proposal requiring a PIA is proposal 1.2 Clarifying the enforcement of point-to-point speeding offences

- 90 A PIA covering the use of these cameras for the purposes of enforcing speeding offences and distracted driving was completed in 2021. Since then, additional enforcement purposes have been proposed, including using this information to enforce seatbelt wearing. This constitutes new information being collected.
- 91 In response to this new purpose, Waka Kotahi commissioned an additional PIA covering seatbelt wearing. This means that information collected from average speed cameras can be used by New Zealand Police (NZ Police) to issue tickets for speeding, driving while using a mobile phone, and driving without wearing a seatbelt.

The second proposal requiring a PIA is proposal 1.3 Providing for the future use of automated infringement offences

- 92 The initial PIA covered privacy impacts from speeding cameras being used in a system with human oversight. The proposal in the RSTA 2 Bill intends for infringements to be automated, without human intervention.
- 93 This changes the nature of how the information will be used, and requires the current PIA to be expanded. The Ministry is working on an updated PIA which accounts for a lack of human oversight and will provide this assessment to Cabinet when approval to introduce the RSTA 2 Bill to the House is sought.

Timing of the RSTA 2 Bill

- 94 s 9(2)(f)(iv) Departmental stakeholders have been informed of these delays through regular progress meetings and risks to proposals have been discussed.
- 95 Given the RSTA 2 Bill will amend several pieces of transport legislation, it is considered additional drafting time may be required. The anticipated timing for introduction to the House is August 2023. This timing has been agreed to by the Parliamentary Counsel Office.

Impact Analysis

Regulatory Impact Statement

- 96 For four land transport proposals, the impact analysis requirements apply because the consultation documents included government regulatory proposals. Three Regulatory Impact Statements (RISs) were provided at the time Cabinet agreed to publicly consult on land transport proposals:
- 96.1 The first RIS covered State Highway closure powers (proposal 2.2), Transport Service Licence enforcement powers (proposal 3.2), and limited access roads (proposal 3.3).
- 96.2 The second RIS covered the proposal to provide reactive investigatory powers for the rail regulator, Waka Kotahi (proposal 3.1).

- 97 A third RIS is attached to this Cabinet paper at **Appendix Three**. This RIS covers improvements to the powers of the Director of Land Transport to respond to emergency and time-critical events, outlined in this Cabinet paper.
- 98 All three RISs were reviewed by the Ministry's Regulatory Impact Analysis (RIA) Panel, and given a 'meets' rating under the quality assurance criteria.

Regulatory Impact Analyses for maritime proposals

- 99 RIA for the Maritime proposals formed part of the maritime consultation document. RISs were required for proposals in relation to: modernising the penalties for the safety offences in the MTA (proposal 5.2), and updating the maximum level of fines and infringement fees for navigation safety bylaw offences (proposal 5.3). The consultation document was reviewed by the Ministry's RIA Panel and given a 'meets' rating under the quality assurance criteria.
- 100 A separate RIS covers the proposed amendments to the Maritime (Offences) Regulations and the Marine Protection (Offences) 1998 (proposal 5.4), attached at **Appendix Four**. This RIS received a 'partially meets' rating from the Ministry's RIA Panel.

Proposals exempt from Regulatory Impact Analyses requirements

- 101 The Treasury's RIA team has determined that the remaining land and maritime transport proposals are exempt from the requirement to provide a RIS on the basis that they either:
- 101.1 Have no or only minor impacts on businesses, individuals and not-for-profit entities
 - 101.2 Are suitable for inclusion in a revision Bill (as provided for in the Legislation Act 2019), or
 - 101.3 The Government has limited statutory decision-making discretion or responsibility for the content of proposed delegated legislation.
- 102 The May 2022 Cabinet paper included an appendix which outlined which proposals require RIA and which proposals had received exemptions [CAB-22-MIN-0177 / DEV-22-MIN-0110].

Climate Implications of Policy Assessment

- 103 The Climate Implications of Policy Assessment (CIPA) team at the Ministry for the Environment were consulted prior to seeking approval to publicly consult on proposals, and confirmed at that time that the CIPA requirements do not apply to the proposals as the threshold for significance is not met.

Population Implications

- 104 There are no population implications.

Human Rights

- 105 The proposals I am proposing we progress are aimed at improving the safety and security of the land and maritime transport regulatory systems. This includes ensuring appropriate and consistent recognition and protection of public safety under

various pieces of transport legislation. As such, the proposals may have positive implications for human rights.

- 106 Where proposals are enabling the use of technology, there will be an ongoing ability to opt for the traditional route of being sent a notice via mail. This recognises that while technology can be enabling for many people and organisations, it can act as a barrier for others.
- 107 There are a number of maritime proposals that seek to ensure New Zealand is meeting its international Maritime Labour Convention obligations. These obligations are specifically aimed at ensuring the safety and wellbeing of persons working onboard ships and would likely have a positive impact on seafarer employment conditions.

Consultation

- 108 The Ministry has engaged transport regulatory agencies in the development of these proposals. This has included working closely with Waka Kotahi and Maritime NZ to understand implementation issues, impacts and interdependencies. Feedback from consultation on proposals regarding implementation considerations were also shared with transport regulatory agencies.
- 109 Officials have also consulted New Zealand Police, Land Information New Zealand, the Ministry of Justice, the Product Safety Team at the Ministry of Business, Innovation and Employment, the Department of Internal Affairs, and the Department of Conservation on the contents of this paper. The Treasury and the Department of the Prime Minister and Cabinet have also been informed.

Communications

- 110 There are no specific communication requirements associated with issuing drafting instructions to the Parliamentary Counsel Office.
- 111 Once drafting is complete, the Ministry will seek approval to introduce the RSTA 2 Bill to the House. At this time, information on a communications approach will be provided, including advising stakeholders of the Select Committee process as a further avenue to have their say on the contents of the RSTA 2 Bill.

Proactive Release

- 112 I intend to proactively release this Cabinet paper and associated minute following Cabinet decisions.

Recommendations

The Associate Minister of Transport recommends that the Committee:

- 1 **Note** that the Ministry of Transport has committed to a regular series of Regulatory System (Transport) Amendment bills to support effective regulatory stewardship, described in the Transport Regulatory Stewardship Plan for 2019-2022;
- 2 **Note** that the Ministry has developed a number of proposals to amend both land and maritime legislation through the second bill of this series, the Regulatory Stewardship (Transport) Amendment Bill No 2;

- 3 **Note** that in May 2022, Cabinet approved consultation on a package of 34 proposals to amend transport legislation across land and maritime modes [CAB-22-MIN-0177 / DEV-22-MIN-0110];
- 4 **Note** that 23 submissions were received across proposals, comprising 17 submissions to the land consultation document, and six to the maritime consultation document;
- 5 **Note** that there was broad support for the land proposals, with feedback largely centring on implementation considerations;
- 6 **Note** that the Ministry consulted on a high-level proposal to amend the Director of Land Transport's powers to respond to emergency and time-critical events;
- 7 **Note** that there was support for a review of the Director of Land Transport's powers to enable more responsive action, particularly where there are safety concerns;
- 8 **Agree** to introduce new emergency powers for the Director of Land Transport, that will enable the Director of Land Transport to extend the term of any land transport document when either:
- 8.1 A state of national or local emergency has been declared under the Civil Defence and Emergency Management Act 2002;
 - 8.2 An Epidemic Notice is in force, under the Epidemic Preparedness Act 2006;
 - 8.3 Otherwise with the agreement of the Minister of Transport;
- 9 **Note** that changes to section 23 of the Land Transport Act 1998 will be required in order to ensure the legal recognition of driver licences that have received an emergency extension;
- 10 **Note** that the legislation will include a requirement that ensures liability for payment of motor vehicle licences (registration) despite being granted an extension;
- 11 **Agree** to introduce a new power for the Director of Land Transport to require any vehicle, or class of vehicle, to present for inspection by a specified date;
- 12 **Note** that failure to present a vehicle as required under recommendation 11 Could result in that vehicle's Certificate or Warrant of Fitness being revoked, or otherwise being unable to obtain a Certificate or Warrant of Fitness at the vehicle's next due inspection;
- 13 **Agree** to introduce a new power for the Director of Land Transport to be able to revoke the Certificate or Warrant of Fitness of a class of vehicles on the grounds of not meeting safety requirements;
- 14 **Agree** that the Director of Land Transport be required to notify the Chief Executive of the Ministry of Transport of their intention to use the power outlined at 13;
- 15 **Note** that the agreement of the Chief Executive of the Ministry of Transport would not be required to approve the use the power outlined at 13, as this would interfere with the statutorily independent functioning of the Director of Land Transport's powers;

IN CONFIDENCE

- 16 **Note** that the Ministry of Transport consulted on including the New Zealand Transport Agency's te reo Māori name 'Waka Kotahi' in legislation;
- 17 **Agree** to replace 'New Zealand Transport Agency' in legislation with 'Waka Kotahi New Zealand Transport Agency';
- 18 **Note** that one land proposal has been removed from the Regulatory Systems (Transport) Amendment Bill No 2 proposal list, and will be progressed through a separate workstream, Reshaping Streets;
- 19 **Note** that two land proposals have been added to the Regulatory Systems (Transport) Amendment Bill No 2 proposal list, relating to State highway declarations and declaring vehicles to not be a vehicle;
- 20 **Note** that there was support for the intention of the maritime proposals, with submitters raising additional considerations;
- 21 **Note** that since consultation on proposals for inclusion in the Regulatory Systems (Transport) Amendment Bill No 2 began, the Ministry has commenced a wider review of the Maritime Transport Act 1994;
- 22 **Note** that two maritime proposals relating to when investigations of maritime transport document-holders may be commenced, will progress as consulted on, however will be further analysed as part of the wider Maritime Transport Act 1994 review outlined at 21;
- 23 **Note** that further analysis of proposals under 3.2 to amend section 27 of the Maritime Transport Act 1994 will likely now require a full repeal and replace of this section;
- 24 **Note** that maritime proposal 4.2 (notification of incidents) will not progress, but will instead be considered in the review of the Maritime Transport Act 1994;
- 25 **Note** that a summary of the proposals across land and maritime modes, feedback received, and any changes since Cabinet last reviewed the proposals is provided at Appendices One and Two;
- 26 **Agree** to the Ministry of Transport issuing drafting instructions to the Parliamentary Counsel Office for the following 15 land proposals:
- 26.1 Enabling electronic service of documents and electronic signatures (proposal 1.1);
 - 26.2 Clarifying the enforcement of point-to-point speeding offences (proposal 1.2);
 - 26.3 Providing for the future use of automated infringement offences (proposal 1.3)
 - 26.4 Allowing Waka Kotahi to proactively close parts of the State Highway network to address safety concerns (proposal 2.2);
 - 26.5 Allowing Waka Kotahi to declare a road a State Highway (not publicly consulted on);
 - 26.6 Clarifying pedestrian access to approved areas within motorway corridors (proposal 2.3);

IN CONFIDENCE

- 26.7 Introducing reactive investigation powers for Waka Kotahi under the Railways Act 2005 (proposal 3.1);
 - 26.8 Modernising the enforcement regime for Transport Service Licences (proposal 3.2);
 - 26.9 Strengthening and clarifying the requirements around limited access roads (proposal 3.3);
 - 26.10 Removing time constraints in rail safety case application process (proposal 4.1);
 - 26.11 Simplifying the rule consultation process to increase consistency (proposal 4.2);
 - 26.12 Including the name 'Waka Kotahi New Zealand Transport Agency' in legislation referencing the New Zealand Transport Agency's name in legislation (proposal 5.2);
 - 26.13 Introducing emergency powers for the Director of Land Transport (proposal 5.3);
 - 26.14 Increasing the maximum level of fines and infringement fees that can be set through regulations (proposal 5.4);
 - 26.15 Changes to section 168A regarding how Waka Kotahi declares vehicles to not be a vehicle (part of the Accessible Streets package);
- 27 **Agree** to the Ministry of Transport issuing drafting instructions to the Parliamentary Counsel Office for the following 17 maritime proposals:
- 27.1 Enabling electronic service of documents and electronic signatures (proposal 1.1);
 - 27.2 Updating the definition of 'convention' (proposal 2.1);
 - 27.3 Conferring powers on the Minister of Conservation to effectively manage maritime safety in the Subantarctic and Kermadec Islands (proposal 3.1);
 - 27.4 Clarifying the threshold for starting an investigation (proposal 3.2.1);
 - 27.5 Providing certainty that breaches of maritime document holders' duties are grounds for an investigation (proposal 3.2.2)
 - 27.6 Addressing an inconsistency with prohibiting charges for placing seafarers in employment (proposal 4.1.1);
 - 27.7 Aligning seafarer employment agreement clauses with Maritime Labour Convention 2006 requirements (proposal 4.1.2);
 - 27.8 Addressing an inconsistency with the Maritime Labour Convention 2006 requirement that a seafarer's record of employment not include any statement as to the quality of the seafarer's work (proposal 4.1.3);

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- 27.9 Aligning with the Maritime Labour Convention 2006 requirement to prohibit people younger than 16 years old from working on a ship and people under 18 years old from undertaking hazardous work (proposal 4.1.4);
- 27.10 Revise and reorganise Part 3 of the Maritime Transport Act 1994 (proposal 4.1.5);
- 27.11 Clarifying Rule-making and compliance powers to support the implementation of Maritime Labour Convention requirements (proposal 4.1.6);
- 27.12 Correcting a technical issue regarding the definition of unit of account (proposal 4.3);
- 27.13 Bringing floating product and storage and offloading units within scope of the maritime levy (proposal 4.4);
- 27.14 Updating the maximum level of fines and infringement fees that can be set through regulations in the MTA (proposal 5.1);
- 27.15 Modernising the penalties for the safety offences in the Maritime Transport Act 1994 (proposal 5.2);
- 28 **Note** that changes will be made through the Regulatory Systems (Transport) Amendment Bill No 2 which has been given a Priority Category of 4 on the 2022 legislative programme;
- 29 **Note** that there have been delays to progressing the Regulatory Systems (Transport) Amendment Bill No 2 due to resource being redirected to progress other priority work;
- 30 **Note** that consequential changes to some clauses in transport Rules will be required to give effect to the land proposals;
- 31 **Note** that the Minister of Transport has the authority to approve that the Ministry of Transport issue drafting instructions to the Parliamentary Counsel Office about Rule-level changes that are essential to achieving proposal outcomes;
- 32 **Agree** to the Ministry of Transport issuing drafting instructions to the Parliamentary Counsel regarding amendments to the Maritime (Offences) Regulations 1998 and the Marine Protection (Offences) Regulations 1998;
- 33 **Note** that further technical amendments to remove proposed new offences and infringement fees will be made to the Maritime (Offences) Regulations 1998 and the Marine Protection (Offences) Regulations 1998 as drafting progresses;
- 34 **Agree** to the Minister of Transport approving minor and technical changes that arise during the drafting process that are within scope of the original policy intent;
- 35 **Note** that changes to the Maritime (Offences) Regulations 1998 and the Marine Protection (Offences) Regulations 1998 will occur after the Regulatory System Transport Amendment Bill No 2 has received Royal Assent;

Authorised for lodgement

IN CONFIDENCE

Hon Kieran McAnulty
Associate Minister of Transport

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Appendices

Appendix One: Summary of Land proposals, consultation feedback, and changes to proposals following consultation

Appendix Two: Summary of Maritime proposals, consultation feedback, and changes to proposals following consultation

Appendix Three: Regulatory Impact Statement: Director of Land Transport's powers during emergency and time-critical events

Appendix Four: Regulatory Impact Statement: Changes to the Maritime (Offences) Regulations 1998, and the Marine Protection (Offences) Regulations 1998

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Appendix One: Summary of land proposals, consultation feedback, and changes to proposals following consultation

Land Proposals			
Proposal	Summary	Consultation feedback summary	Change following consultation
1.1 Enable electronic service of documents and electronic signatures	This proposal will enable regulators to send regulatory notices electronically, while maintaining paper-based options.	All submitters that responded to this proposal agreed with it. There was specific support for this proposal. Some submitters raised: <ul style="list-style-type: none"> • Not having electronic means as the sole platform for receiving regulatory notices. • Concerns with the security of Waka Kotahi New Zealand Transport Agency (Waka Kotahi) and New Zealand Police databases. 	No change.
1.2 Clarify enforcement of point-to-point camera speeding offences	This proposal will create a new provision in the Land Transport Act 1998 (LTA) to clarify the enforcement of point-to-point safety cameras, including that multiple images will be used to enforce average speed offences; inserting a definition of 'average speed'; placing limits on challenging evidence from point-to-point cameras in relation to speed, distance and elapsed time; clarify that an approved surveyor's certificate will be admissible as evidence to confirm the distance between the two cameras.	All submitters that responded to this proposal agreed with it. There was specific support for this proposal. Some submitters raised: <ul style="list-style-type: none"> • Focus should be on those roads where there have been a number of fatal and serious crashes. • Roads where these cameras are operating need to be clearly indicated, with an education campaign prior to going live. 	No change.
1.3 Provide for the future use of automated infringement offences	This proposal enables the automated issuing of infringement notices by technology. Due to testing and calibration of technology, the regulator would be able to have confidence that the technology is working as intended. The existing ability to appeal or challenge an infringement notice would remain in place.	All bar one submitter that responded to this proposal agreed with it. There was specific support for this proposal. Some submitters raised: <ul style="list-style-type: none"> • This technology will support improved enforcement, which can be degraded 	No change.

		<p>due to lack of resources (eg, enforcement officers).</p> <ul style="list-style-type: none"> The level of automation used should remain a choice for the individual Road Controlling Authority <p>The one submitter that opposed this proposal cited that there has to be a human element when dealing with people.</p>	
<p>2.1 Remove Road Controlling Authorities restrictions on cost recovery charging for resident parking</p>	<p>The Ministry of Transport (the Ministry) consulted on three proposals to amend this restriction, with our preferred approach being to remove the cost recovery restriction, and replace it with 'reasonable costs' (as per Auditor-General guidance).</p>	<p>Most submitters that responded to this proposal supported Option 2, which would remove the cost restriction entirely, and enable Road Controlling Authorities (RCAs) to charge whatever cost they deem appropriate for resident parking. This is because they believe that the term 'reasonable costs' could be easily litigated, and that Option 2 would enable RCAs to fully consider the real value of the land and its potential for other users.</p>	<p>Proposal has been removed to be considered alongside wider work being undertaken in the Ministry's Parking Review programme.</p>
<p>2.2 Allow Waka Kotahi to proactively close parts of the State highway network to address safety concerns</p>	<p>This proposal will amend the Government Roadway Powers Act 1989 to provide broader powers for Waka Kotahi to close parts of the State highway network to address safety concerns or carry out proactive traffic management. This will align Waka Kotahi powers with other Road Controlling Authorities.</p>	<p>All but one submitter that responded to this proposal agreed with it. Some submitters raised:</p> <ul style="list-style-type: none"> That roads should not be closed simply as an easier alternative to implementing traffic management. That there should be a threshold or prescribed reasons for using this power. <p>The one submitter that opposed this proposal cited that Waka Kotahi has a narrow view of safety, whereas the NZ Police take a broader view of all issues in an area before making such a decision;</p>	<p>No change.</p>

		State highway closures could result in increased traffic on other roads, decreasing efficiency; and this could result in Waka Kotahi choosing to simply close the road, rather than implement other traffic management solutions.	
2.3 Clarify pedestrian access to approved areas within motorway corridors	This proposal will update the provisions in the Government Roding Powers Act 1989 to clarify that pedestrians may use approved areas and infrastructure within motorway corridors.	All bar one submitter that responded to this proposal agreed with it. Some submitters raised: <ul style="list-style-type: none"> This would be useful for enabling a number of Auckland bus improvement projects along motorway corridors Approved areas must be clearly separated from the motorway lanes to prevent trespass and ensure safety. The one submitter that opposed this proposal cited that it would increase risk.	No change.
3.1 Introduce reactive investigation powers under the Railways Act 2005	This proposal would introduce new powers for Waka Kotahi to freeze a scene to preserve and collect evidence, access sites to investigate or carry out verification inspections, request materials to be supplied for examination, interview personnel involved in a safety occurrence and require identified failings to be remediated by the rail participant.	All bar one submitter that responded to this proposal agreed with it. Some submitters raised that this is appropriate to ensure the rail regulator has the necessary powers to undertake investigations. <p>The one submitter that opposed this proposal cited that this task is better suited for a regulator.</p>	No change. Waka Kotahi is the land transport regulator.
3.2 Transport Service Licences	This proposal will: <ul style="list-style-type: none"> create an offence for transferring, assigning or leasing a Transport Service Licence (TSL), with fines up to \$30,000 for individuals, and up to \$100,000 for businesses or undertakings 	All submitters that responded to this proposal agreed with it. Some submitters raised: <ul style="list-style-type: none"> Logistic supply chains need to be reliable, and this extends to persons involved. 	No change.

	<ul style="list-style-type: none"> • expand the ability of Waka Kotahi to audit someone purporting to operate transport service but doing so without a licence • extend the power to suspend a TSL for health and safety concerns when significant concerns are recognised or reported • require a fit and proper person check when a new person in control is added to a TSL. 	<ul style="list-style-type: none"> • TSLs are an important tool to ensure road users, especially transport service and commercial operators, have the appropriate training and knowledge to operate a potentially dangerous activity where public safety is an issue. 	
3.3 Strengthen and clarify requirements around Limited Access Roads (LARs)	<p>This proposal will:</p> <ul style="list-style-type: none"> • require crossing place notices created by Waka Kotahi to be registered on property titles • improve provision for, and enforcement of, offences relating to limited access roads and crossing places • clarify that the administration of crossing place notices will also pass to the territorial authority responsible for the control of roads, in situations where the status of a State highway has been revoked. 	<p>All but one submitter that responded to this proposal agreed with it. Some submitters raised:</p> <ul style="list-style-type: none"> • it will provide improved transparency to land owners and purchasers of property • any amendments should ensure that there is consistency for any road controlled by a Road Controlling Authority, especially given that territorial local authorities can also declare LARs under the Local Government Act 1974 (LGA 74). <p>The one submitter that opposed this proposal cited that this is Waka Kotahi passing costs and actions on to other organisations.</p>	<p>No change.</p> <p>There is a separate programme to transfer the roading provisions in the LGA 74 to transport legislation, through Reshaping Streets. Changes to ensure alignment regarding the ability to declare LARs can be made through this work.</p>
4.1 Remove time constraints in rail safety case application process	<p>This proposal will introduce a 'stop-the-clock' provision for when further information is required from an applicant, either for a new application or a variation to a safety case. This would be modelled on the provisions found in other licensing regimes (eg, the application for a National Multiple-Use Approval under the Building Act 2004).</p>	<p>All submitters that responded to this proposal agreed with it, noting it will remove the need to restart applications.</p>	<p>No change.</p>

<p>4.2 Simplify the Rule consultation process to increase consistency</p>	<p>This proposal will remove a duplicative requirement in section 161(2)(c) of the Land Transport Act relating to consultation requirements. This is because the consultation requirements are adequately covered in section 161(2)(b).</p>	<p>Most submitters that responded to this proposal agreed with it, noting that duplication is inefficient. The submitters that opposed this proposal believe that this will mean organisations are no longer required to be consulted (ie, that they are not considered interested 'persons'). The view of the Ministry's legal team is that 'interested persons' also covers organisations. The term 'person' includes a corporation sole, body corporate, and an unincorporated body, as set out in section 13 of the Legislation Act 2019.</p>	<p>No change.</p>
<p>5.1 Modernise roading provisions and consequential drafting improvements</p>	<p>This proposal will transfer the existing sections 315 to 361 (Part 21) and Schedule 10 of the LGA 74 into the Government Roding Powers Act 1989. Minor and technical amendments will then be made to ensure no inconsistencies occur. The title of the Government Roding Powers Act 1989 may need to be reconsidered as a consequential amendment.</p>	<p>All submitters that responded to this proposal agreed with it. Some submitters raised that it makes sense to streamline the number of pieces of primary legislation governing roads.</p>	<p>No changes to this proposal, however it will now be progressed through a separate work programme, Reshaping Streets.</p>
<p>5.2 Include Waka Kotahi in the New Zealand Transport Agency's name in legislation</p>	<p>The final decision on which form the name of Waka Kotahi will take will be made by Cabinet. Consequential amendments will be required in all primary and secondary legislation where the New Zealand Transport Agency is explicitly referred to. No contracts or other usage of the current name will be invalidated through this process.</p>	<p>All submitters that responded to this proposal agreed with it. Some submitters raised:</p> <ul style="list-style-type: none"> • this is the commonly referred to name and as such should be reflected in legislation. • The name needs to be dual (te Reo and English) to enable clear identification. 	<p>No change.</p>
<p>5.3 Introducing emergency powers for the Director of Land Transport</p>	<p>A high-level proposal to amend these powers to enable the Director of Land Transport to better respond to emergency and time-critical situations was consulted on. This included</p>	<p>All bar one submitter agreed with this proposal. Specific support was indicated by system participants. Submitters raised:</p>	<p>Consideration of this feedback has informed the options outlined in</p>

	<p>questions to prompt submitters to consider how and when such powers might be useful, such as:</p> <ul style="list-style-type: none"> • How important is it that the regulatory system can respond promptly to issues as they arise? • Should the Director of Land Transport have powers similar to that of a Minister? • In what situations would these powers be useful? 	<ul style="list-style-type: none"> • It is important that the system can respond quickly, especially when there is an issue of safety. • It would not be appropriate for the Director of Land Transport to have similar powers to the Minister – checks and balances in the system are needed. • There should be a list of triggers that activate these powers to prevent them from being used as an alternative to 'normal' processes. 	<p>the attached RIS at Appendix Three, and the proposed approach outlined in the Cabinet paper.</p>
<p>5.4 Increase the maximum level of fines and infringement fees that can be set through regulations</p>	<p>This proposal will bring fees and fines into alignment with the Ministry's Effective Financial Penalties Framework and Tool. This means the maximum penalties that can be applied to an individual will change from:</p> <ul style="list-style-type: none"> • A \$2,000 infringement to a \$3,000 infringement fee. • \$10,000 fine before a court, to a \$15,000 fine before a court. <p>Body corporate fees and fines would remain the same. This proposal does not automatically amend any penalty levels. To amend actual penalty amounts, a separate process to review and amend penalties and offences will be required, including further public consultation on proposed amounts for specific offences.</p>	<p>All submitters that responded to this proposal agreed with it. Some submitters raised:</p> <ul style="list-style-type: none"> • Road Controlling Authorities should be able to set their own fees and fines, based on their unique transport systems and needs. • Higher infringement costs will support motorist's behavioural changes and improve compliance to many road safety initiatives. A review of fines and fees should also look at those specifically related to safety and the changes needed to achieve Road to Zero. 	<p>No change.</p>

Appendix Two: Summary of maritime proposals, consultation feedback, and changes to proposals following consultation

Maritime Proposals			
Proposal	Summary	Consultation feedback summary	Change following consultation
1.1 Enable electronic service of documents and electronic signatures	This proposal will enable regulators to send regulatory notices electronically, while maintaining paper-based options.	All submitters that responded to this proposal agreed with it.	No change.
2.1 Update the definition of convention	This proposal will streamline how amendments to international conventions are recognised in the Maritime Transport Act 1994 (MTA). This will avoid the need for multiple Orders in Council to effect amendments.	All submitters that responded to this proposal agreed with it.	No change
3.1 Confer powers on the Minister of Conservation to effectively manage maritime safety in the Subantarctic Islands and the Kermadec Islands	This proposal extends the functions, duties, responsibilities and powers of a regional council relating to maritime safety provided for under Part 3A of the MTA to the Minister of Conservation. This will allow the Minister of Conservation to manage maritime safety at the Islands, with access to a system of powers in line with the rest of New Zealand.	Most submitters that responded to this proposal agreed with it. Two further submitters were concerned that the Department of Conservation did not have sufficient maritime expertise to appoint a harbourmaster.	No change.
3.2.1 Clarifying the threshold for starting an investigation	This proposal will clarify the threshold for starting an investigation under part 54A of the MTA as 'reasonable grounds to suspect'. This is a change from the current wording, which requires the Director of Maritime New Zealand (the Director, Maritime NZ) to have 'reasonable grounds to believe'. The term 'belief' insinuates that there needs to be a substantial level of evidence as to a breach for the Director to form a belief, which does not enable the Director to uncover covert breaches or latent system risks.	All submitters fully or conditionally supported this proposal.	No change.

<p>3.2.2 Provide certainty that breaches of maritime document holders' duties are grounds for an investigation</p>	<p>This proposal will link the general duties of maritime document holders set out in section 17 of the MTA with section 54A, which sets out the power if the Director to investigate a holder of a maritime document. This will mean the Director can investigate a maritime document holder where there are reasonable grounds to suspect a breach of the general duties has occurred.</p>	<p>Half of the submitters that responded to this proposal agreed with it. Objections to the proposal centred on concerns that it constituted an increase in the coercive power of the regulator, and that maritime officers would not be able to use the power appropriately. Officials have taken a closer look at the legislative provisions and supporting operation guidance and consider that these changes should not result in undue investigations to the extent submitters believe.</p>	<p>No change.</p>
<p>4.1.1 Addressing an inconsistency with the MLC in respect to prohibiting charges for placing seafarers in employment</p>	<p>This proposal will remove the prohibition set out in section 27 of the MTA that people providing seafarer recruitment and placement services cannot charge for this service. This prohibition is inconsistent with the Maritime Labour Convention 2016 (MLC) requirements which requires seafarers to have access to an efficient and well-regulated seafarer recruitment and placement system.</p>	<p>All submitters that responded to this proposal agreed with it.</p>	<p>The consultation document suggested an amendment to this provision in the legislation. Further analysis indicates a full repeal and replace of the provision will be required.</p>
<p>4.1.2 Aligning seafarer employment agreement clauses with MLC requirements</p>	<p>This proposal will amend section 2 of the MTA to replace the definition of 'Articles of Agreement' with the MLC definition of 'seafarers' employment agreement'.</p>	<p>All submitters that responded to this proposal agreed with it.</p>	<p>No change.</p>
<p>4.1.3 Addressing an inconsistency with the MLC</p>	<p>The MLC requires employers to provide seafarers with a record of their employment without reference to the quality of their work. However, section 22(1)(d) of the</p>	<p>All submitters that responded to this proposal agreed with it.</p>	<p>No change.</p>

<p>requirement that a seafarer’s record of employment not include any statement as to the quality of the seafarer’s work</p>	<p>MTA specifies that if requested by the seafarer, an employer on a New Zealand ship on an overseas voyage must provide a certificate as to the quality of the seafarers work. This proposal will repeal section 22(1)(d) to increase alignment with the MLC requirement.</p>		
<p>4.1.4 Aligning with the MLC requirement to prohibit people younger than 16 years old from working on a ship and people under 18 from undertaking hazardous work</p>	<p>This proposal will repeal sections 26(3) and 26(4) of the MTA. Section 26(3) states that an employer may employ two persons under the age of 18 to take the place of a single trimmer or stoker, if reasonable steps have been taken to find someone 18 or over. Section 26(4) allows the Director of maritime NZ to approve the employment of a school-aged person to carry out work on a training ship. These two provisions are misaligned with the MLC requirement.</p>	<p>All submitters that responded to this proposal agreed with it, with one exception. Maritime NZ and the Ministry of Transport consider this prohibition is necessary to comply with New Zealand’s commitments under the MLC.</p>	<p>No change.</p>
<p>4.1.5 Revising and reorganising Part 3 of the MTA</p>	<p>The MLC places a number of obligations on ‘shipowners’. The MTA does not use this term. This proposal will insert a definition of ‘shipowner’ into the MTA. All references to ‘employers’ in Part 3 of the MTA will be changed to ‘shipowner’. Other changes include shifting the duty to provide food and drinking water from the ‘employer’ to the owner and master of a ship; introducing a requirement for documentary evidence of financial security for the purposes of repatriation of seafarers to be set by maritime rules; and prohibiting advanced payments to cover costs of repatriation of a seafarer. These are all MLC obligations not presently reflected in New Zealand’s legislation.</p>	<p>All submitters that responded to this proposal agreed with it.</p>	<p>No change.</p>
<p>4.1.6 Clarifying Rule-making and compliance powers to support the</p>	<p>This proposal will amend section 36 of the MTA to clarify the scope of the Rule-making powers to cover relevant aspects of the MLC, such as minimum requirements for seafarers to work on a ship;</p>	<p>All submitters that responded to this proposal agreed with it.</p>	<p>No change.</p>

implementation of MLC requirements	conditions of employment on a ship; repatriation of seafarers; and liability of shipowners to assist seafarers in the event of abandonment. This means Rules can be used to support implementation of these MLC obligations by setting out particular requirements and standards to be met.		
4.2 Standardise the requirements to notify incidents and accidents	This proposal seeks to correct a misalignment between the reporting requirements relating to 'accidents, mishaps and incidents' on board ships.	Local government submitters who responded to this proposal agreed with it. Private sector submitters disagreed. Objections centred around the additional reporting burden that would arise from the changes. Officials consider this change will not increase the reporting burden on sector participants, however further analysis identified other issues with the provision which are better addressed through the MTA review.	Removed. This proposal will be considered as part of the wider MTA review (underway).
4.3 Correct a technical issue regarding the definition of unit of account	This proposal seeks to make the definition of and calculations for 'units of account' in four parts of the MTA consistent.	All submitters that responded to this proposal agreed with it.	No change.
4.4 Bring floating production and storage and offloading units (FPSOs) within scope of the maritime levy	This proposal seeks to ensure FPSOs contribute to the maritime regulatory system when they enter New Zealand territorial waters (there are none currently).	All submitters that responded to this proposal agreed with it.	No change.
5.1 Update the maximum level of fines and infringement fees that can be set	This proposal is to increase the maximum fines and infringement fees for individuals to an infringement of \$3000 and a fine of \$15,000. These would be maximum and would apply to fines and fees set in Regulations. It would not amend any regulations.	Most submitters agreed with this proposal. One submitter objected on the grounds that it would unfairly affect sole-trader fishermen.	No change.

through regulations in the MTA			
5.2 Modernise the penalties for the safety offences in the MTA	This proposal would increase the maximum financial penalties for Act-level safety offences to align with the levels in the Health and Safety at Work Act 2015. This would enable foreign flagged ships and crew to be treated equally with New Zealand ships and crew in the Courts.	All submitters that responded to this proposal agreed with it.	No change.
5.3.1 Amend the Maritime (Offences) Regulations 1998	This proposal is to update the maximum fines and fees in the Regulations for the first time since 1998, to add penalties where none currently exist, and to tidy up inconsistencies created by changes to the Maritime Rules over time.	Most submitters that responded to this proposal agreed with it. One submitter agreed to the proposals to create, merge and remove offences, and to set penalties but objected to the level of infringements proposed. One submitter neither agreed nor disagreed.	Some offences proposed to be removed. Some infringement penalties removed.
5.3.2 Amend the Marine Protection (Offences) Regulations 1998	This proposal is to update the maximum fines and fees in the Regulations for the first time since 1998, to add penalties where none currently exist, and to tidy up inconsistencies created by changes to the Maritime Rules over time.	Most submitters that responded to this proposal agreed with it. One submitter agreed to the proposals to create, merge and remove offences, and to set penalties but objected to the level of infringements proposed. One submitter neither agreed nor disagreed.	Some offences proposed to be removed. Some infringement penalties removed.

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Regulatory Impact Statement: Review of Director of Land Transport powers during emergency and time-critical events

Coversheet

Purpose of Document	
Decision sought:	Analysis produced for the purpose of informing final Cabinet decisions.
Advising agencies:	Ministry of Transport
Proposing Ministers:	Hon Kieran McAnulty, Associate Minister of Transport
Date finalised:	26 August 2022
Problem Definition	
<p>The Director of Land Transport (the Director) has limited powers to provide comprehensive and responsive regulatory relief to emergency events impacting the land transport system. These limitations are largely legislative in nature.</p> <p>In proposing options to address this issue, there is the opportunity to consider whether the Director’s powers should be extended to future proof the system against potential disruptions, including powers with respect to vehicle and vehicle product safety regulation.</p>	
Executive Summary	
<p><i>In March 2020, New Zealand entered its first nationwide lockdown in response to the COVID-19 outbreak</i></p> <ul style="list-style-type: none"> • One of the impacts of lockdowns on the land transport system is that it prevents people from renewing in-person their expired or expiring land transport documents. • Land transport documents includes things like driver licences, licence endorsements, motor vehicle licences (registration), and Certificates and Warrants of Fitness (CoF/WoFs). While motor vehicle licences can be obtained (or renewed) online, the other documents can only be obtained in person at a driver licensing agent or by presenting a vehicle to an inspector (for a CoF/WoF). These documents are held by a significant proportion of the population, with around 3.6 million driver licence holders and 4.4 million registered vehicles in New Zealand. <p><i>To provide an extension to holders of expired and expiring land transport documents, the Governor-General made amendment rules and regulations to extend the term of land transport documents across the country</i></p> <ul style="list-style-type: none"> • Without intervention, a significant number of peoples’ documents would have expired during lockdown, leaving system participants without certainty about the impact of their expired documentation. This would have meant: <ul style="list-style-type: none"> ○ people were unsure if they could use their vehicles to access essential services (such as food and medicines) without being penalised for having an expired driver licence, registration and/or CoF/WoF 	

- public transport operators faced pressures as older drivers stopped driving, but new drivers who had completed training were unable to obtain their new driver licence which could not be physically printed and sent to them
- in the event of an accident, vehicle insurance policies may not have been valid, as many policies include a requirement that the vehicle maintain a current CoF or WoF.

The Director of Land Transport (the Director) has a particular role in relation to participant entry into, and exit from, the land transport system

- Entry into the land transport system is largely managed through land transport documents (eg, driver and vehicle licences). Requirements around which land transport documents a participant must have and the terms of that document are set out in the Land Transport Act 1998 (the LTA), with more detailed requirements specified in rules and regulations made under it.
- The Director's role covers the issuance, renewal, suspension, revocation and imposition of conditions on land transport documents, and the enforcement of requirements around these activities.
- However, the Director's powers over land transport documents are limited in their application. For example, while the Director can extend the term of a driver licence, they have no power to extend the term of vehicle licences (registration) and CoF/WoFs.
- Even if the Director decides to extend the term of a driver licence, they can only do this on an individual basis, and for only one further period not exceeding 12 months. People whose licences had previously received an extension would not have been eligible to receive a further extension.
- The Director also has powers to grant exemptions from requirements set out in land transport rules and regulations. These exemptions can be made on an individual basis (ie, in respect of one person or one vehicle), or on a class basis (ie, in respect of a grouping of people or vehicles).
- However, in order to grant an exemption from a regulation, that regulation must specify that the Director is permitted to grant exemptions from it.
- This means the Director could have granted a class exemption to exempt people from the requirement to have a valid CoF or WoF, as this is set out in rules. However, only the Minister and Governor-General can currently provide widescale relief to holders of expired driver licences and motor vehicle licences (registration), as they are in regulations.

Looking ahead, it is likely New Zealand will experience further disruptions to the land transport system

- Disruptions could be caused by another pandemic or a natural disaster such as an earthquake or mass regional flooding. These types of events could see local driver licensing, motor vehicle licensing (registration) and CoF and WoF agents close for an indeterminate amount of time.
- While it is possible to provide widescale regulatory relief to land transport document-holders via amendment rules and regulations, this was shown to not be the best use of official and Ministerial resource during a time where more significant concerns required each parties attention.
- This issue prompted this review of the powers of the Director to respond to emergency and time-critical events. In undertaking this review, future scenarios that could implicate the land transport system were also considered.

- For example, there could be a defect in the lithium-ion batteries of electric vehicles (EVs) causing them to catch fire, or a software failure in autonomous vehicles (AVs) could render them unsafe to use. Until such situations arise, it is difficult to determine the scope of the impacts or how significant the risks posed by the event may be.
- In the case of vehicle product issues (such as a defective lithium-ion battery), the appropriate avenue for response would be through product safety regulation under the Fair Trading Act 1986 (the FTA). However, applying the FTA recall powers requires a substantial level of evidence as to the scale and significance of the defect in New Zealand, which may not always be readily available.
- During this time, people would still be able to drive potentially unsafe vehicles which could result in an injury, damage to property, or even death.

The Ministry of Transport has publicly consulted on a high-level proposal to amend the Director's powers

- As part of wider consultation on proposals under the Regulatory (System) Transport Amendment Bill No 2 that took place in May – June 2022, the Ministry of Transport (the Ministry) sought feedback on a high-level proposal to amend the Director's powers to provide more comprehensive regulatory relief during emergency and time-critical events.
- The proposal did not include specific options, but outlined the potential scope of these powers and scenarios in which we anticipate the powers could be applied. A number of questions were also posed, such as whether consultees agreed in principle to an extension of the Director's powers.
- Feedback from consultation generally supported a review of the Director's powers to act during emergency and time-critical situations, particularly where there is a risk to safety. A number of submissions noted the importance of the system to be able to respond quickly when regulatory issues arise, while ensuring there is appropriate accountability and oversight over the use of powers.
- The Product Safety team at the Ministry of Business, Innovation and Employment (MBIE) were also consulted on vehicle product safety regulation, and any issues and improvements that could be made within this process. This included consideration of the Director having vehicle recall powers similar to that of the Minister of Commerce and Consumer Affairs, and how this could be effectively managed between agencies.

Proposals to address the limitations with the Director's powers seek to achieve four overarching objectives

- Enable the Director to provide comprehensive regulatory relief during emergency and time-critical events.
- Provide improved transparency as to the scope and limits of the Director's powers.
- Ensure an appropriate level of accountability on the Director in exercising their powers.
- Ensure the safety of the land transport system is not unduly compromised.

Proposals have then been assessed against four criteria, related to the objectives

- Effectiveness – the degree to which the option will address the identified objectives
- Responsiveness – the ability of the option to address the issues quickly
- Acceptability – the degree to which the option is expected to be accepted or tolerated by the public, regulated parties, and other stakeholders
- Safety – the ability of the option to preserve an acceptable level of safety in the land transport system.

The Ministry and Waka Kotahi New Zealand Transport Agency propose introducing new emergency powers for the Director over land transport documents

- To address the limitations with the Director's powers as identified during the multiple COVID-19 responses, the preferred approach of the Ministry and Waka Kotahi New Zealand Transport Agency (Waka Kotahi) is to introduce new emergency powers for the Director (Option 3, detailed on pages 27 – 28). These powers would be 'activated' when:
 - a national or local emergency declaration is made (under the Civil Defence and Emergency Management Act 2002), or
 - an epidemic notice (under the Epidemic Preparedness Act 2006) is in force, or
 - where the Director has the agreement of the Minister of Transport that there is an emergency impacting the land transport system.
- 'Activation' of the powers would enable the Director to extend the term of any class of land transport document for which they are responsible, to a specified date.

The Ministry and Waka Kotahi also propose introducing two new powers for the Director in respect of vehicle product safety regulation

- Alongside the introduction of new emergency powers for the Director, and to support the application of product safety regulation under the FTA, the Ministry and Waka Kotahi also consider two new powers for the Director with respect to vehicle product safety are warranted:
 - The first power would enable the Director to require any vehicle, or class of vehicles, to present for inspection by a specified date (Option 4c, detailed on pages 30 – 31). Failure to do so could result in either that vehicle's CoF or WoF being revoked, or being unable to have its CoF or WoF renewed at its next due inspection. This proposal provides for an initial evidence-gathering mechanism, which could then be used to support a compulsory product recall under product safety regulation, if it is deemed necessary. MBIE's Product Safety team advised this power is somewhat analogous to the powers of product safety officers in product safety legislation, which are intended to serve a similar purpose of gathering evidence of safety concerns, ahead of further regulatory action.
 - The second power would enable the Director to revoke the CoF/WoF of a class of vehicles on the grounds of not meeting safety requirements (Option 4b, detailed on pages 29 – 30). This proposal provides a stronger lever for the Director where there is evidence a class of vehicles pose a safety risk to the land transport system and its participants. As this is a significant action to be taken, the Director would be required to notify the Ministry's Chief Executive of their intention to revoke a class of CoF/WoFs, but would not need their approval to use this power.
- These options have been reflected in the Cabinet paper titled *Policy approval – Regulatory Systems (Transport) Amendment Bill*.

The impacts of the preferred options on the system and its participants range from relatively minor to more significant

- The new emergency powers have strict parameters around when they may be used and what they can be used for. In this way, the impact of the powers on the system and its participants are similar to those in the COVID-19 response in 2020 and 2021, where extending the term of land transport documents provided certainty and assurance to land transport participants.

- The impact of introducing a power enabling the Director to require vehicles to present for inspection is more significant. This is because failure to meet this requirement, could mean a vehicle's CoF or WoF is revoked rendering it illegal to drive. People who drive a vehicle without a current CoF or WoF risk a \$200 infringement fee under the Land Transport (Offences and Penalties) Regulations 1999. However, the Director may choose to use this power, without applying the consequence that a vehicle's CoF or WoF is revoked if it fails to be presented by a specified time. This approach may be useful in situations where the defect does not concern a safety issue, or is considered largely aesthetic.
- A power enabling the Director to revoke the CoF/WoF of a class of vehicles has the most significant impact. This is because a CoF/WoF revocation would immediately make it illegal to drive a vehicle covered under that notice. Therefore, this option would require a high level of evidence to be applied to ensure the impacts on people, businesses and wider sector are proportionate to the risk posed by the safety issue.

If progressed, amendments to the Director's powers will be made through the Regulatory Systems (Transport) Amendment Bill No 2

- There are a number of implementation considerations to progressing the preferred proposals. These include education campaigns with selected stakeholders, including the Director and Waka Kotahi, New Zealand Police and MBIE's Product Safety team. This information would focus on what the new powers are, what they enable the Director to do, and situations where they could be used and implications for each respective stakeholder's role.
- Wider public communication would also be required, particularly with respect to the new power to require a vehicle to present for inspection. This would be with a view of ensuring the public understand what a notice under this power would require of them, and the consequences if they do not comply with that requirement.
- Given emergency and time-critical events are not significantly frequent in occurrence, it is anticipated the Director will receive ad-hoc support in applying their powers from pre-existing resource at Waka Kotahi, as needed.
- Over time, should the number of emergency or time-critical events increase in frequency, Waka Kotahi may wish to consider additional or more permanent support for the Director in this role. The cost implications of doing so would need to be determined at that point in time, through assessment of how much additional Full Time Equivalent (FTE) is needed and what skills or subject matter expertise is required.

Limitations and Constraints on Analysis

Key assumptions

- Any change to the Director's powers would result in those powers being applied consistently with their intended purpose (ie, powers will not be misused or applied inappropriately)
- Emergency and time-critical events will continue to arise at infrequent intervals, and there is no need at this stage for more permanent support for the Director in applying their powers.
- As the specific options that have been canvassed in this analysis have not been publicly consulted on, the scoring in relation to the 'acceptability' criteria is an assumed score. This is based off earlier sector feedback during the COVID-19 response and feedback on the high-level proposal that was consulted on.

Quality of data and evidence

- Data on the number of affected persons with expired or expiring land transport documentation during the initial COVID-19 lockdown is of reasonably high quality, as this information is recorded and updated in the Driver Licence Register and the Motor Vehicle Register.

Consultation limitations

- Consultation consisted of a high-level proposal to amend the Director's powers to provide more comprehensive regulatory relief during emergency and time-critical events. The proposal did not include specific options, but rather outlined the potential scope of these powers, and scenarios in which we anticipate they could be applied. As such, the public have not had a chance to engage with the detail of this proposal.

Related proposals

- Option 4b, to introduce a new power for the Director to revoke a class of WoFs/CoFs (refer pages 29 – 30) and option 4c, to introduce a new power for the Director to require a vehicle, or class of vehicle, to present for inspection (refer pages 30 – 31) are similar to proposals currently being developed in response to the Independent Inquiry into Waka Kotahi Performance in Relation to Dargaville Diesel Specialists (the Inquiry). The Inquiry proposes new powers to recall a vehicle, and require a vehicle to present for inspection, where a vehicle has been inspected by a particular Inspection Officer, or where Waka Kotahi is concerned that a CoF or WoF was issued incorrectly or on the basis of an incorrect assessment or evidence.
- The key difference in the proposals outlined in this RIA, and those being progressed in response to the Inquiry, is that the Inquiry's proposals are specific to vehicles not meeting an 'applicable requirement' of a CoF or WoF.
- What is proposed in this RIA is broader, in that it contemplates application of these powers outside this scope, where the Director has reason to believe, (or evidence) that a vehicle does meet a 'safety requirement'.

Out of scope issues:

- Addressing issues faced by Alcohol Interlock Device (AID) programme participants in exiting this system during Alert Level 4 restrictions. The programme is due for a review at a later date, and at that time, consideration can be given as to how the AID system interacts within an emergency event context.

Responsible Manager(s) (completed by relevant manager)

Megan Moffet

Manager

Regulatory Policy

Ministry of Transport



31/08/2022

Quality Assurance (completed by QA panel)

Reviewing Agency: Te Manatū Waka – Ministry of Transport

Panel Assessment & Comment: This Regulatory Impact Statement (RIS) has been reviewed by a panel of representatives from Te Manatū Waka Ministry of Transport. It has been given a 'meets' rating against the quality assurance criteria for the purpose of informing final Cabinet decisions. The RIS is complete and convincing, and the panel has suggested some improvements to clarity and conciseness. This review was subject to some agreed-upon additions to the executive summary and options analysis.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. In March 2020, New Zealand entered its first nationwide lockdown in response to the COVID-19 outbreak. Lockdowns have significant effects on people, businesses, and services, including within the land transport sector, as they limit people movement and require services that are not deemed essential to close, or operate at a reduced capacity. Further lockdowns (some at a regional level) also occurred in 2021.
2. One of the impacts of the lockdowns on the land transport system, was how they prevented most participants from taking the necessary steps to renew expiring or expired land transport documents to maintain compliance. These include documents such as driver licences, motor vehicle licences (registration), and vehicle certificates or evidence of inspection – Warrants of Fitness (WoFs) and Certificate of Fitness (CoFs)¹.
3. Land transport documents apply to a significant proportion of the population, with around 3.6 million driver licence holders², and 4.4 million vehicles registered in New

¹ 'land transport document' is defined in the Land Transport Act 1998 as meaning licences, permits, approvals, authorisations, exemptions, certificates, and similar documents issued under the Land Transport Act 1998, the Government Road User Charges Act 1989, the Railways Act 2005, or the Road User Charges Act 2012.

² Waka Kotahi Open Data Driver licence holders: <https://opendata-nzta.opendata.arcgis.com/documents/driver-licence-holders/about> (July 2021)

Zealand³. The land transport regulatory system has a greater applicability to the general population than that of other transport regulatory systems, such as those for maritime and aviation. Consequently, disruptions to the effective operation of the land transport regulatory system are felt more acutely by the general public.

Action was needed to extend the validity of land transport documents

4. To provide regulatory relief to holders of expired and expiring land transport documents, the Governor-General signed amendment rules and regulations:
 - a. The Land Transport Rule: COVID-19 Response (No 1) 2020 (the 2020 COVID-19 Rule) extended the validity of driver licences, driver endorsements, CoF/WoFs, and other vehicle certifications issued under the Land Transport Rule: Vehicle Standards Compliance Rule 2002 (the Vehicle Standards Compliance Rule), for a period of up to 6 months, to 10 October 2020.
 - b. A separate amendment to the Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011 (the Vehicle Registration Regulations) extended the validity of vehicle licences (registrations), for a period of up to 6 months, to 7 October 2020.
5. The 2020 COVID-19 Rule was made using the Governor-General's section 152A power to make ordinary rules, under the Land Transport Act 1998 (the LTA). The amendments to the Vehicle Registration Regulations were made using the Governor-General's regulation-making power under section 167 of the LTA.
6. At the time of the initial March 2020 lockdown, only urgent legislative amendments, or the Governor-General (acting on the advice of the Minister of Transport), could provide the breadth of regulatory relief required. As such, Waka Kotahi advised the Ministry of Transport (the Ministry) that they required support to use legislative tools to address the issue of expired and expiring land transport documents. Further rule and regulation changes were required in response to the 2021 lockdowns to extend the validity and provide certainty to land transport document holders.

Counterfactual

7. Without government intervention, a significant number of land transport documents would have expired, leaving people without certainty over the impact of their expired documentation. This would likely have had the following implications:
 - a. Many people rely on a vehicle to access essential services, such as food and medical appointments. A lack of clarity around whether their land transport documents were still valid may prevent people from doing so, for fear of being penalised.
 - b. Pressures on public transport operators, as older drivers stopped driving and drivers who had completed their training could not obtain a physical driver licence.
 - c. A high level of uncertainty as to whether vehicle insurance policies would be valid, should an accident occur. This could potentially undermine the trust the public has in the land transport regulatory system, and create uncertainty for

³ Waka Kotahi Vehicle fleet statistics: <https://www.transport.govt.nz/statistics-and-insights/fleet-statistics/sheet/vehicle-fleet> (2020)

regulatory authorities at a regional and national level around whether or not they should take enforcement action.

- d. As lockdown restrictions lift and people look to get their land transport documents renewed, regulators could experience a significant backlog of applications, potentially exceeding resource capacity and taking several months (or potentially years) to work through. Intervention provided a means to smooth the demand on licensing and inspection agents when services were allowed to re-open.
8. Consideration was given to a 'no action' policy, wherein the regulators (Waka Kotahi and the New Zealand Police) would not act against a person or entity for breach of a regulatory requirement. However, there was uncertainty as to the legal basis, as the approach relies on regulator discretion (of both New Zealand Police and Waka Kotahi), consistent application of operational policy, and good will on behalf of the regulated party, the regulator, and third parties such as insurers and employers. It would also stand in contradiction to the Waka Kotahi regulatory strategy, responsibilities under the Land Transport Management Act 2003 (the LTMA), and constable discretion⁴.

This work presents an opportunity to review the Director's powers in respect of other emergency or time-critical events

9. Looking ahead, it is likely New Zealand will experience further disruptions, such as another pandemic, and natural disasters due to the impacts of climate change. Past events can be an indicator of which types of situations may cause future disruptions to the system, such as the 2016 Kaikoura earthquake, and the 2018 Takata airbag recall⁵.
10. Other future scenarios may also pose disruptions, such as a software failure on autonomous vehicles⁶ (AVs or self-driving cars) rendering the brakes ineffective, or defective lithium-ion batteries that mean electric vehicles (EVs) are susceptible to catching fire. In such circumstances, the Director and Waka Kotahi could be expected to take action even where there is insufficient information as to the significance of the issue and how widespread it is.
11. While it is possible to provide widescale regulatory action through amendment rules and regulations, progressing changes this was shown to not be the best use of resource during emergency or time-critical event, where there are more significant concerns requiring the Governor-General, Ministers and officials' attention.

Key features of the current regulatory system

12. There are a number of different actors within the land transport system with powers to make or amend rules, regulations, set standards and grant exemptions. These powers

⁴ The concept of 'constable discretion' is not provided for in the Policing Act 2008, and instead arises from both the common law doctrine of the independence of the constable, and the concept of constitutional independence whereby Police are not subject to ministerial control, and are only responsible and accountable to the law.

⁵ More than 50,000 vehicles fitted with potentially explosive airbags came under a compulsory recall in April 2018, requiring manufacturers to replace fault airbags at no cost to vehicle owners.

⁶ Autonomous Vehicles (AVs) are vehicles capable of sensing its environment and operating without human involvement. While widescale introduction and adoption of such vehicles are still a number of years away, a small number of these vehicles are already operating in New Zealand.

are set out in the LTMA, the LTA, as well as various rules and regulations. Key powers of transport system actors are outlined below.

Powers of the Director of Land Transport

13. The role of the Director was established in August 2020, through section 18 of the Land Transport (NZTA) Legislation Amendment Act 2020 (the Amendment Act), which inserted new sections 104A to 104C of the LTMA.
14. The role was created in response to a 2019 review which found significant deficiencies in the regulatory capability of Waka Kotahi, which, over a number of years, resulted in regulatory failure. The role is intended to deliver stronger governance and capability to lift the regulatory performance of Waka Kotahi.
15. The land transport system applies to a significant proportion of the public. As such, the Director's powers in most cases are reasonably specific, applying to specified vehicles, standards (as prescribed in legislation) and land transport document holders. This differs somewhat to the Director roles in the Maritime and Aviation sectors, whose powers can have broader applications to a *class* (ie, grouping) of document holders or vessel.
16. Generally speaking, the Director has a particular role in relation to land transport participants, covering their entry into, and exit from, the system, and the enforcement of requirements around this process. Section 104B of the LTMA sets out the functions, powers and duties of the Director, including the Director's statutorily independent functions with respect to the issuance, endorsement, alteration, replacement, renewal, suspension, revocation or imposition of conditions on any land transport document for which the Director is responsible.
17. Along with powers in relation to specified persons and vehicles, the Director also has powers in relation to holders of particular types of land transport documents, where it concerns ensuring the safety of the land transport system. For example, under section 30(A)(2) of the LTA, the Director can require a holder of a Transport Service Licence⁷ to present any vehicle used in a transport service for inspection.
18. Additionally, section 168D of the LTA provides the Director with the ability to grant exemptions to one or more specified requirements in a regulation or rule. This could include, for example, granting an exemption to a particular vehicle from the requirement to have a valid WoF.
19. Other powers of the Director can be found in various land transport rules and regulations. For example, clause 11.3(1) of the Vehicle Standards Compliance Rule provides the Director with the power to revoke a vehicle's evidence of vehicle inspection (its CoF or WoF), if the Director is satisfied that the vehicle does not comply with an 'applicable requirement' [of the CoF/WoF].

Requirements around land transport documents

20. Requirements around the holding of land transport documents are largely set out in the LTA, with more detailed requirements specified in rules and regulations. Table 1

⁷ A Transport Service Licence is a special type of licence that permits a person to carry out transport services, such as passenger services (eg, a taxi or bus service) and goods services (eg, a courier service).

outlines the regulatory framework for three common types of land transport documents: driver licences, vehicle licences (registration), and CoF/WoFs.

Table 1: Legislative framework for common types of land transport documents

	Driver licensing	Vehicle licensing	CoF/WoFs
Land Transport Act 1998	<ul style="list-style-type: none"> Section 5 outlines that a person may not drive a motor vehicle without an appropriate and current driver licence Section 23 outlines that the Director must issue driver licences <i>in accordance with the regulations and rules</i>. Also provides that the Director may extend the term of a driver licence by 1 further period not exceeding 12 months 	Section 242 requires that a motor vehicle not be operated on a road unless it is registered and licensed. The person registered in respect of a motor vehicle must keep the vehicle licensed at all times. The registration plates issued for the vehicle must be affixed or displayed in the manner <i>prescribed by regulations</i> .	Section 6 outlines that <i>if regulations or rules require</i> a vehicle to have current evidence of inspection, a person may not operate the vehicle without the appropriate current evidence, which must be displayed on the vehicle.
Rules & Regs	Land Transport (Driver Licensing) Rule 1999 Part 10 confirms ability of the Director to extend a licence for 1 period not exceeding 12 months.	Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011 clause 14 outlines that the registration can be issued for any period up to 12 months.	Land Transport Rule: Vehicle Standards Compliance 2002 sets out the operational requirements with respect to vehicle inspections.

- Renewing or being issued with a driver licence or CoF/WoF requires the applicant to go into a driver licensing agent (eg, the Automobile Association of New Zealand) or a CoF/WoF provider (eg, a garage). In the case of a driver licence application, the applicant will be required to undergo an eye test, and may be required to undertake a medical assessment at a health practitioner's office in order to obtain a driver licence.
- Vehicle licences (registration) need to be physically printed, packaged and posted to a person – often by a third-party organisation. A person is unable to renew their vehicle licence without having a current CoF or WoF. This means people with an expired WoF (as well as expired or expiring registration), would need to renew their CoF or WoF in order to renew their motor vehicle licence (registration), or otherwise apply to have this requirement waived.

Powers of Waka Kotahi for responding to emergency situations

- Any power of Waka Kotahi is able to be delegated to the Director, provided the legislation does not specifically prohibit the delegation of that power. Section 162 of the LTA provides Waka Kotahi with powers to make emergency rules.
- An emergency rule was last used in response to the Kaikōura earthquake (2016), which closed parts of State Highway 1. The rule was used to manage speed limits along alternative routes to minimise the risk of death or injury to a person, or of damage to property.
- The purpose of the emergency rule provision is to enable Waka Kotahi to take action when there is an immediate threat to the safety and wellbeing of people or property. Section 162 states that an emergency rule can only be made where it is impracticable

in the circumstances of the particular case for the Minister to make ordinary rules (i.e. a delay due to requiring the Minister's approval would have severe detrimental consequences).

26. As such, the threshold for making emergency rules is considerably high, requiring a risk of death or serious injury to a person, or of damage to property. Analysis at the time of the 2020 and 2021 COVID-19 national lockdowns determined that it was unlikely the issue of expired and expiring land transport documents would meet this threshold.

Powers of the Minister of Transport

27. Section 152 of the LTA provides the Minister of Transport with broad powers to make ordinary rules. Ordinary rules can be made concerning a vast array of land transport matters, including road user behaviour, licensing and standard-setting, and land transport documents.
28. Ordinary rules can also be made with respect to recalling vehicles, or components or equipment of vehicles, that do not meet standards or requirements imposed by rules. However, this power can only be applied in respect of a specified standard or requirement. This power cannot be used in a situation where there is an issue with a vehicle make or model, that does not relate to a specific standard or compliance requirement prescribed in legislation.
29. Ordinary rules are secondary legislation. Before making an ordinary rule, the Minister must meet the requirements of section 161 of the LTA, including giving interested persons a reasonable time to make submissions on the proposal. The proposal then must be notified in the Gazette, and in some cases, presented to the House of Representatives.

Powers of the Governor-General

30. Similar to the Minister of Transport's powers, section 152A of the LTA enables the Governor-General to make, amend or revoke an ordinary rule, on the recommendation of the Minister of Transport. Ordinary rules made by the Governor-General follow the same process as ordinary rules made by the Minister, however the requirements set out in section 161 of the LTA do not apply. Consequently, changes are able to be made on a quicker timeline than the Minister's ordinary rule-making power.
31. The Governor-General also has powers to make regulations under section 167 of the LTA. Like ordinary rules, regulations can be made with respect to a vast number of land transport matters. Regulations are secondary legislation, and must be notified in the Gazette.

Vehicle and vehicle component safety regulation

32. While the Minister has the power to make ordinary rules concerning the recall of vehicles or components or equipment of vehicles, product recalls generally are the responsibility of the Ministry of Business, Innovation and Employment (MBIE), under the Fair Trading Act 1986 (the FTA).
33. The FTA establishes requirements and protections for consumers around products and services. With respect to faulty or defective products (including vehicles and vehicle components), sections 31A and 32 provide for voluntary and compulsory product recalls respectively:

- a. Section 31A Voluntary product recall. This applies when a supplier voluntarily recalls goods, and there is no other requirement for the supplier in those circumstances to report to a government agency, or do any other thing in relation to the goods.
 - b. Section 32 Compulsory product recall. This applies when a supplier has supplied goods that do not comply with a relevant product safety standard, or are goods of a kind which will or may cause injury, and the supplier has not recalled the goods or taken satisfactory action to recall the goods.
34. Compulsory product recalls are made by the Minister of Commerce and Consumer Affairs. There is a high bar for issuing a compulsory product recall notice, requiring collation of evidence as to the size of the problem and the risks posed by it, given the impacts a compulsory recall can have on the public, businesses and wider sector.
35. The last time a compulsory product recall notice was issued in respect to a vehicle or vehicle product was in 2018, in response to defective Takata Alpha airbags. This recall took several months to enact, as MBIE's product safety team worked with the Motor Industry Association⁸ and Waka Kotahi, to understand the scope and severity of the defect.
36. This analysis was then used to support advice to the Minister requesting approval to issue a compulsory product recall notice. During this time, many people continued to drive their vehicles, unaware of the seriousness of the defect and its risks to their safety.

Limitations to the Director's powers to provide regulatory relief

37. While the Director appears to have reasonably broad powers over land transport documents as part of their statutorily independent functions, they are limited in their applicability as they can only apply to a specific individual or vehicle (as opposed to a group or class of people or vehicles). Additionally, the scope of the powers are vested across different provisions within primary and secondary legislation, and some parts of the legislation contain provisions which limit the quick application of these powers.
38. This has meant that while the role of the Director was purposefully established to provide improved regulatory response and capability in the system, the relief that can be provided by the Director is insufficient during an event such as a pandemic.

Limits on the Director's ability to extend the term of a motor vehicle licence (registration) and a vehicle certificate or warrant of fitness

39. The Director has no power to extend the term of a motor vehicle licence (registration) or a vehicle CoF or WoF. However, the requirements around holding a motor vehicle licence (registration) and a vehicle CoF/WoF are set out in rules and regulations.
40. This means the Director could use the exemption power set out in section 168D of the LTA to exempt a class of persons and vehicles from requirements set out in *rules* and *regulations*.
41. To exempt someone from a requirement in a *regulation*, sections 168D(2)(b) and 167(1)(mba) together require that the regulation be amended to specifically provide

⁸ The Motor Industry Association (the MIA) represent the interests of official New Zealand distributors who are the importers of new motor vehicles.

that the Director can grant an exemption from that regulation. This is not required when granting an exemption from a *rule*.

42. This means it would have been possible for the Director to exempt a class of persons from the requirement to have a current CoF/WoF to operate a vehicle on the road, as this is a requirement set out in a rule (the Vehicle Standards Compliance Rule).
43. However, the Director would not have been able to exempt the requirement to hold a vehicle licence (registration), without first amending the Vehicle Registration Regulations to specify that the Director can provide an exemption to this requirement.

Limits on the Director's powers to extend the term of expired or expiring driver licences

44. The section 168D exemption power cannot be applied to a requirement in primary legislation, such as the requirement to hold a current driver licence to operate a vehicle (set out in section 5 of the LTA). However, both the Driver Licensing Rule and the LTA provide that the Director may grant one extension to a driver's licence for a further period of up to 12 months.
45. This power is typically used in instances where a licence holder is overseas and will not return in time to renew their licence. While this process works well most of the time, during emergency events there are a number of limitations which prevent this power from providing comprehensive regulatory relief:
 - a. It was unclear whether a licence extension could be granted to an already expired licence. During the August 2021 COVID-19 outbreak, this would have meant that a significant number of people would not have qualified for an extension as their licences had already expired..
 - b. A licence that has previously been extended, cannot be extended again. Driver licence extensions are recorded in the Driver Licensing Register. This means people who had previously received an extension to their licence would have this noted against their record in the Driver Licensing Register, and would not be eligible for a further extension.
 - c. Each person who has their licence extended must be individually notified by the Director of the decision to extend their licence. The number of people that would have needed to be individually notified was significant, and it would not have been possible for Waka Kotahi to do this in a timely way.

Limits on the Director's power in respect of vehicle product safety regulation to revoke a vehicle certificate or warrant of fitness

46. Given the Director has a specific role relating to regulatory safety, the current recall process raises questions as to whether it is appropriate that the Director should be reliant on the activities and priorities of a third-party regulator, to address a significant safety concern within the land transport system.
47. Where there is a significant risk in respect of a vehicle, clause 11.3(1) of the Vehicle Standards Compliance Rule provides the Director with the power to revoke a vehicle's evidence of vehicle inspection. This would mean it is illegal to drive that vehicle on a public road.
48. However, this power can only be actioned on an individual basis. In the event of a cyber attack targeting a large number of AVs, the Director would be required to individually revoke the CoF/WoF of each affected vehicle, which would take

considerable time to action and may not be adequately responsive to the gravity of the situation.

49. Furthermore, this power must be directly linked to an 'applicable requirement' set out in the Vehicle Standards Compliance Rule – that is, the power needs to link directly to a requirement of a CoF/WoF inspection.
50. There could be circumstances that are not prescribed in a rule, but that still represent a significant safety concern warranting regulatory action. This issue could become particularly salient as the rate of technological development further out-paces regulatory response.

Legislative support was needed repeatedly to provide regulatory relief for COVID-19 impacts

51. Throughout the course of 2020 and 2021, New Zealand experienced further lockdowns to curb the spread of COVID-19. Most of these restrictions were contained to particular regions (eg, Auckland in February 2021, Wellington in June 2021), with one national-level lockdown in August 2020 and again in August 2021. In response to the August 2021 national lockdown, the Director again wrote to the Ministry's Chief Executive requesting support to use legislative tools to provide regulatory relief to land transport document holders.
52. The Director advised that they thought the best approach would be one similar to that taken during the initial March 2020 lockdown, where an extension to land transport documents was provided by way of amendment rules and regulations.
53. As with the 2020 lockdown, this required two separate legislative processes via Orders in Council to extend the validity and provide certainty to land transport document holders.

What is the policy problem or opportunity?

54. There are limited powers that enable the Director to provide responsive regulatory relief during emergency events that impact the land transport system – a system which they are responsible for administering and monitoring. These limitations are largely legislative in nature:
 - a. Use of the section 162 emergency rule provision in the LTA, while consistent with the policy rationale (emergency response), has a threshold for making the rule set too high to apply to the issue of expired and expiring land transport documents.
 - b. The requirements for land transport documents are spread across primary and secondary legislation. This means there is no clear basis that empowers the Director to respond to issues impacting the effective administration of the land transport system during emergency situations.
 - c. The Director's ability to apply the driver licence extension power is limited by primary legislation requirements that the extension be only for one further period of up a year.
 - d. The Director's ability to exempt from requirements in regulations requires the regulation to be amended to specifically apply that exemption. Amending regulations can take considerable time and resource, which may be better used during an emergency event.

55. While the legislation does not specifically prohibit this, it does not make it clear that:

- a. a driver licence need not be 'current' in order to be eligible for an extension
- b. driver licence extensions do not need to be individually notified to each licence holder.

56. Data on the number of land transport documents that were expired, or due to expire, at the time of the August 2021 outbreak, is outlined in Table 2 below.

Table 2: Number of expired and expiring land transport documents at time of August 2021 outbreak

Document type	Number due to expire 17-31 August 2021
Driver licence	293,208
Motor vehicle licence (registration)	178,527
Certificates and Warrants of Fitness	178,502

57. The land transport regulatory system covers a significant proportion of the general population, across all ages, ethnicities, sexual orientations and genders. While transport inequities exist in terms of access to suitable transportation options, and the differences in price people may pay for transport services, there are no particular groups or populations within the cohort of people covered under the land transport regulatory system that are specifically impacted by this proposal.

58. Similarly, there are no particular Tiriti o Waitangi / Treaty of Waitangi issues relevant to this proposal. Broader changes to increase or improve the range of transport options or affect pricing are outside the scope of this policy issue.

Public feedback on policy direction

59. As a part of the wider consultation on proposals under the Regulatory System (Transport) Amendment Bill No 2 that took place in May-June 2022, the Ministry sought feedback on a high-level proposal to amend the Director's powers to provide more comprehensive regulatory relief during emergency and time-critical events. The proposal did not include specific options, but rather outlined the potential scope of these powers, and scenarios in which we anticipate they could be applied.

60. A number of questions to prompt consideration about the Director's powers were also included, such as whether consultees agree in principle to an extension of the Director's powers, and if there were any scenarios we had not considered where such powers may be usefully applied.

61. Feedback from consultation generally supported a review of the Director's powers to act during emergency and time-critical situations – particularly where there is a risk to safety. A number of submissions noted the importance of the system to be able to respond quickly when regulatory issues arise, adding that this contributes to the confidence that the industry and public have in Waka Kotahi and the wider system to respond to rapidly developing situations.

62. Submitters also noted that it would not be appropriate for the Director to have similar powers to that of a Minister, given the long-standing separation between elected Members of Parliament, and officials when it comes to accountability and oversight, and the need to ensure there are appropriate checks and balances on the use of

powers generally. Submitters, however, also recognised that it is important to distance these decisions away from the political sphere.

63. In respect to accountability and oversight concerns, one submitter suggested that powers similar to the airworthiness directives outlined in the Civil Aviation Bill could be appropriate, and another submitter suggested that the powers be temporary, perhaps with the need for the use of the powers to be 'approved' by another actor in the system. Another submitter suggested that a list of triggers for when it would be appropriate to use these powers as opposed to normal rule-making provisions is developed, to provide clarity as to the scope of their application.
64. The Ministry has considered this feedback when developing the options outlined later in this analysis.

This review has highlighted improvements that could be made to the Director's powers with respect to vehicle and vehicle product safety regulation

65. The Director has limited levers they can use to take action in respect of real or potential vehicle and vehicle product safety issues. This includes situations where an AV is the subject of a cyber attack or where there are faults with lithium-ion batteries in EVs. While the Director can revoke the CoF/WoF of an unsafe vehicle, the revocation can only be actioned on an individual basis, and must relate to a specified standard or compliance requirement set out in a rule.
66. Additionally, revocation of a CoF/WoF is a significant action to take, and may not be a proportionate response, particularly in circumstances where there is uncertainty as to the scope, scale or risk of the issue.
67. Vehicle and vehicle product safety issues could range from minimal (eg, a minor inconvenience or aesthetic issue) to more serious (eg, risk of serious injury, death or damage to property). In some instances, an issue might be serious enough to meet the threshold for the emergency rule function to be applied. However, until such situations arise, it is difficult to determine whether revoking a CoF or WoF, or making an emergency rule, would be appropriate.
68. In either case, there will still likely be an expectation of response by the appropriate regulatory agency. Therefore, it is important that the Director has a spectrum of powers that can be applied or tailored as the situation requires.

What objectives are sought in relation to the policy problem?

69. The proposals have four overarching objectives:
 - a. Enable the Director to provide comprehensive regulatory relief during emergency and time-critical events. That is, the powers enable the Director to do what they need to do to be responsive to an emergency or time-critical situation.
 - b. Provide improved transparency as to the scope and limits of the Director's powers. This means that the public and sector can easily identify what actions the Director is able to take in response to an emergency or time-critical event, and understand how that might impact them.
 - c. Ensure an appropriate level of accountability on the Director in the exercise of their powers. Regulatory systems require checks and balances on the application of power. Given the potential impacts the use of their powers may have on the

public and sector, it will be important to ensure the Director is not using their powers inappropriately.

- d. Ensure the safety of the land transport system. This means that as far as practicable, in applying these powers, the safety of the land transport system is not unduly compromised.

70. In principle, there are potential trade-offs between enabling the Director to provide comprehensive regulatory relief (i.e. ensuring the Director has suitably broad powers to act), ensuring a suitable level of accountability (i.e. that these powers are used appropriately), and ensuring that the safety of the land transport system is not compromised through use of these powers.

71. In general, the proposals manage this through ensuring that measures intended to enable the Director to provide comprehensive regulatory relief are exercised within a clear, transparent framework, and insofar as necessary to provide the type of regulatory relief required given the impact of the event and the duration of that impact. This includes building in checks and balances, and consideration of time-limited powers which are activated when an emergency event occurs.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

72. The criteria for assessment are:

- a. effectiveness – the degree to which the option will address the identified objectives
- b. responsiveness – the ability of the option to address the issues quickly
- c. acceptability – the degree to which the option is expected to be accepted or tolerated by the public, regulated parties, and other stakeholders
- d. safety – the ability of the option to preserve an acceptable level of safety in the land transport system.

73. These criteria directly relate to the objectives sought in relation to this problem.

Effectiveness and responsiveness speak to the first objective on enabling the Director to provide comprehensive regulatory relief. Acceptability relates to objectives around transparency and accountability, and safety relates to objective d., ensuring that any amendment to the Director's powers does not compromise safety.

What scope will options be considered within?

74. The proposals are categorised in two parts which are not mutually exclusive. The proposals under Part 1 provide options to address deficiencies in the Director's powers to provide regulatory relief to expired and expiring land transport documents only (as identified through the COVID-19 response):

- a. Option 1 proposals (1a – 1c) outline options to address the Director's powers to extend the term of expired or expiring driver licences.
- b. Option 2 proposals (2a – 2c) outline options to address the Director's powers to exempt a class of vehicles from requirements in regulation.

c. Option 3 provides a consolidated option to enable the Director to extend the term of all land transport documents during an emergency event.

75. One proposal each under options 1 and 2 can be progressed to address each limitation with the current powers (eg, option 1c with respect to driver licences, and option 2b with respect to granting exemptions from regulations).

76. Alternatively, option 3 provides a solution to address the limitations with respect to extending the term of driver licences, vehicle licences (registration) and vehicle CoFs/WoFs using one provision.

77. The remaining proposals (4a – 4d) provide options to enhance the Director’s powers in respect to vehicle and vehicle product safety.

78. A summary of all options discussed in this assessment are outlined below in Table 3.

Table 3: Summary of all options considered to amend Director’s powers

Part 1 options: addressing the deficiencies in the Director’s powers to provide regulatory relief to expired and expiring land transport documents only	
Addressing limitations with respect to extending the term of driver licences	
Option 1a Status quo / counterfactual	‘No action’ policy. Current arrangements continue where the Minister or Governor-General’s ordinary rule-making power are used to extend the term of driver licences to a specified date.
Option 1b Enable the Director to extend a driver licence more than once	<ul style="list-style-type: none"> This option would remove the provisions in the LTA and Driver Licensing Rule that restrict the number of times a driver licence can be extended, and allow extensions to be granted on a class (as opposed to individual) basis. Operational guidance would outline that an already expired licence can receive an extension, and the considerations to be taken into account when deciding whether to grant an extension.
Option 1c Introduce an emergency driver licence extension power for the Director	<ul style="list-style-type: none"> This power would sit alongside the current extension power the Director has. It differs in that it would be able to be applied to a class of licences, and would be activated when either a declaration of a national or local state of emergency has been made (under Civil Defence and Emergency Management legislation), an epidemic notice has been published (under Epidemic Preparedness legislation), or otherwise where the Director has the agreement of the Minister of Transport that there is a need to provide regulatory relief to a class of driver licence holders. Operational guidance or the legislation would outline that the power can be applied to already expired licences.
Addressing limitations with respect to granting exemptions from regulations	

<p>Option 2a Status quo / counterfactual</p>	<p>'No action' policy. Current arrangements continue where the Governor-General's regulation-making power is used to extend the term of motor vehicle licences.</p>
<p>Option 2b Remove limiting provisions to enable the Director to exempt from requirements in regulation</p>	<ul style="list-style-type: none"> • Under this option, the requirement that a regulation be amended through Order in Council to enable the Director to provide an exemption to that regulation would be removed. • This would mean that the Director would be able to exempt a class of motor vehicle from the requirement to have a motor vehicle licence (registration), without the need for Minister-level intervention. • Operation guidance could outline the considerations to be taken into account when deciding whether to grant an exemption to support the safe and consistent application of this power.
<p>Option 2c Amend each regulation to provide the Director with exemption powers</p>	<ul style="list-style-type: none"> • Under this option, the Ministry and Waka Kotahi would work to identify every regulation where there may be a need now, or in future, for the Director to grant an exemption from its requirements. • Each regulation would then be amended through Order in Council to insert a provision enabling the Director to grant exemptions from the requirements of that regulation. • As an example, this would mean that the Vehicle Registration Regulations would be amended to enable the Director to exempt a class of vehicles from the requirement to have a valid motor vehicle licence (registration).
<p>Option 3 Consolidated Part 1 option: address limitations in Director's powers in respect of extending the term of all land transport documents during emergency and time- critical events</p>	<ul style="list-style-type: none"> • This option addresses limitations in the Director's powers to extend the term of all land transport documents during emergency and time-critical events through creation of a new emergency power provision for the Director. • This power would be tied to a declaration of a national or local state of emergency being made (under Civil Defence and Emergency Management legislation), the publication of an epidemic notice (under Epidemic Preparedness legislation), or otherwise where the Director has the agreement of the Minister of Transport that there is an emergency impacting the land transport regulatory system. • Under this option, when a notice or declaration is in force, the Director will have the power to extend the term of any land transport document on a class basis.
<p>Part 2 options: enhancing Director's powers with respect to vehicle and vehicle product safety regulation</p>	

Option 4a Status quo / counterfactual	'No action' policy. Current arrangements managing vehicle and vehicle product safety would continue, where these issues are largely managed by MBIE and the Minister of Commerce and Consumer Affairs.
Option 4b Amend clause 11.3 of the Vehicle Standards Compliance Rule 2002 to enable the Director to revoke a class of vehicles' CoFs and WoFs	<ul style="list-style-type: none"> • This would enable the Director to revoke the CoF or WoF of a class of vehicles, on the basis of 'safety' requirements. • As this is significant regulatory action to take, the Director would be required to notify the Ministry's Chief Executive of their intention to revoke a class of vehicles' CoF or WoF, but would not be required to seek their approval. • If someone were to continue driving a vehicle with a revoked CoF or WoF, they would be liable for an infringement fee of \$200 under the Offences and Penalties Regulations. • Vehicle owners would be required to have the issue addressed before being issued a new CoF or WoF.
Option 4c Introduce a provision modelled off section 30A(2) of the LTA to require a vehicle or class of vehicles to present for inspection	<ul style="list-style-type: none"> • This would enable the Director to require any vehicle, or class of vehicle, to present for inspection by a specified date, if they have reason to believe the vehicle(s) does not meet 'safety' requirements. Notice could include details of the potential fault that needs to be assessed. • This requirement would be notified on the Motor Vehicle Register. Failure to present a vehicle for inspection in relation to a potential defect by the specified date could result in either the CoF or WoF for that vehicle being revoked, or being unable to renew a CoF or WoF at the vehicles next inspection.

79. In order to address the limitations of the Director's current powers with respect to extending land transport documents, as well as extend the Director's powers to vehicle and vehicle product safety, a combination of options would be needed (eg, progress options 1c, 2b and 4c; or options 3 and 4b).

What options are being considered?

Part 1: options to address deficiencies in the Director's current powers to provide regulatory relief to expired and expiring land transport documents

80. The following options would only address deficiencies in the Director's current powers to extend driver licences and exempt persons, and/or vehicles (or classes of persons, and/or vehicles) from requirements in regulations, such as the requirement to have motor vehicle licensing (registration) set out in the Vehicle Registration Regulations.

Addressing limitations in the Director's powers to extend driver licences

Option 1a – Status Quo / Counterfactual

81. This is a 'no action' option. When need arises, the Minister's ordinary rule-making power under section 152 of the LTA, or the Governor-General's ordinary rule-making powers (under section 152A), are used to provide regulatory relief.
82. The Ministry and Waka Kotahi work together to identify what changes are needed to address the situation, and the appropriate process for making those changes.

Analysis

83. Rule amendments are effective at providing regulatory relief, as the rule-making powers cover a broad scope of subject matter in land transport regulation. This means that amendments can be made to any land transport rule as needed. The status quo provides a high level of accountability, as the powers need to be exercised by the Minister and/or Governor-General.
84. However, the need to seek Ministerial or Governor-General approval means that it may not be the most responsive option compared to others identified in this assessment. Amending a rule necessarily takes time and resource from both agencies, the Governor-General, and Ministers.
85. This means the use of ordinary rules may not be the most appropriate vehicle in an emergency situation, where there is a need to act quickly, and where Ministers and the Governor-General may have more significant issues to attend to.

Option 1b – remove limiting provisions to enable the Director to extend driver licences more than once

86. This option would entail a minor and technical amendment to remove the limiting provisions in both the LTA and the Driver Licensing Rule, to:
 - a. enable a licence that has previously been granted an extension, to be extended again
 - b. allow the Director to apply an extension to a class of licences (including 'deemed licences'⁹), as opposed to on an individual basis.
87. Operational guidance could be developed to clarify that a licence need not be 'current' to be eligible for an extension, thereby allowing people whose licences have already expired to have their expiry date extended. Guidance could also include the considerations to be taken into account when deciding whether to grant an extension, including for those licence holders who already previously received an extension, or who may be required to undergo an eye test or medical assessment.

Analysis

88. The benefits of this approach compared with the status quo are increased responsiveness, and acceptability. This is because intervention from the Minister would not be required to enable extensions to licences that have previously received an extension, meaning licence holders would receive certainty over the validity of their driver licence on a faster timeframe than under the status quo.
89. The potential drawbacks of this option are reduced effectiveness, due to:

⁹ A 'deemed licence' is a category of overseas licence holders which enables them to drive in New Zealand. Ordinarily, overseas licence holders who enter New Zealand on a temporary visa are able to legally drive using their overseas licence for 12 months.

- a. reduced accountability, as the Minister would not be required to approve an extension to the term of licences previously extended
- b. reduced safety, as it could mean people who are required to have an eye test or medical assessment may not undergo these when they are due to, but are still able to legally drive. Relatedly, there is also a risk of over-use, as technically a person would be able to have their licence extended any number of times, as the legislation does not set a limit. A potential mitigation to these issues could be to develop guidance that sets out criteria to be met before deciding whether to grant a second or subsequent extension.

90. This option also has implications for how other jurisdictions perceive the New Zealand driver licensing system. If the system is seen to not be robust and of a good quality standard (as people are able to have their licence renewed without re-assessment), other jurisdictions may be less willing to accept International Driver Permits¹⁰ from New Zealand driver licence holders.

Option 1c – introduce an emergency driver licence extension power for the Director

91. This power would sit alongside the current extension power. It differs in that it would be able to be applied to a class of licences (including 'deemed licences'), and would be activated when:

- a. a national or local state of emergency has been declared, under the Civil Defence Emergency Management Act 2002 (the CDEM Act), or
- b. an epidemic notice is in force under the Epidemic Preparedness Act 2006, or
- c. where the Director has the Minister of Transport's agreement that there is a need to provide regulatory relief to a class of driver licence holders.

92. 'Emergency' is defined in section 4 of the CDEM Act, and covers a broad range of events, whether their causes are natural (eg, an earthquake) or otherwise (eg, technological failure). An epidemic notice requires the Prime Minister and the Minister of Health to be satisfied that the effects of an outbreak of a quarantinable disease are likely to disrupt or continue to disrupt essential governmental and business activity.

93. The Director would be required to assess the situation and consider whether there is a need to extend the expiry dates on licences of affected persons, either nationally, or of people in a particular region or district under the emergency declaration.

94. Operational guidance, or the legislative provision itself, could specify that the power can apply to already expired licences, and the notification requirements of the Director's decision. This could include publication of the notice in the Gazette, the website of Waka Kotahi, or individual notification to affected licence holders.

Analysis

95. The benefits of this option compared with the status quo include:

¹⁰ An International Driver Permit (IDP) is an internationally-recognised translation of a driver licence. The vast majority of jurisdictions accept IDPs from New Zealand licence-holders. An IDP is not a licence in its own right, so holders must also carry their actual driver licence while driver. IDPs are generally temporary, and may be valid up to a year in some jurisdictions.

- a. increased responsiveness and acceptability compared to the status quo. As with option 1b (remove limit on how many times a driver licence can be extended), the decision to extend driver licences would be made by the Director, without the need for the Minister's approval. This would likely decrease the time taken for an extension to a driver licence to be made, and licence-holders would receive certainty over the validity of their driver licence on a faster timeframe than if an Order in Council was required
 - b. improved effectiveness due to improved transparency, accountability and safety, as the power would be tied to a national or local emergency declaration being made, or otherwise with the Minister of Transport's agreement. The powers would be clearly set out in legislation, and the parameters for applying the extension power are tighter compared to option 1b. This means it is significantly less likely that the power is applied inappropriately, or that it is overused.
96. The key drawback of this option is that it only addresses limitations in the Director's powers to extend the term of driver licences. Separate legislative processes would need to be undertaken to provide relief in respect of other expired and expiring land transport documents. For example, progressing a class exemption from the requirement to hold a valid motor vehicle licence (registration), and CoF/WoF.

Addressing limitations in the Director's powers to exempt from requirements in regulations

97. Generally speaking, it is more preferable to extend the term of a land transport document than it is to exempt someone from the requirement to hold particular documentation. This is because it is safer to extend someone's authorisation to undertake a particular activity, than it is to exempt someone from needing to be authorised to undertake it.
98. However, as the Director has no powers to extend the term of motor vehicle licences or CoFs and WoFs, options were focused on how the Director's exemption power could be amended to provide improved regulatory relief.

Option 2a – Status Quo / Counterfactual

99. This is a 'no action' option. When need arises, the Governor-General's regulation-making power under section 167 of the LTA is applied to provide regulatory relief, as done during the COVID-19 response.
100. The Ministry and Waka Kotahi would work together to identify what changes are needed to provide regulatory relief to sector participants, and the appropriate vehicle for making those changes.

Analysis

101. Regulation amendments are effective at providing regulatory relief, as the Governor-General's regulation-making power covers a broad scope of subject matter in land transport regulation. This means that amendments can be made to any land transport regulation as needed.
102. This option also provides a high level of accountability, as the regulations need to be approved by the Governor-General on advice of the Executive Council. Consideration was given to preparing a draft Order in Council pre-emptively, before the need becomes immediate. However, the need to seek Executive Council approval means

that it will likely still take considerably more time to action than a power that is held at the agency-level.

103. Amending a regulation necessarily takes time, to ensure changes are worked through and supported by a robust case for change. This means this option may not be the most appropriate in an emergency or time-critical situation, where there is a need to act quickly and make considered decisions about the best use of resources.

Option 2b – remove limiting provisions to enable the Director to exempt from requirements in regulation

104. This option would entail minor and technical amendments to remove the limiting provisions in section 167 and 168D of the LTA. This would remove the need for a regulation to be amended via Order in Council to provide the Director with the power to exempt from a requirement of that regulation.

105. This means when need arises, the Director can issue an exemption immediately. For example, another lockdown occurs, and a large number of people have had their motor vehicle licence (registration) expire the Director would be able to exempt a class of vehicles from the requirement to have a current motor vehicle licence (registration).

106. As is currently the case with the Director's exemption power, the legislation could specify the notification requirements of the Director's decision, which could include publication in the Gazette, publication on the website of Waka Kotahi, and/or individual notification to affected vehicle owners, where appropriate.

107. Operational guidance could be used to outline considerations to be taken into account when deciding whether to grant an exemption, to support the safe and consistent application of this power. The application of this power would also be 'disallowable' by the Minister.

Analysis

108. Compared with the status quo, the key benefits of this approach include:

- a. improved responsiveness and acceptability, as the Director would be able to take action immediately to provide regulatory relief without the need for Ministerial intervention, and the public and stakeholders would gain certainty over the validity of their motor vehicle licence (registration) on a faster timeframe
- b. improved transparency of legislation, as it would be clear that the Director has the power to exempt a vehicle, or class of vehicles, from requirements in regulation.

109. However, there are a number of risks associated with this approach:

- a. during non-emergency times, the Director may become inundated with applications for exemption requests, where the basis of that exemption request is considered inappropriate by the Director or Waka Kotahi. This could result in resource being taken up with reviewing and responding to applications, that could be better used elsewhere. A potential mitigation to this risk could be to develop and publish guidance on the types of things exemptions are not (or not likely) to be granted for, to reduce the number of inappropriate applications
- b. similar to option 1b (remove limit on how many times a driver licence can be extended), this option would marginally reduce accountability as the Minister would not be required to approve the amendment to enable the Director to provide an exemption to that regulation. In theory, this could mean the Director's

application of the exemption power could go unchecked. However, there would continue to be the normal avenues for the Ministry to monitor the application of this power and raise any questions or queries with Waka Kotahi through the usual course of business.

Option 2c – amend each regulation to provide the Director with powers to exempt from that Regulation

110. This option would require identification of every regulation where there may be a need (now, or in future) for the Director to grant an exemption from its requirements.
111. Each identified regulation would then be amended through Order in Council, to insert a provision enabling the Director to exempt from the requirements of that regulation (either in full, or specified clauses of the regulation). For example, the Vehicle Registration Regulations would be amended to enable the Director to exempt a vehicle or class of vehicles from the requirement to have a valid motor vehicle licence (registration).
112. During ordinary times, people would still be required to request an exemption to a specific requirement from Waka Kotahi. During an emergency or time-critical event, the Director would be able to consider applying the power to a specified class of vehicles, if they believe on reasonable grounds that such an intervention is required to provide regulatory relief to vehicle owners.

Analysis

113. Compared with the status quo, the potential benefits of this option are improved responsiveness and acceptability. This is because it would remove the need for an Order in Council to amend a regulation to either provide the Director with the power to exempt from that regulation, meaning regulatory relief would likely be provided on a much faster timeframe.
114. Potential drawbacks of this option include:
 - a. the time this option would take to implement, as it would require review and analysis of each regulation made under the LTA to determine whether there may be a need to exempt from it during an emergency or time-critical situation
 - b. resource pressures on Waka Kotahi, should Waka Kotahi become inundated with numerous requests for exemptions that are not appropriate to grant, which they must consider and provide response to. As mentioned above, a potential mitigation to this risk could be to develop and publish guidance online on the types of things exemptions are not (or not likely) to be granted for, to reduce the number of inappropriate applications
 - c. decreased transparency, as the Director's powers to exempt from a regulation would be detailed in each specific regulation, as opposed to being available in one provision. A potential mitigation to this issue could be to make publicly available a list of the regulations where the Director has an exemption power
 - d. decreased accountability, as the Minister would not be required to approve regulation exemptions. A potential mitigation to this issue could be to provide retrospective updates to the Minister on exemptions granted and for what purpose.

115. This option likely delivers a similar level of safety as the status quo, as vehicle licences (registration) are not a road transport safety requirement, rather an administrative requirement.

Option 3 – consolidated Part 1 options – introduce emergency powers for the Director

116. Under this option, a new section would be inserted into the LTA outlining the emergency powers of the Director. These powers would include the ability to unilaterally extend the term of every land transport document (including 'deemed licences') for which the Director is responsible, when:

- a. A state of national or local emergency is declared (under the Civil Defence Emergency Management Act 2002), or
- b. An epidemic notice (under the Epidemic Preparedness Act 2006) is in force, or
- c. The Director has the agreement of the Minister of Transport that there is an emergency impacting the land transport regulatory system.

117. These powers would be separate to the Director's ordinary powers around granting extensions to driver licences, or exemptions to regulations.

118. Notice of the decision to extend the terms of land transport documents could be made through publication in the Gazette, and/or on the Waka Kotahi website. The notice could also clarify that the power applies to people whose driver licences, vehicle licences (registration), and/or CoF/WoFs expired within a specified time prior to the notice being issued.

Analysis

119. Compared with the status quo and other options considered under this part, this option is likely to be more effective due to:

- a. enabling the Director to provide comprehensive relief across all land transport documents they are responsible for, without the need for intervention at a Ministerial level
- b. the powers being more transparent, as they would be clearly set out and locatable in the LTA.
- c. maintaining safety in the system, as the powers would only be able to be used when there is a recognised need to use them
- d. maintaining accountability, as the power to declare a state of emergency or put in place an epidemic notice is at the Minister-level.

120. Responsiveness and acceptability are likely improved compared to the status quo, but on par with other options considered.

Part 2: options to enhance Director powers in respect to vehicle and vehicle product safety

121. The following options would provide the Director with improved powers to manage defects in vehicles and vehicle products that create significant safety concerns.

Option 4a: Status Quo

122. This option would see vehicle and vehicle product compulsory recalls continue to be largely managed by the Minister of Commerce and Consumer Affairs through MBIE's Product Safety team:

- a. MBIE would continue to engage Waka Kotahi on vehicle and vehicle product recalls as issues arise.
- b. Where Waka Kotahi recommends a compulsory product recall, Waka Kotahi would work with MBIE to establish which vehicles or vehicle products a recall should cover, what actions should be required of responsible parties (eg, importers, sellers, manufacturers), and what options for remedying the issue should be available to owners of affected vehicles.
- c. The Director could continue to write to vehicle manufactures, importers and/or distributors, and the Chief Executive of MBIE, requesting a voluntary or compulsory product recall notice be issued for a vehicle or vehicle product, or that a vehicle or vehicle product be declared 'unsafe'.

123. As is the case now, the Director would also be able to revoke individual CoFs/WoFs of a vehicle, if the Director believes on reasonable grounds that the defect relates to an 'applicable requirement', or that the CoF/WoF was issued on the basis of an incorrect determination.

Analysis

124. The key concern with the current recall process is that it is not particularly responsive. It can take many months from issue notification to a compulsory recall notice being enacted, as Waka Kotahi is required to work with MBIE to support them to understand the issue, and why a compulsory recall is advised.

125. In turn, MBIE needs to advise the Minister of Commerce and Consumer Affairs of the issue, its risks, and what an appropriate course of action would be. Once a recall is agreed to, the notice then needs to be drafted and provided to their Minister for approval.

126. This means that while the Director has overall responsibility for safety in the land transport system, they are reliant on the activities and priorities of another agency in order to take action to safeguard the system.

Option 4b – amend clause 11.3 of the Vehicle Standards Compliance Rule 2002 to enable the Director to revoke a class of vehicles' CoFs/WoFs

127. At present, this power can only be applied on an individual basis, and only allows for CoF/WoF revocation if the vehicle does not meet 'applicable requirements'. Under this option, clause 11.3 of the Vehicle Standards Rule would be amended to:

- a. provide the Director with a class CoF and WoF revocation power. This means that the Director would be able to unilaterally revoke the CoFs/WoFs for a class of vehicles
- b. cover 'safety requirements' (defined as an issue with a vehicle that is integral to the safe functioning of that vehicle, with the potential to cause injury or death, or damage to property) as opposed to the current wording of 'applicable requirements'. This would have the effect of allowing a CoF/WoF to be revoked on a broader basis, other than not meeting those requirements that are prescribed in regulation and assessed during a routine CoF/WoF check.
- c. require that the Ministry's Chief Executive is notified of the Director's intent to revoke a class of CoFs/WoFs. This would not require approval from the Ministry's Chief Executive, however given the gravity of this power and its implications for the public and sector, it is considered this requirement would

support the Ministry's monitoring role in ensuring the power is used appropriately.

128. If someone were to continue driving a vehicle that has had its CoF or WoF revoked, they would be liable for an infringement fee under the Land Transport (Offences and Penalties) Regulations 1999¹¹. This would deter a person from driving a potentially unsafe vehicle.

Analysis

129. Compared with the status quo, the key benefits of this approach are:

- e. Improved safety, as it would enable the Director remove unsafe vehicles from public roads
- f. Improved responsiveness, as the Director would be able to take action without the need for Minister intervention.

130. However, a potential drawback of this option is that this power may not be suitable in instances where there is only suspicion that a vehicle or class of vehicles are unsafe, or where there is uncertainty as to how severe or widespread a potential fault is.

131. As this power would prevent people from legally driving a particular vehicle, significant evidence would be required before applying the power, to ensure there is a robust case for justifying the revocation of CoFs and WoFs. It may not be a proportionate power to use, depending on the defect and supporting evidence.

132. Therefore, it may not be as acceptable to the public and stakeholders, given the implications the use of this power could have for them.

Option 4c – introduce a new provision modelled off section 30A(2) of the LTA to require a vehicle or class of vehicles to present for inspection

133. Under this option, the Director would have a new power to require any vehicle, or class of vehicles, to present for inspection, if the Director has reason to believe the vehicle(s) may not meet safety requirements.

134. To encourage owners of affected vehicles to present their vehicles for inspection, the vehicle's entry in the Motor Vehicle Register could have a note inserted stating that the vehicle is under an inspection notice, and that a CoF/WoF is not to be issued in respect of that vehicle, until the vehicle has been inspected in relation to a potential defect.

135. Many CoF/WoFs are issued on a 12-month basis. Therefore, there could be a significant delay between the Director issuing a notice, and action being taken by the vehicle owner. To address this risk, a further amendment could provide that if the vehicle is not presented for inspection by a specified date, then that is grounds to revoke the CoF/WoF.

136. This power could be applied on an individual, or class basis. Notification requirements could be outlined in the legislation, and include publication in the Gazette, on the

¹¹ The current infringement fee for operating a vehicle without displaying current evidence of vehicle inspection or certificate of loading (a CoF or WoF) is \$200 (for a motor vehicle that is not a heavy motor vehicle), or \$600 (for a heavy motor vehicle).

Waka Kotahi website, and/or via electronic service to the registered owners, where appropriate.

Analysis

137. This option presents a 'softer' lever than option 4b (introduce class CoF/WoF revocation power for the Director), as owners of affected vehicles would still legally be able to drive their vehicle, until the CoF/WoF expires or is revoked for not presenting the vehicle for inspection in time.

138. The benefits of this option include:

- a. the power's applicability when there is uncertainty as to how wide-spread an issue is (ie, how many vehicles are impacted), or its risks (including risks to safety)
- b. cohesiveness with the Product Safety powers set out in the FTA. This option could act as an initial investigation and evidence gathering step when a potential issue with a class of vehicles is first identified. This information could then be used to support MBIE preparing advice to the Minister of Commerce and Consumer Affairs on whether a compulsory recall is warranted.
- c. improved acceptability by the public and stakeholders, compared with option 4b (introduce class CoF/WoF revocation power for the Director). This is because it does not immediately render their vehicles illegal to drive while still being reasonably responsive to the prevailing circumstances
- d. marginal improvements to safety compared with the status quo, and option 4d (introduce vehicle product safety powers for the Director), as there would be a strong incentive for owners of affected vehicles to take action (as failure to do so would result in not being able to legally drive their vehicle).

139. This option would also increase alignment with the Director of Civil Aviation's powers under the Civil Aviation Bill with respect to 'Airworthiness directives' (outlined in clause 430¹²), and the Director of Maritime New Zealand's 'Inspection and audit' powers in the Maritime Transport Act 1994 (section 54¹³). This would support a more cohesive set of Director powers across transport modes and legislation.

140. A drawback of this option is that the potential revocation of a CoF/WoF may still be a significant step to take in response to a minor issue that does not impact safety. This issue could be mitigated by allowing the power to be tailored depending on the circumstances of its use.

141. For example, where the concern is in relation to safety, the Director may wish to further incentivise people to have their vehicles inspected by including a WoF/CoF revocation warning in the notice. In other instances where the issue is believed to be minor, the notice could omit this warning and just request that people have their vehicle inspected in relation to a potential minor defect.

¹² This clause enables the Director of Civil Aviation to issue a notice in respect of aircraft, or aeronautical products if the Director believes that they are unsafe.

¹³ This section enables the Director of Maritime New Zealand to require any holder of a maritime document, or anyone that operates, maintains, or services any ship or maritime product, to undergo or carry out an inspection.

Option 4d – introduce new vehicle and vehicle product safety powers for the Director, modelled off Part 3 of the FTA

142. This option would create new Director powers under the LTA for vehicle and vehicle product safety regulation. This would be based on the current Product Safety provisions outlined in Part 3 of the FTA, and could include:
- a. Powers based on section 29 of the FTA to declare products 'unsafe'. This would provide the Director with powers to declare a vehicle or vehicle product, or class of vehicles or vehicle products, as 'unsafe', where the Director has reason to believe a vehicle or vehicle product will or may cause injury to any person.
 - b. Duties based on section 31A of the FTA covering voluntary product recalls. This could include ensuring a copy of every notice of a voluntary recall is available to the public.
 - c. Powers based off section 32 of the FTA, with respect to compulsory product recalls. This would enable the Director to require a manufacturer, importer or supplier to take a specified action such as recalling, repairing or replacing the product, or disclosing to the public information relating to the safety of the product.

Analysis

143. This option is similar to the currently existing provision in section 155(1)(c) of the LTA with respect to the Minister's powers to make an ordinary rule providing for the recall of vehicles, or components or equipment of vehicles.
144. This proposed power would be broader than that outlined in section 155(1)(c), as it could be applied irrespective of whether there has been, or is suspected to have been, a breach of a rule. Additionally, the power would be actionable by the Director, as opposed to the Minister.
145. In recent years, there has been a trend of establishing recall powers within Agencies, as opposed to at the Ministerial level. This ensures action can be taken quickly in the event of unsafe products, and prevents the politicisation of safety issues.
146. Potential benefits of this option compared to the status quo include:
- a. improved responsiveness, as the decision to declare a product 'unsafe' or issue a compulsory recall is managed at the agency level
 - b. improved transparency as to the scope and limits of the Director's powers, as the powers would be clearly outlined in the LTA, as opposed to various regulations and rules, or legislation administered by another agency
 - c. increased alignment between the Director's statutory responsibilities (with respect to regulatory safety in the land transport system), and their ability to act on vehicle product safety issues
 - d. a recall notice could cover a broader array of 'vehicle' types (as defined in the LTA). This provision could be of use when product issues with micro-mobility modes arise, which occurred in 2021 with e-scooter batteries catching fire.

147. Potential drawbacks of this proposal include:

- a. that the recall power would continue to require a high level of evidence to be applied. This means it may not be suitable when it is unclear how significant or widespread an issue is. A potential mitigation could be to lower the threshold of

evidence required for a compulsory recall, however this would misalign land transport legislation with that of product safety, without clear justification

- b. the ability to issue a recall or declare a vehicle or vehicle product 'unsafe' will not, on its own, necessarily prompt vehicle owners to take action. People could continue to operate 'unsafe' vehicles, meaning little improvement to safety compared with the status quo. This could be mitigated by creating an offence for driving a vehicle that is under an 'unsafe' declaration, to incentivise compliance with the declaration.

148. This option would likely deliver a similar level of acceptability and safety as the status quo.

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How do the options compare to the status quo/counterfactual?

Part 1: options to address deficiencies in the Director’s current powers to provide regulatory relief to expired and expiring land transport documents

	Option 1a – status quo	Option 1b – remove limiting provisions on Director’s power to extend driver licences	Option 1c – introduce emergency driver licence extension power for the Director	Option 3 – introduce emergency powers for the Director in respect to land transport documents
Effectiveness	0	- this option would not support achievement of identified objectives regarding safety and accountability	+ this option supports achievement of identified objectives regarding transparency, accountability and safety	++ this option supports achievement of identified objectives regarding transparency, accountability, safety and enables the Director to provide comprehensive relief
Responsiveness	0	+ this option would provide for a faster response – Director can act immediately	+ this option would provide for a faster response – Director can act immediately	+ this option would provide for a faster response – Director can act immediately
Acceptability	0	+ this option would provide certainty to licence holders quickly	+ this option would provide certainty to licence holders quickly	+ this option would provide certainty to land transport document holders quickly
Safety	0	-- people may not undergo medical or eye assessments when required; risk of overuse	0 powers are time-limited or require approval from a second party (Ministry CE)	0 powers are time-limited or require approval from a second party (Ministry CE)
Overall assessment	0	-	+++	++++

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	Option 2a – status quo	Option 2b - remove limiting provisions on Director’s power to exempt from requirements in regulation	Option 2c – amend each regulation to provide Director exemption powers	Option 3 – introduce emergency powers for the Director in respect to land transport documents
Effectiveness	0	0 this option would enable the Director to provide relief and support transparency. Reduced safety and accountability.	+ this option would enable the Director to provide relief, and provides marginally increased transparency. Marginally decreased levels of accountability, and similar safety levels to status quo.	+ + this option supports achievement of identified objectives regarding transparency, safety and enabling the Director to provide comprehensive relief
Responsiveness	0	+ this option would provide for a faster response – Director can act immediately	+ this option would provide for a faster response – Director can act immediately	+ this option would provide for a faster response – Director can act immediately
Acceptability	0	+ this option would provide certainty to motor vehicle licence (registration) holders quickly	+ this option would provide certainty to motor vehicle licence (registration) holders quickly	+ this option would provide certainty to land transport document holders quickly
Safety	0	- - Waka Kotahi resource required to process exemption requests; reduced accountability and oversight of exemptions	0 vehicle licences (registration) are not a safety requirement	0 powers are time-limited or require approval from a second party (Ministry CE)
Overall assessment	0	0	++	++++

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Part 2: options to provide the Director with powers in respect to vehicle and vehicle product safety

	Option 4a – Status Quo	Option 4b – enable the Director to revoke a class of vehicles’ CoFs/WoFs	Option 4c – enable the Director to require a vehicle, or class of vehicles, to present for inspection	Option 4d – introduce new vehicle and vehicle product safety powers for the Director, modelled off product safety legislation
Effectiveness	0	0 this power is likely only applicable where there is strong evidence as to defect	+ this option supports achievement of identified objectives in respect to safety, and enabling the Director to take action in the face of uncertain evidence	0 this option supports achievement of identified objectives in respect to transparency. Similar level of safety to status quo. Potentially reduced accountability as minimal oversight
Responsiveness	0	0 significant evidence requirements likely needed to use powers	+ this option provides an action for the Director to take in the face of uncertain evidence	+ Director can issue recalls or declare products ‘unsafe’ likely on faster timeframe than Minister
Acceptability	0	- implications for system participants are significant, as cannot legally drive car	+ this option enables people to continue driving affected vehicles while more evidence is gathered	0 impacts on system participants unlikely to be different than current state
Safety	0	+ this option would enable the Director to immediately remove unsafe cars from public roads	+ strong incentive for people to have their vehicle inspected as otherwise CoF/WoF revoked, or cannot be renewed once expired	0 unlikely to be significantly changed compared to current state
Overall assessment	0	0	++++	+

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Key	
--	Much worse than doing nothing / status quo
-	Worse than doing nothing / status quo
0	About the same as doing nothing / status quo
+	Better than doing nothing / status quo
++	Much better than doing nothing / status quo

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What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

149. As outlined, a mixture of options would best address the problem. The preferred options of the Ministry and Waka Kotahi are:

- g. Option 3: introduce new emergency powers for the Director. This power will enable the Director to extend the term of any land transport document when there is a national or local declaration of emergency or an epidemic notice in force.
- h. Option 4c: introduce new power for the Director to require a class of vehicles to present for inspection. This power will enable the Director to require vehicles that have a potential defect to present for inspection. Where the defect concerns safety, the Director may choose to require the vehicles to present for inspection by a specified date, or risk having their CoF/WoF revoked.

150. Option 3 provides for a cohesive, transparent set of powers with clear parameters as to their scope, application, and time limitations. This option would directly address the policy problem of enabling the Director to provide responsive regulatory relief during emergency events that impact the land transport system, as it would outline these powers in one place, where they are easy to locate, and enable the Director to (temporarily) overcome limiting provisions in the legislation. As these powers would be outlined in the LTA, they would be able to override any contrary provisions set out in a rule or regulation.

151. Option 4c provides for powers similar to those of the respective Directors of Maritime New Zealand and the Civil Aviation Authority. It also introduces powers that are not as severe as that contemplated under the Emergency Rule provision, or 4b (amending clause 11.3 of the Vehicle Standards Compliance Rule), but that are more significant than the recall process provides for under the status quo (4a).

152. One of the key benefits of option 4c is that it could be used where there is a suspected safety fault or issue with a vehicle, however there is not enough evidence on how severe or widespread the issue is to warrant a compulsory recall action by the Minister of Commerce and Consumer Affairs.

153. However, there are strong arguments for progressing option 4b (amending class 11.3 of the Vehicle Standards Compliance Rule), along with options 3 and 4c.

154. At present, while the Director can revoke the CoF/WoF of a singular vehicle, they do not have the power to apply this to a class of vehicles. If the Director used the power outlined in 4c, and it was determined there was a very serious safety issue with respect to a class of vehicle, it may be useful to have the power to unilaterally revoke the CoF/WoFs for those affected vehicles.

155. This would enable a much more responsive timeframe than the recall process outlined under the FTA, and would more strongly disincentivise driving affected vehicles (due to the penalty associated with driving a vehicle that does not have a current CoF/WoF).

156. Therefore, the Ministry recommends progressing options 3, 4b and 4c together to ensure the Director has comprehensive powers during emergency and time-critical situations.

What are the marginal costs and benefits of the option?

157. There are no significant monetary or capital investments required to implement the preferred options. Waka Kotahi have advised that for an amendment such as that proposed through this assessment, their approach would be to announce the new powers and explain how and when they would be used through existing communication channels. This includes on the website of Waka Kotahi, stakeholder emails, newsletters and social media.

158. Any costs to inform and raise awareness would be small, and paid for from existing budgets. Key stakeholders would be identified and become the priority audience for communications, however communications would go wider to reach the public and key industry through media releases and articles in industry publications.

Section 3: Delivering an option

How will the new arrangements be implemented?

159. The amendments would be made through the Regulatory System (Transport) Amendment Bill No 2 (RSTA 2). RSTA 2 is anticipated to be introduced to the House in March 2023.

160. Waka Kotahi, specifically, the Director, would continue to be responsible for the ongoing administration of the land transport system. The Ministry would continue to support this role, through making legislative or regulatory changes as needed.

161. A key implementation consideration will be ensuring that the Director and their delegates understand the new powers, their scope and applications, and how the powers are activated.

162. Other system stakeholders outside of Waka Kotahi and the Ministry have a role in implementation of these new arrangements, such as New Zealand Police, driver licensing agents, CoF and WoF agents:

- a. As is the case now, New Zealand Police would be required to adhere to any regulatory notice, including any notice of an extension to the terms of land transport documents, and not penalise vehicle owners for expired documents with such a notice in place.
- b. Agents that issue CoFs and WoFs would be required to adhere to any notices relating to particular vehicles in the motor vehicle register. This includes not issuing a CoF or WoF if the vehicle inspection did not assess for a potential safety issue, as outlined in the notice.

163. These obligations on New Zealand Police and CoF/WoF agents are not far removed from their current obligations and responsibilities.

164. The Product Safety Team at MBIE would continue to advise the Minister of Commerce and Consumer Affairs on compulsory recall actions and unsafe product declarations. The ability of the Director to require vehicles to present for inspection would sit alongside the recall powers. In some cases, it could potentially act as an initial step while more evidence is gathered to support issuance of a compulsory recall. Engagement with this team may be useful in explaining the new power and how it might help them in their work.

165. The Minister of Transport would continue to have powers to make ordinary rules with respect to the recall of a vehicle(s) or vehicle product that does not meet a requirement specified in a rule.

166. It is anticipated the Director will receive ad-hoc support in applying their new powers from pre-existing resource at Waka Kotahi. Over time, should the number of emergency or time-critical events increase in frequency, Waka Kotahi may wish to consider additional support for the Director in this role on a more permanent basis. The cost implications of doing so would need to be determined at that point in time, through assessment of how much additional FTE is needed and what skills or subject matter expertise is required.

167. As these powers are not out of scope of what the Director can currently do, the key risk is that people do not understand the scope and application of these powers. Consideration would need to be had as to the best way to communicate changes to the wider public, including where they can obtain information regarding any extension notices in play, or whether their vehicle is required to present for inspection. This could include outlining how vehicle owners would be notified of a requirement or change.

Option 3 implementation considerations (introduce new emergency powers for the Director)

168. Consideration will be needed with respect to marginal cases. For example, how the risks of an extension power with respect to older drivers and drivers with medical conditions may be monitored and managed, should these drivers receive an emergency extension to their driver licence. These considerations could be addressed through operational guidance.

Option 4c implementation considerations (introduce new power to require a vehicle or class of vehicles to present for inspection)

169. Additional work will be needed as to what the contents of a regulatory notice under this option would look like, and the development of guidance to key sector stakeholders (eg, CoF and WoF agents) on what the changes mean for them.

Option 4b implementation considerations (amend clause 11.3 of the Vehicle Standards Compliance Rule 2002 to enable the Director to revoke a class of vehicles' CoFs/WoFs)

170. Implementation considerations under this option include the potential development of operational guidance to inform what level and types of evidence would be needed to justify use of this power. This could include the development of guidance to key sector stakeholders (eg, CoF and WoF agents) on what the changes mean for them.

How will the new arrangements be monitored, evaluated, and reviewed?

171. The Minister of Transport has overall accountability for the performance of Waka Kotahi. The Waka Kotahi Board's role is primarily to govern Waka Kotahi effectively, and to keep the Minister informed of any potential issues.

172. The Ministry's assists the Minister to carry out their role, through the administering of legislation and tendering of advice to the Minister.

Option 3 (introduce Director emergency powers) potential monitoring arrangements

173. Monitoring the application of these powers could form a part of the Ministry's monitoring function of Waka Kotahi. An additional section could be added to the monitoring report which requires Waka Kotahi to state whether the Director's emergency powers have been used over the reporting period. If they have, the reporting could expand into more detail as to the purpose, impact and effect the use of the powers had on the system, to determine whether the provisions were able to successfully provide regulatory relief.

174. Monitoring could also take a similar approach as during the COVID-19 Rule periods, where information was monitored through data capture and continued to be monitored after the COVID-19 Rules expired to understand the impacts the rule amendments had on the system.

175. As this power is tied to a declaration of national or local emergency, the use of these powers is constrained. The Minister would retain the power to disallow any notice given under these powers.

Option 4c (introduce Director vehicle class inspection powers) monitoring arrangements

176. The Board of Waka Kotahi has a specific role in overseeing the performance of the Director, including by ensuring that the Director performs efficiently and effectively. The use of this power could be monitored in the same way the Director's exemption power under section 168D of the LTA is monitored. This includes keeping a record of instances where this power is used, its purpose (why was it used) and scope (how broadly does it apply).

177. The Minister would retain the ability to disallow any notice issued under this power.

Option 4b (introduce Director CoF/WoF class revocation power) potential monitoring arrangements

178. A legislative requirement that the Director notify the Ministry of their intent to use this power would support the Ministry in its monitoring role.

179. Should the Minister disagree with the application of this power, any notice issued under these powers would be disallowable by the Minister.

Regulatory Impact Statement: proposed changes to penalty levels in the Maritime space

Purpose of Document	
Decision sought:	<p>This analysis is produced to inform Cabinet on the potential options to address structural gaps in the <i>Marine Protection (Offences) Regulations 1998</i>, and the <i>Maritime (Offences) Regulations 1998</i>, and update penalty levels in the <i>Maritime Transport Act 1994</i>. Options proposed include:</p> <ul style="list-style-type: none"> • creating offences and penalties to fill gaps in the regulations; • using the Effective Financial Penalties Policy Framework and Categorisation Tool to amend and create new penalties; • amending the penalties in line with inflation; or • maintaining the penalties at current levels. <p>Changes to the the <i>Marine Protection (Offences) Regulations 1998</i>, and the <i>Maritime (Offences) Regulations 1998</i> (the Regulations) are proposed in conjunction with changes in the <i>Maritime Transport Act 1994</i> (MTA) through the Regulatory Systems (Transport) Amendment Bill No. 2.</p>
Advising agencies:	Te Manatū Waka Ministry of Transport / Maritime New Zealand
Proposing Ministers:	Minister of Transport
Date finalised:	13 July 2022
Problem Definition	
<p>Te Manatū Waka Ministry of Transport’s analysis has shown that our Maritime Regulations are no longer fit for purpose, with offences and penalties that are missing or misaligned with other legislation. Breaches of some of the maritime Rules, which the Regulations enforce, currently have no consequences either financial or otherwise. A secondary problem exists with the penalty levels in the Regulations and in parts of the MTA. Current penalty levels were set in the 1990s and have remained unchanged. As a result, these penalty levels no longer align with the level of potential harm, do not act as an effective deterrent to unlawful behaviour, and do not allow Aotearoa-New Zealand to fully meet its international obligations.</p>	
Executive Summary	
<p>The Maritime Transport Act 1994 (MTA) uses offences and financial penalties as parts of a suite of tools to drive compliance within Aotearoa-New Zealand’s maritime transport regulatory system.</p> <p>Financial penalties (infringement fees and fines) support the transport system by encouraging positive and responding to negative behaviour (particularly of a more serious</p>	

nature). Infringement fees provide an intermediate step between education and prosecution that allow regulatory agencies discretion in their enforcement approaches.

Te Manatū Waka - Ministry of Transport (the Ministry) has a statutory regulatory stewardship role set out in Section (12)(1)(e)(v) of the Public Service Act 2020, which states the public service principles are:

- (e) to proactively promote stewardship of the public service, including of—
- (v) the legislation administered by agencies.

The Ministry undertook a regulatory stewardship assessment of a selection of the offences and penalties in the Regulations, prompted by operational feedback from Maritime NZ. Following this, some offences and penalties in the MTA were considered (at the request of the Minister).

The focus of the review was to align the Regulations with international treaties. Aotearoa-New Zealand, as party to various international treaties, is required to establish the maritime rules and marine protection rules (the Rules) to fulfil its obligations under international law.

Some treaties were signed before the current Regulations came into place but have subsequently been updated. Other treaties have been adopted since the Regulations were enacted. The rules programme is delivered by Maritime NZ with guidance on policy and prioritisation from the Ministry. As part of this delivery work, Maritime NZ is responsible for monitoring amendments to international treaties that Aotearoa-New Zealand has acceded to and ensuring that our maritime rules reflect our treaty obligations.

The Regulations set out the offences and subsequent penalties for breaching requirements set out in the Rules. The Rules currently have 285 provisions with an associated offence and penalty in the Regulations.

During the review we identified provisions in the Rules (for example provisions under part 19 and part 300) that do not have an associated offence or penalty in the Regulations. Other offences have become dissociated with the corresponding rules as the rules have been updated independently of the Regulations, misaligning the offences with the corresponding rule. 92 provisions were classed as a high priority for rectification, given that they had the largest enforcement gaps. Lower priority gaps will be addressed separately.

Applying the Effective Transport Financial Penalties Policy Framework and Categorisation Tool

After the initial review of the Regulations, we reviewed their penalty levels. We applied the Effective Transport Financial Penalties Policy Framework (the Framework) and Categorisation Tool (the Tool) to set the penalty levels for the 92 new penalties. Most of the existing penalties in the Regulations were set in the 1990s and have not been updated since. We also assessed current penalty levels using the Tool to ensure alignment between related penalties.

The Framework and the Tool provide the Ministry with a systematic approach to address problems with financial penalties across the transport system. The Framework has undergone a comprehensive policy development process over more than two years.

The Framework supports reviewing existing and setting new financial penalties in transport legislation. It leads to penalties that are better aligned to levels of harm and more

consistent across transport modes, as well as with other relevant regulatory regimes. The Framework determines financial penalty levels with consideration given to four effectiveness principles; these are:

- responding to an offence's severity
- acting as a deterrent to undesirable behaviour
- proportionality
- considering the responsibilities and financial capacity of the person or entity in the system

The Tool supports the Ministry and transport regulatory agencies to effectively implement the Framework. The Tool outlines a stepped process to:

- categorise financial penalties according to the Framework principles
- assign penalty levels by points 'earned' under the different criteria

The eventual long-term outcome is that every financial penalty in the transport regulatory system will have a common connecting factor and be consistent across all transport modes. This is in line with the Ministry's regulatory stewardship role.

The Framework and Tool are outlined in more detail in the Option 2 analysis section.

MTA penalties

Once we reviewed the Regulations offences and penalties, we were directed by the Minister of Transport to review the offences and penalties set out in sections 64 to 67B in the MTA. These represent some of the most serious offences in the MTA and so have been dealt with in this first instance. Other offences in the MTA will be reviewed during the recently begun comprehensive review of the MTA.

The current penalty level for these offences is a maximum fine for an individual of \$10,000 and a maximum fine for a body corporate of \$100,000. These offences are well below penalty levels applied for similar offending in more modern legislation such as the Health and Safety at Work Act 2015 (HSWA).

The different levels of financial penalties under the MTA and HSWA are creating enforcement challenges. Maritime NZ enforces the HSWA and its associated regulations for work on board ships, and where New Zealand ships are places of work. However, the HSWA does not apply to non-commercial vessels or the management of a foreign vessel. This means that maritime safety breaches by non-commercial (recreational) operators and foreign operators in Aotearoa-New Zealand must be prosecuted under the MTA, which applies to all ships (including commercial New Zealand ships) operating in NZ waters.

The 2020 court case against China Navigation Company PTE Limited (discussed in detail further below) highlighted this misalignment between the MTA and HSWA's maximum penalties. In this case, Maritime NZ elected to prosecute the stevedoring company involved in the incident under the HSWA, as the HSWA provided more effective penalties than the MTA.

Options Considered

This paper will consider four options.

Option 1: The status quo

This option would leave the safety offences in the MTA unchanged and misaligned with HSWA. Structural gaps in the Regulations would remain. Penalties would remain at their current levels, which were set in the 1990s. This approach would not allow the Ministry to effectively enforce compliance and deter undesirable behaviour. It would also mean that Aotearoa-New Zealand's maritime regulatory system does not adequately uphold its international obligations.

Option 2: Address gaps, applying the Framework and Tool to update penalties

This option would update the MTA safety offences levels and address the structural gaps in the Regulations via the RSTA 2 Bill, adding 92 new penalties where they are absent. Some penalties would be renumbered and/or renamed where changes to the rules since the Regulations were promulgated. This option would ensure our international obligations are faithfully reflected in our compliance regime. Penalties would be set using the Framework and Tool. This is a more nuanced approach and would allow us to consider multiple factors when setting penalty levels.

Option 3: Address gaps and adjust penalties for inflation

This option would address the structural gaps in the Regulations and set or adjust penalties in the Regulations and the MTA safety offences in line with inflation, using the Reserve Bank's Inflation Calculator Tool. This approach would not take into account other factors, such as equity, proportionality, or current best regulatory best practice, when setting penalty levels. Penalty levels in the MTA would be adjusted for inflation under this option.

Option 4: Apply penalties to new offences at 1994 levels

This option would address the structural gaps in the Regulations, setting new penalties in line with the 1994 penalty levels. Safety offences in the MTA would remain unchanged.

The Preferred Option

The preferred option is **Option 2**. Option 2 ensures Aotearoa-New Zealand's compliance regime reflects our international treaty obligations. It also ensures penalties which respond to the offences' severity, act as deterrents to undesirable behaviour, consider proportionality, and take into account the responsibilities and financial capacity of the person or entity in the system.

The scale of this problem for the Regulations is hard to assess given that it is difficult to calculate the effects of not having penalties. It is easier for the MTA penalties. The MTA penalties were designed to deter high-impact rare events, such as major safety breaches resulting in injury, death, or major pollution incidents. It is possible that the relatively low penalties compared with equivalent safety regulation such as HSWA are not sufficient disincentives for foreign flagged vessels to uphold the regulations.

In lieu of specific maritime data, we have used the Framework and Tool to set proposed penalty levels, to reduce the level of risk in the maritime transport system. This accounts for multiple factors which are not included in Option 4. Only basing the updated penalties on existing penalties could lead to ineffective penalties, and in extremis, regulatory failure. Option 3 likewise, while adjusting for inflation, would not address whether the original penalty levels were appropriate. Option 2 allows for a more holistic approach that accounts for multiple risk factors. It also aligns penalty levels with other relevant legislation, such as HSWA for the MTA penalties.

While the technical and highly specialised nature of the Maritime Rules makes it harder to quantify the potential revenue derived from the new penalties, the increased penalties will more effectively deter undesirable behaviour in the maritime transport system. These

proposals are targeted towards international and/or large shipping vessels and commercial operators, rather than recreational boat users or smaller commercial operators. Given that we are moving towards harmonisation with international standards (and most large commercial operators uphold these standards) the impact on stakeholders should be relatively minor and non-controversial.

Stakeholders and the General Public Views

Consultation on the proposals yielded six submissions. One submission, on behalf of the New Zealand Federation of Commercial Fishermen opposed changes to financial penalties in the Regulations but supported changes to the MTA-level penalties and filling the gaps in the Regulations. The other submitters, representing local government and commercial shipping supported the changes. Officials met via Zoom with one peak body representing commercial shipping. This group did not wish to discuss the proposals relating to offences and penalties and supported the changes.

Specific objections to increasing the maximum level of fines and fees related to the small size of many fishing companies – often owner-operators operating in a company structure. Smaller operators, the submitter claimed, would be penalised at the same level as large companies despite effectively operating as individuals. The submitter did not comment on the differentiation between specially regulated individuals and companies.

Limitations and Constraints on Analysis

Lack of Demographic Data

There is no demographic data available on current infringement notices. This makes it hard to evidence whether the changes to penalties would disproportionately affect some demographic groups. However, as outlined in the section above, the penalties are most likely to fall on commercial maritime entities registered overseas, or companies, or individuals who are in breach of Maritime related bylaws. Due to lack of data, and because the Regulations are creating new penalties, it is hard to attribute specific domestic commercial entities that that these proposals may affect. It is possible that noncompliant fishing vessel owners or masters may be most affected. If these proposals are realised, we will undertake to analyse any trends in fines that are issued as part of our regulatory stewardship work programme.

Issues at Consultation

When consulting on the proposed new penalty levels, we were constrained by the lack of submissions. Of the six submissions, three were from regional councils, one was from a harbour master, the remaining two from peak bodies representing small fishermen and coastal shipping. There were no individual submissions, or submissions from marine transport or recreational boaters.

No submitters submitted on individual penalties. One submitter opposed changes to the Regulations and the maximum level for fines.

Scope of RIS limited to Penalties Review

Non-financial enforcement options, such as education, licence revocation and prosecution, are not covered by this RIS. This paper will not discuss the appropriateness of financial penalties as a regulatory tool. It will focus on ensuring structural issues with the

Regulations and the updated penalties are fit for purpose within Aotearoa-New Zealand's broader regulatory system. Other penalties will be looked at separately during a review of the MTA which is currently scoping.

Responsible Manager(s) (completed by relevant manager)

Megan Moffet

Manager

Regulatory Policy

Ministry of Transport



31/08/2022

Quality Assurance (completed by QA panel)

Reviewing Agency: The Ministry of Transport

Panel Assessment & Comment: [enter text here]

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

The maritime domain in Aotearoa-New Zealand is complex and diverse, and the maritime industry is a major contributor to, and enabler of, the national economy

As an island nation distant from its markets, Aotearoa-New Zealand is almost totally reliant on efficient international shipping for imports and exports. Around 1000 different international ships enter Aotearoa-New Zealand waters each year making nearly 2,750 voyages and around 5,000-6,000 port calls.¹ Ships visiting Aotearoa-New Zealand include bulk carriers, container ships, oil tankers, vehicle carriers and cruise ships. The domestic coastal shipping sector is made up of 11 NZ flagged vessels (ferries, bulk cement carriers, tankers, dredgers, containerships), and two foreign flagged Cook Strait ferries, which carry approximately four million tonnes of freight per annum around Aotearoa-New Zealand.²

The maritime sector is a high-risk environment. Activities that take place in the maritime transport system and marine environment involve safety, security, and environmental hazards. Government regulatory intervention is necessary to:

- ensure that members of the maritime community take account of all hazards and risks and protect themselves, others, and the environment
- uphold international conventions Aotearoa-New Zealand is party to

¹ Maritime New Zealand, *Briefing to incoming Minister*, November 2020, pg 18.

² *ibid.*

The maritime transport regulatory framework is underpinned by domestic policy, legislation and international obligations

The Maritime Transport Act (MTA) is the primary legislation for the regulation of maritime safety and the protection of the marine environment. The MTA sets out the broad policy, while maritime Rules provide the detailed requirements for compliance with the MTA.

The maritime rules are largely based on Aotearoa-New Zealand's obligations under international conventions establishing obligations for the safety of life at sea, seafarer competency standards, requirements for ships, and prevention of pollution. These include: the *Convention for the Safety of Life at Sea 1974* (SOLAS), the *International Convention on Load Lines 1966*, the *Convention on the International Regulations for Preventing Collisions at Sea 1972*, the *International Convention for the Prevention of Pollution from Ships 1973* (MARPOL) and its annexes, and the *International Convention for the Control and Management of Ships' Ballast Water and Sediments 2004*.

Maritime New Zealand (Maritime NZ) is the primary regulator under the MTA. Other regulators include local authorities who appoint harbourmasters. Maritime NZ operates under the VADE model of regulation. The VADE (voluntary, assisted, directed, enforced) model assumes that most maritime participants want to comply with the rules set out under the MTA, and only a small minority choose not to comply. Under this model, a number of graduated steps are taken before an offender receives a penalty.

The offences in the MTA, and the Regulations made under it, are enforcement mechanisms for the maritime Rules. The *Marine Protection (Offences) Regulations 1998* and the *Maritime (Offences) Regulations 1998* (together the Regulations) create infringement offences. Using infringement notices/fees to deter lower-level offending is a standard practice in compliance regimes, both internationally and in Aotearoa-New Zealand.

Infringement notices are appropriate for addressing breaches of the maritime rules that are of relatively low seriousness and involve straightforward issues of fact under the 'enforced' component of the VADE model. Infringement notices and fees bridge the gap between interventions such as warnings and prosecutions.

At the other end of the spectrum, the offences in sections 64 to 67B in the MTA constitute the most serious maritime offences and relate to serious safety breaches. The offences in sections 64 to 67B of the MTA apply to domestic vessels, but also represent the main offences for ships not regarded as workplaces under the *Health and Safety at Work Act 2015* (HSWA). These ships are foreign flagged vessels operating in Aotearoa-New Zealand.

Maritime NZ is a designated agency under section 191 of HSWA. Maritime NZ performs all the functions and exercises all the powers of the regulator under the Act, regarding work on board Aotearoa-New Zealand flagged ships (previously undertaken by Worksafe). Maritime NZ therefore regulates some vessels under two regimes that partially, but do not completely, overlap.

Offences and penalties within the maritime transport regulatory framework have not been maintained appropriately

The MTA offences are largely unchanged from 1994, when the MTA was enacted, excluding section 67A and 67B, which was inserted in 2013.

The Regulations have been in place for over 20 years with one non-technical amendment to the Maritime (Offences) Regulations in 2003 and non-technical amendments to the Marine

Protection (Offences) Regulations made in 2005 and 2006. These amendments were usually in response to changes to a single maritime rule.

The age and lack of maintenance of this aspect of the maritime transport regulatory framework has led to the issues outlined in the problem section below.

Previous Regulatory Impact Assessments

The last time the penalties set out in the Regulations went through a regulatory impact assessment (RIA) was in 1998, when the Regulations were created. The RIA dealt with the safety-critical nature of certain maritime rules, and the need to successfully regulate maritime activity. The outcome of the RIA was the creation of regulations prescribing offences for breaches of certain maritime rules and setting the level of fines that may be imposed for the breaches. At the time, the analysis was unable to account for the likely level of offending due to a lack of data. Since 1998, changes in regulatory practice, as well as inflation mean that the penalty levels no longer effectively disincentivise the behaviours they were designed to deter. In some areas, the Regulations are also misaligned with international treaty obligations that Aotearoa-New Zealand is party to.

The MTA preceded the introduction of Regulatory Impact Statements, as it predated the RIA system.

There are links to other work programmes

The Ministry has developed the Effective Transport Financial Penalties Policy Framework and Categorisation Tool to ensure consistency and appropriateness of penalties within the transport regulatory regimes that the Ministry oversees.

The Framework and the Tool³ provide the Ministry with a systematic approach to address problems with financial penalties across the transport system. The Framework has undergone a comprehensive policy development process over more than two years.

The Framework supports reviewing existing, and setting new, financial penalties in transport legislation. It enables penalties that are better aligned to levels of harm and more consistent across transport modes, as well as with other relevant, modern, regulatory regimes. The Framework involves a process to determine financial penalty levels based on considering four effectiveness principles, these are:

- responding to the offence's severity
- acting as a deterrent to undesirable behaviour
- proportionality
- considering the responsibilities and financial capacity of the person or entity in the system

The Tool supports the Ministry and transport regulatory agencies to effectively implement the Framework. The Tool outlines a stepped process to:

- categorise financial penalties according to the Framework principles
- assign penalty levels by points

The eventual long-term outcome will be that every financial penalty in the transport regulatory system will have a common connecting factor and be consistent across all

³ <https://www.transport.govt.nz/assets/Uploads/Effective-Transport-Financial-Penalties-QA-May-2022.pdf>

transport modes. This is in line with the Ministry's regulatory stewardship role set out under section 12 of the *Public Service Act 2020*.

The Framework and Tool are outlined in more detail in the option 2 analysis section.

The Ministry has used the Framework and Tool to inform proposed penalty levels for the Road Safety Penalties Review, for some serious offences in the Civil Aviation Bill, and a series of lower-level offences in Civil Aviation. Using the Framework and Tool in different maritime, aviation and land contexts demonstrates the Ministry's consistent, evidenced approach to reviewing penalties, and our confidence in the robustness of the Framework and Tool.

What is the policy problem or opportunity?

Nature of the problem

Regulations

The Regulations set out the offences and subsequent penalties for breaching requirements set out in the Rules. The Regulations are made under the Act by the Governor-General, subject to the limits set out in the empowering provisions, and are a form of secondary legislation. The Rules are made by the Minister, and are a form of secondary legislation. Rules are used for minor and technical regulations in the maritime transport sector, whilst offences in the Act are for more severe offences, and often attract more severe penalties.

The Rules currently have 285 provisions with an associated offence and penalty in the Regulations. The regulator, Maritime NZ, asked for a review of the Regulations as it was no longer able to use the infringement regime as intended when the MTA was passed in 1994 as many rules had no associated infringements.

The focus of the review was to identify any inconsistencies or gaps in the Regulations and propose solutions. While the majority of rules have related infringement offences, breaches of some rules effectively have no consequences (for example provisions under Part 19 and Part 300 had no penalties). There are also anomalies where the Regulations refer to revoked rules or where cross references do not correspond to the correct rule provision. This meant for many rules Maritime NZ lacked an intermediate step between prosecution and warning for lower-level offending.

A secondary objective of the review was to ensure the Regulations fulfilled Aotearoa-New Zealand's obligations under international maritime conventions. Some conventions were signed before the Regulations came into place but have subsequently been updated. Other treaties have been adopted since the Regulations were enacted. These changes to the regulatory system were the primary causes of the misalignment and gaps in the Regulations.

During the review Maritime NZ identified 92 provisions as high priority for rectification, which had no penalties assigned to them at all. Lower priority gaps will be addressed separately.

Once the review identified the gaps in the Regulations, proposed penalty levels needed to be set. As outlined above, the current penalty levels were set in the 1990s and have remained unchanged.

Our analysis using the Framework and Tool showed that duplicating the existing penalty levels for the new offences would simply perpetuate a set of ossified penalties within the maritime transport sector. Our analysis also indicated the current penalty levels, many of which Maritime NZ identified as out of date, would only become less effective deterrents as

time goes on. This will be exacerbated by inflation and could (and arguably has) led to regulatory obsolescence. Under our regulatory stewardship obligations, the Ministry is responsible for ensuring that penalties are applied in a clear, evidenced, and effective way across all transport modes, and this exercise offered an opportunity to do this in relation to maritime penalties.

Maritime Transport Act safety penalties are not in line with equivalent HSWA regime

In 2020, the Tauranga District Court fined Singapore-based China Navigation Company PTE Limited \$24,000 and ordered it to pay reparations of \$30,000 after a stevedore was seriously injured when he fell from one of the company's ships in Tauranga.

China Navigation was charged under the MTA, which prohibits “dangerous activity involving ships or maritime products” (section 65). The company pleaded guilty.

The Court noted the maximum penalty for this offence is \$100,000 under the MTA, in contrast to \$1.5 million under the HSWA. An overseas shipping company cannot be charged under the HSWA. However, Maritime NZ elected to also prosecute the stevedoring company involved in the incident under the HSWA, as the HSWA provided more effective penalties than the MTA.

In light of this difference, the Ministry also reviewed the penalty amounts in the MTA safety offences using the Framework and Tool. The intent of the review was to remove the misalignment between the MTA and the HSWA.

Scope of the problem

The scope of this policy issue is relatively narrow, focussing on gaps in the Regulations and disparity between offences and penalties set out in sections 64 to 67B in the MTA and corresponding offences in the HSWA.

Scale of the problem

The scale of the policy problem is hard to assess given that the penalties in the Regulations are intended for offending that is serious enough to warrant enforcement action but not so serious that prosecution is required. For Rules without associated penalties it is difficult to determine the effect of not having a penalty, however where there is no existing penalty there is no disincentive for disregarding rules.

The MTA penalties (which require a prosecution) are intended to deter high-impact rare events, such as major safety breaches resulting in injury, death or major pollution events. As outlined in the original RIA for the Regulations, not having significant penalties for these offences would make them ineffective deterrents and could lead to a major maritime incident.

As alluded to above, the enactment of the HSWA in 2015 created a severe disparity between the safety offences in the MTA and the HSWA, meaning prosecutions for safety offences under the MTA would have different outcomes when compared to similar offences prosecuted under the HSWA.

Since 1994, there have been 186 prosecutions under sections 64–67B of the MTA. Forty-seven of these have been made since January 2015. S65A and 67A are more likely to be used against foreign-flagged vessels, although section 65 was used in the case referred to above. It is possible that the disparity between the penalty levels in the MTA and HSWA have the perverse effect that the MTA penalties are considered to be a cost of doing business by foreign ship owners, given their relative leniency and low potential cost.

The purpose of the RSTA is to make moderate-impact improvements to transport legislation to clarify regulatory roles, responsibilities, and requirements in the regulatory system; to maintain safety through responsive regulatory action; and address inconsistencies, improve system efficiencies, and remove duplication. As such, we do not expect the impact of these penalty level adjustments to be controversial or far-reaching, not least given that part of this

work is to implement international standards which are already in place in many Port States. Instead, they form part of our regulatory stewardship work plan, which includes routine reviews of penalty levels across the transport system in line with our obligations under the *Public Service Act 2020*. This is reflected in the low number of responses to our consultation on these proposals (six).

Stakeholders

The proposed changes apply to one Part of the MTA, 11 Rule Parts under the Maritime (Offences) Regulations and 21 Rule Parts under the Marine Protection (Offences) Regulations. The main stakeholders are affected in the following ways:

- Foreign and domestic shipping companies (32 Rule Parts)
- Commercial fishermen (three Rule Parts)
- Recreational boaters (one Rule Part)

Increasing the penalties is likely to drive more awareness of safe practices and compliance with the maritime transport rules, regulations, and laws. This is likely to have a positive effect on the safety levels within the maritime transport system, and lead to a more robust legislative underpinning of maritime transport.

The Ministry released a discussion document containing 22 proposals in May 2022 for six weeks. Four of those proposals are within the scope of this analysis. The consultation document was shared with:

- regional councils with harbourmasters,
- harbourmasters
- port companies (18),
- councils with ports (18)
- the harbour pilots and shipmasters unions,
- commercial shipping operators
- Government agencies
- Maritime law community
- Coastguard

Officials met via Zoom with one peak body representing commercial shipping. This group did not wish to discuss the proposals relating to offences and penalties and supported the changes.

Consultation on the proposals yielded six submissions. One submission, on behalf of the New Zealand Federation of Commercial Fishermen opposed changes to financial penalties in the Regulations but supported changes to the MTA-level penalties and filling the gaps in the Regulations. The other submitters, representing local government and commercial shipping supported the changes.

Specific objections to increasing the maximum level of fines and fees related to the small size of many fishing companies – often owner-operators operating in a company structure. Smaller operators, the submitter claimed, would be penalised at the same level as large companies despite effectively operating as individuals. The submitter did not comment on the differentiation between specially regulated individuals and companies.

Minority Groups

We have identified that the primary Māori interest in these proposals would lie in the proposals that apply to fishing vessels and recreational fishers. For example, Sealord is a major fishing company 50 percent owned by Māori which harvests up to 60 percent of the quotas of nearly 40 iwi.

Owners and operators of fishing vessels would be affected by offences relating to Part 6 of the MTA and rule parts 19, 20, 22, and 73 (if on an international voyage). This is 18 offences, (or 31 if on an overseas voyage) of 295 offences. Māori have considerable fishing assets and quota. However, we consider the interest to be small, given the only stakeholders affected would be those breaching maritime rules and the tikanga of kaitiakitanga and manaakitanga. It is unclear whether the smaller operators referenced above belong to minority groups.

Māori recreational fishermen would be affected by the changes to penalties for offences relating to Part 22 (2 offences).

These changes to the Regulations are unlikely to disproportionately affect minority groups, where there is compliance with existing maritime rules or the Act. The new penalties in the MTA will not apply to compliant minority groups.

Whilst changing penalty levels could affect these companies if they are found to be in breach of maritime rules, a new penalty regime would not change the regulatory expectations on these companies or Māori participants in the maritime transport system.

What objectives are sought in relation to the policy problem?

The objectives sought in relation to this policy issue are outlined below. Criteria have been specifically developed to assess options to remedy out-of-date penalties.

General need to care for legislation

Legislation is an asset that requires maintenance and care over time. Maintaining a clear structure and coherence to the maritime regulatory system and legislation is necessary to safeguard this and the integrity of the maritime transport system for all New Zealanders. Effective regulatory stewardship entails regularly assessing legislation to ensure it is effective, fit-for-purpose and accessible. In the Maritime transport system this also entails implementing international conventions and amendments to international conventions that Aotearoa-New Zealand is party to, and ensuring that penalties for breaches of the MTA and associated regulations are transparent, proportionate, effective, and are consistent with other transport modes.

Harmonisation with International Standards

We are also obliged under international treaty agreements to introduce a range of new penalties into the maritime system. These penalties are in line with global best practice and are set by expert working groups at the IMO level. Aotearoa-New Zealand works at IMO to establish internationally agreed rules on maritime transport regulation, as much of the international shipping industry is global and so the regulatory regime requires international harmonisation. Aotearoa-New Zealand attends and contributes to the IMO's working groups and Assembly, and looks to shape these regulations where they may affect our aviation sector.

Ensuring Penalties are Fit for Purpose

As outlined above, the purpose of this policy intervention is to realign penalty levels and not to re-examine the rules and offences themselves. We want to ensure that maritime penalties effectively deter unsafe behaviour in the maritime transport system. To be effective, penalties need to be proportionate to the level of harm that could be caused by a breach of maritime

rules. We also want to ensure that all rules have a corresponding penalty, where this currently does not exist. Penalties need to be fair and account for equity and Te Tiriti o Waitangi considerations but are primarily a tool for ensuring compliance with safety and environmental considerations within our maritime transport system.

Potential Equity, Competition or Behaviour Problems

We do not foresee any equity issues with this policy as it is largely aimed at corporations and shipping companies. In terms of competition, the Aotearoa-New Zealand shipping industry is very small, with only eleven Aotearoa-New Zealand flagged vessels. In addition, there are 875 registered commercial fishing vessels that will be affected by some of the proposals. Fifty of these vessels are owned by the largest fishing companies such as Sealord and Talleys.

We do not view the updated penalties, nor harmonisation with international standards as having any new effects on the competitiveness of the shipping market. Finally, we do not think this policy is likely to lead to any new behavioural problems, but is likely to strengthen the dis-incentive towards unlawful behaviour and ensure consistency across similar regulatory regimes in Aotearoa-New Zealand

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Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

We have used a regulatory stewardship lens to assess the options. The following criteria support the overall objectives of the regulatory stewardship and provide a more specific framework against which to measure individual options.

Criteria	What this means
Effectiveness	<p>This is the degree to which a policy intervention is successful in providing assurance that risks in the system can be identified and resolved quickly.</p> <p>From a regulatory stewardship perspective this entails ensuring that the system is coherent and consistent and utilises best practice from other transport regulators.</p>
Safety	<p>This is the level of improvement and protection from harm for people, infrastructure and other interests. Safety is a core outcome/component of the transport system.</p> <p>For the maritime transport system, safety means the ability for the intervention to be reasonably practical to prevent harm (to persons, property or the environment) and to minimise risk of harm and damage.</p>
Responsiveness	<p>This is the level at which the intervention strikes the right balance between compliance (voluntary) and enforcement (coercive) of regulation. This criterion aims to assess the flexibility and appropriateness of regulatory powers and responsibilities.⁴</p> <p>For the maritime system, responsiveness means not curtailing the ability of the participants to identify, manage and treat their own risks; while retaining the powers of the safety regulator to intervene when required and appropriate.</p>
Proportionality	<p>This is the assessment of the impact/intensity of the intervention power and the size and scale of the policy problem. This criterion aims to assess the impact of a regulator power in terms of its necessity and reasonableness when responding to an action, and whether it is either excessive, inadequate or 'just right'.</p> <p>In the maritime transport system, the proportionality of an intervention aims to strike the right balance in the interest of the risk presented by maritime transport and the ability of operators and licence holders to reduce, treat and mitigate the risks, with the intervention powers that the regulator can/should exercise.</p>
Harmonisation	<p>As a signatory to 28 IMO conventions and protocols, Aotearoa-New Zealand has agreed to implement common international standards, in some areas. This includes when treaties are amended or updated.</p>

⁴ Generally, a regulator will help guide compliance through non-regulatory interventions (information and education, non-statutory warnings) but also needs to be equipped to take regulatory interventions (statutory warnings, license suspensions, prosecutions) when deemed necessary.

	In the maritime system, this ensures that international shipping entities have a clear idea of the standards expected of them globally and ensures a consistent and safe maritime environment wherever countries have acceded to and implemented IMO treaties.
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What scope will options be considered within?

Due to the regulatory nature of the problem, the scope of options to address the primary problem are binary: to address the structural problems with the Regulations, or not to address them. Once a decision is made, the options for resolving the secondary problem are choices between making no changes to penalty levels, adjusting for inflation, or using another method of deterrence.

As discussed above, the interventions pertaining to the Regulations and offences in the MTA have been limited to sections 64 to 67B. This is linked to a specific Ministerial request. The wider body of the MTA and its continued regulatory relevance will be accounted for in the upcoming MTA review. The review will use regulatory stewardship principles set out in the Public Service Act 2020 regulatory law, to ensure that it is still fit for purpose.

With the regulatory changes that relate to international treaty obligations, Aotearoa-New Zealand is limited by the scope of the treaty obligations that come from the IMO. As outlined above, Aotearoa-New Zealand is a member of the IMO and is able to influence the outcome of treaty changes at working group level within the organisation. However, once these have been decided upon, Aotearoa-New Zealand has less of an ability to influence these regulations at a national level. Most of the regulations that will be updated cover mainly international shipping and will have little or no consequence for Aotearoa-New Zealand flagged ships.

Only regulatory options have been considered as part of these policy interventions. At this stage we did not have the capacity to analyse the appropriateness of penalties as a tool, but simply sought to understand if the existing penalties in the maritime transport system were set at adequate levels. A fulsome analysis of the Regulations will be taken forward with the upcoming MTA at which point other regulatory options will be considered, where there are not pre-existing international treaty obligations.

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What options are being considered?

All options apart from Option One would require legislative change to address the structural gaps in the Regulations, and to set and revise the offences and penalties in the Regulations and the MTA.

Option One – Status Quo

Description

This is the baseline option with no operational or legislative changes, and maintains the current state. This current state would see all penalty levels remain the same without any changes from the levels set in the 1990s. Aotearoa-New Zealand is also at risk of not upholding its international obligations agreed to at the IMO and penalties risk misalignment with other related regulatory regimes, such as under HSWA.

Analysis

There is a risk to the integrity and safety of the maritime transport system if the current penalty levels are maintained.

This approach would not allow Maritime NZ to effectively enforce compliance and deter undesirable behaviour. It would mean that provisions in the Rules (for example provisions under part 19 and part 300) would continue not to have an associated offence or penalty in the Regulations, while other offences would continue to be dissociated with their corresponding rules. Where offences do have associated penalties, they will remain at levels set in the 1990s, and will not be reassessed in line with inflation and updated regulatory practice.

MTA penalties

The MTA penalties are intended to deter high-impact rare events, such as major safety breaches resulting in injury, death or major pollution events. Not having significant penalties for these offences, as is currently the case, would make them ineffective deterrents and could lead to a major maritime incident. Preserving the Status Quo would also maintain the discrepancy in the MTA penalties with similar safety offences set out under HSWA.

Regulations and International Obligations

Not acting to update the Regulations would mean that we are not aligning Aotearoa-New Zealand's maritime regulatory system with our international obligations. Aotearoa-New Zealand has signed up to IMO treaties in order to promote good global maritime governance, including in our own transport systems. Respecting the rule of international law, and leading by example are key tenets of Aotearoa-New Zealand's regulatory philosophy, and where possible we look to maintain these principles in our own regulatory practice.

Option Two – Fill regulatory gaps, applying the Framework and Tool to update penalties

Description

This option would address the structural gaps in the Regulations by creating new penalties where there are none, and matching penalties to rules where they have become disassociated from the regulations. This would be done through the Ministry's Effective Transport Financial Penalties Framework (the Framework) and its accompanying Tool (the Tool) to set offences and penalties. The tool would also be used to test, and if necessary, update the current penalties including those in the MTA and Regulations. This option would be implemented via the RST2 Bill.

Under this option there are five types of changes to the offences and penalties in the Regulations. These include:

- a. Creating new offences
- b. Merging offences
- c. Removing offences
- d. Adding infringement penalties
- e. Setting new financial penalties (which can both increase or decrease)

The full list of the changes proposed under this option and detail on who they would apply to are detailed in Appendix II (Maritime (Offences) Regulations 1998) and Appendix III (Marine Protection (Offences) Regulations 1998).

The proposed changes to the MTA safety offences are :

Section	Title	Maximum fine for individual	Maximum fine for body corporate
64	Unnecessary danger caused by holder of maritime document (this includes all masters and ship owners)	\$150,000* \$10,000	\$1,500,000 \$100,000
65	Dangerous activity involving ships or maritime products	\$50,000 \$10,000	\$1,500,000 \$100,000
65A	Proceeding without pilot contrary to Maritime Rules or direction given under section 60A	\$150,000* \$10,000	\$1,500,000 \$100,000
67	Communicating false information affecting safety	\$50,000 \$10,000	\$1,500,000 \$100,000
67A	Offence for submerged load lines	\$150,000* \$10,000	\$1,500,000 \$100,000
67B	Other offences	\$50,000 \$10,000	\$1,500,000 \$100,000

The offences proposed to be amended under this option also include a possible alternative penalty of imprisonment for up to twelve months for individual offenders. Except for the section 67 offence, these offences are also liable for a further variable fine under section 409 of the MTA, linked to the commercial benefit derived from the offending.

Creating new offences

Some rules have no corresponding offence in the Regulations, meaning there is no consequence to address non-compliance or to deter offending if other tools such as education have not improved compliance rates amongst marine transport participants.

In all but two cases, the rules covered by the offences that this option would modify will put international conventions into effect. Not implementing a corresponding offence to meet these new rules could lead to a reputational risk for Aotearoa-New Zealand, where our rules lack a corresponding consequence for non-compliance.

Merging offences

Some offences that were historically broken into subsets (where differing penalties applied to different circumstances) have now been determined to have the same penalty under the Framework. In these cases, it makes sense to merge these offences into a single offence.

Removing offences

Some offences do not require a rules-level offence as they are serious enough to always have an offence under the Act. Some offences are being removed as the relevant rule has been revoked.

Adding infringement penalties

Some offences are straightforward and easily provable (termed 'strict liability' offences) and according to the framework would be appropriate for infringement fee penalties for lower-level offending. Prosecution and subsequent fines would still be available for more serious offending.

Setting new financial penalty levels

The financial penalties for fees and fines have either not been reviewed for a long time or have been reviewed on an ad-hoc basis, and no longer reflect the level of harm associated with the offending or undermine the deterrent effect of the penalty.

The Framework has been applied across all maritime offences to ensure that penalties are consistent for similar forms of offending. In some instances, the fee/fine associated with an offence is decreased. In other instances, the fee/fine increases. A full list of the proposed penalty level changes can be found in **Appendix I**. Consolidated list of offence and penalty changes.⁵

The Framework is a systematic and principles-based framework that provides a guide to setting financial penalty levels in primary and secondary transport legislation. The Tool helps to apply the framework to offences. The Framework was developed in consultation with Ministries including the Ministry of Justice and has been refined over time, including while developing the offences under the Civil Aviation Bill currently before Parliament.

The Framework involves a process to determine financial penalty levels by considering four principles:

- Respond to the severity of the offence: this involves assessing the type of harm an offence is likely to result in, or has caused, and its associated severity. This will also take into account the likelihood of the harm if an offence happens (low, medium or high). The Framework identifies three harm types:
 - *System* – this is harm to the transport regulatory system itself by breaching a requirement. It does not constitute an inherent or tangible harm to people, the environment or property. For example, not having the required maritime document doesn't harm anyone but it does undermine the requirement in the system to keep people safe. All offences constitute some level of system harm.
 - *Safety* – this is an actual harm, or risk of harm, to people. For example, actions that may cause injury or death like operating a ship recklessly while under the influence of alcohol.
 - *Environmental and property* – this is an actual harm, or risk of harm, to the environment or property. For example, discharging hazardous substances into the marine environment or crashing a vessel.

⁵ Increases in penalty levels will largely only impact fines that apply to body corporates (with the exception of 131.29(3) which proposes an increase to the fee payable by body corporates, as well as a fine increase), and Special Regulated Individuals (SRIs).

- Act as a deterrent to undesirable behaviour: Penalties should be at levels that make the negative consequences of incurring a penalty greater than the perceived benefits of committing the offence.
- Be proportionate: Penalty levels should be proportionate to the actual or potential for harm, as assessed in principle 1 (severity of an offence). This proportionality should also be consistent for penalties within and across transport modes and with relevant external regulatory frameworks.
- Consider the responsibilities and financial capacity of the person or entity in the system: Penalty levels should reflect the different expectations and additional responsibilities these groups have in the maritime system, to distinguish, for example the difference between a recreational boater and a professional skipper or ship's master.

The Tool contains a number of steps to determine the penalty:

Step 1: Consider the offence's design, use and associated data (such as the harms that have resulted from breaches, or how often the offence is used).

Step 2: Assess the offence's severity. This includes documenting the potential consequences of the offence including the three harm types listed above.

Step 3: Identify the type of offender the penalty would apply to such as an individual, a 'special regulated individual' or a business or undertaking.

Step 4: Use the tool to assign an initial penalty level, including for the different types of offenders. Also consider whether infringement fees are appropriate.

Step 5: Check the initial penalty against the two remaining Framework principles, deterring undesirable behaviour, and being proportionate (including whether consistent with other offences and whether it is fair).

Step 6: Refine the financial penalty including considering whether adjustments are necessary to increase deterrence or increase proportionality.

Following these six steps the penalties undergo an independent moderation process.

Analysis

In 2021, following the development of the Effective Transport-related Financial Penalties Policy Framework, the Ministry of Transport developed the Financial Penalties Categorisation Tool (the Tool). The Tool helps apply the Framework to set transport-related infringement fees and fines applied by a court. It provides a step-by-step categorisation process for determining financial penalty levels in transport legislation, that is coherent and better aligned to severity and risk of harm.

The Framework and the Tool provide a more fit-for-purpose approach to prescribing transport-related financial penalties, ensuring they are consistent, fair and effective across transport modes. For example, the Framework differentiates between individuals and 'specially regulated individuals.' If an individual is acting in a professional capacity, they are a specially regulated individual. Regulators usually have extra expectations regarding the conduct of specially regulated individuals, so the Framework and Tool allow for a corresponding increase in penalties targeted at these system participants, when compared to those that related to individuals operating in a personal capacity.

As the maritime regulator, Maritime NZ manages compliance within the maritime transport system to achieve its aim of a maritime environment that is safe, secure and clean. Maritime

NZ has a range of tools, or interventions, available when non-compliance with rules is identified. Some tools are designed to assist maritime sector participants to get things right, and others are about using enforcement, where necessary. These tools include:

- a. providing information and educational materials to operators
- b. giving advice and suggesting improvements in safety and marine environment protection
- c. issuing safety updates and advisory circulars
- d. issuing infringement notices
- e. issuing notices requiring corrective action on deficiencies or improvements to be made
- f. imposing conditions
- g. investigating, and issue warnings
- h. detaining vessels
- i. prohibiting port operations or other potentially harmful activities
- j. suspending or revoking a seafarer's licence
- k. prosecution⁶

When a full range of regulatory tools are not available (for example, when a criminal prosecution is the only available option, or where no offence is identified in the Rules), Maritime NZ's ability to regulate effectively is limited. Section 201 of the Act allows for regulations to be made setting infringement fees and maximum fines before a court.

Financial penalties (infringement fees and fines) are important tools to support the transport system, as they can encourage compliance and respond to negative behaviour.

To be effective, financial penalties need to be up-to-date, consistent, proportionate to harm and fit-for-purpose.

Current penalty levels across transport legislation are inconsistent, were developed arbitrarily and in isolation, and are often disproportionate to their severity and risk of harm.

The Effective Financial Penalties Policy Framework (the Framework) and Categorisation Tool (the Tool) is a mechanism that will help to ensure financial penalties across all transport modes are proportionate, consistent, and better targeted to address particular offending and groups of offenders, and will be most effective when applied to all transport penalties and offences over its lifespan.

Financial penalties are just one enforcement approach the Ministry can use to encourage compliance and respond to negative behaviour. The Ministry assesses all options before deciding to pursue a financial penalty. If the Ministry determines a financial penalty is the best option, then the Framework and Tool should be used to guide penalty setting. As outlined above, this RIS only focuses on the appropriateness of penalty levels, and does not discuss the utility of financial penalties as a deterrence mechanism within the maritime transport system.

Option Three – address gaps plus increase penalty levels according to inflation

Description

⁶ For more information about MNZ's compliance approach go to <https://www.maritimenz.govt.nz/about/what-we-do/compliance/compliance-model.asp>

This option would address the structural gaps in the Regulations, as in Option Two, and set or adjust penalties in the Regulations and the MTA safety offences line with inflation, using the Reserve Bank's Inflation Calculator Tool.⁷ This approach would not account for other factors, such as equity, proportionality, or current best regulatory best practice, when setting penalty levels. Penalty levels for safety offences in the MTA would be adjusted for inflation. This option would increase penalties across the currently prescribed offences by 67.7 per cent. For example, Part 6 offences in the MTA (see table in Option 2) would increase to \$16,700 for an individual and \$167,700 for a body corporate (up from \$10,000 and \$100,000 respectively). Infringement penalties would increase to a maximum of \$3353 for an individual and \$20,122 (up from \$2000 and \$12,000 respectively).

Analysis

Whilst this option would increase the current penalties, it would not account for the regulatory best practice in setting penalties at an appropriate level. As outlined above, the Framework and the Tool use a multi-faceted base of criteria when determining appropriate penalties. These include factors such as the seriousness of an offence, the equity of penalties and the likelihood of deterrence. Importantly, the Framework and Tool also distinguish between private individuals and individuals operating in a regulated role (such as the master of a ship). Ignoring these factors and basing a penalty rise on analysis that was carried out in the 1990s would ignore other societal changes over the last 30 years aside from inflation, and would maintain inconsistencies in the system.

There are various complex societal factors that have changed in the maritime sector over the last 30 years. Some examples of these factors include changes to the international shipping industry, changes in the nature and the importance of environmental protection, increased understanding of the importance in equity concerns when setting penalties. These factors would not be considered if we were to pursue the inflation-based option. Ignoring these factors is likely to limit the effectiveness, responsiveness and proportionality of this policy intervention and could lead to equity issues when imposing penalties on vastly different entities.

The current Regulations limit the extent to which we can raise some of the penalties. This may mean that the new penalties could not be raised to meet inflation and would not account for the severity of an offence. This would likely have implications for the effectiveness of the penalties and would impact on the safety of the maritime transport system, especially if maritime safety offences do not reflect similar offences in HSWA.

In our research, there were some instances where the framework and the tool have indicated that a reduction in penalty level would be appropriate. Adjusting penalties by inflation would not allow for proportionality to be accounted for when setting penalties, as it would entail an increase to penalties without analysing the appropriateness of an increase in penalty levels.

As noted in the above, the Framework and Tool includes a 'specially regulated individuals' (SRI) category of potential offender, when determining penalty levels. Adjusting penalty levels in line with inflation would mean that SRI are considered merely as individuals, in terms of what level of penalty applies to them, rather than individuals with professional responsibilities in and knowledge of the transport system.

⁷ <https://www.rbnz.govt.nz/monetary-policy/inflation-calculator>

In the discussion on Option 2, we note that the Framework and Tool are most effective when applied to all transport penalties, in order to ensure consistency across Aotearoa- New Zealand's transport systems. Adopting the inflation approach to maritime penalties would undermine the utility of this methodology and could lead to inconsistencies in penalties for similar offences in different transport modes.

One submitter commented on the Framework and Tool, noting that some penalties would decrease while others increased.

Option Four: Amend the status quo

Description

This option would address the structural gaps in the Regulations, adding 92 new penalties, and setting new penalties in line with existing penalty levels (set in 1998). Safety offences in the MTA would remain unchanged.

Analysis

This option would have the benefit of marrying the current rules with penalties where they are not currently aligned, or where penalties do not exist. Whilst it would improve the effectiveness of the regulatory regime somewhat, this improvement would be limited by the low penalty rates set in the 1990s, which are no longer in line with other similar transport regulatory regimes, or other similar regulatory regimes across Government.

This option would also have quite far-reaching safety implications given that the safety offences in the MTA would not be addressed. The Minister has asked us to consider and analyse the appropriateness of the current penalty rates for these offences, and our analysis showed that they were no longer in line with similar international or domestic penalties for similar safety offences (such as under HSWA). Failing to account for these discrepancies would maintain a regulatory misalignment that risk potentially disastrous regulatory failure if we do not update them. Given that we understand the risks of not amending the MTA safety offences, and we have conducted the analysis on where we could appropriately set the new penalties, we would be missing an opportunity to strengthen our regulatory regime if we did not take this word forward as part of this work, and we would be breaching our regulatory stewardship obligations set out under s.12 of the *Public Services Act 2020*.

How do the options compare to the status quo/counterfactual?

	Option One – <i>Status Quo</i>	Option Two – fill gaps plus amend penalties using the Framework and Tool	Option Three – amend gaps plus adjust for inflation	Option Four – amend the status quo
Effectiveness	0	++	+	+
Safety	0	+	0/+	0/+
Responsiveness	0	0/+	0/+	0/+
Proportionality	0	++	0/+	0
Overall assessment	0	++	+	0/+

Key:

- ++ much better than doing nothing/the status quo/counterfactual
- + better than doing nothing/the status quo/counterfactual
- 0 about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

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What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

The preferred option is **Option 2**. Currently, Maritime NZ does not have the tools required for the Regulations to fulfil their functions as Regulator, nor do the MTA safety offences give the Courts appropriate tools to deal with major safety breaches.

Option Two provides Maritime NZ with these tools. It ensures Aotearoa-New Zealand's compliance regime reflects our international treaty obligations. It also addresses the structural gaps in the Regulations, and ensures that the Ministry is applying a consistent approach to our transport penalties across transport systems.

Option Two significantly outperforms the other three options in the criteria of:

- Effectiveness
- Safety
- Proportionality

Option Two outperforms the other options in the Effectiveness criterion as it enables the system to be more coherent and consistent, not just within the maritime context, but also within transport regulation more generally. The new and adjusted penalties would follow best practice in setting effective transport financial penalties.

Option Two outperforms the other options in the Safety criterion, particularly in regard to the safety offences in the MTA. The proposed penalty adjustments more adequately reflect the severity of the offences and are significant enough not to be dismissed as a 'cost of doing business.'

For the Proportionality criterion, Option Two enables penalties that are proportionate to the level of potential harm, striking a balance between the risk presented by maritime transport and the ability of the regulator to respond to those risks. Under the proposals some penalties are significantly reduced while others are increased. For those offences, the penalty was considered excessive. In other areas the penalties have increased to adjust inadequacies. Amending these penalties in line with inflation would have magnified the excessiveness or inadequacy of the penalties.

What are the marginal costs and benefits of the option?

Affected groups <i>(identify)</i>	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Regulated groups: Passenger boats – cruises, ferries, fishing vessels, commercial cargo vessels, freight, coastal tankers and research vessels, charter boats, offshore mining installations, tourism operators, ports and harbours	Costs incurred will be directly related to non-compliance with the Regulations. For fishing vessels only regulations relating to parts 20, 22, 73 (if on an international voyage) apply. For the MTA offenses, at least 186 cases have been prosecuted under ss64-67B since 1994, 47 of which since the HSWA was implemented. Of cases prosecuted there were more convictions than acquittals. Those businesses that have used the risk of low fines as a cost of doing business will need to make changes to their operations to comply.	Low	Medium
Regulators Maritime New Zealand	One off costs for implementation including for new forms, information campaigns and capital expenditure for IT changes based on previous changes	\$0.065m - \$0.115m	Medium
Other groups local government, passengers, recreational boat users and owners	Costs incurred for recreational boat users will be directly related to compliance with part 22 of the maritime Rules. Parties which are compliant would incur no additional costs. All other changes do not apply Local government's costs would be partially defrayed by the ability to retain infringement fees, some of which are increased.	Low	High

Total monetised costs			
Non-monetised costs		(High, medium or low)	
Additional benefits of the preferred option compared to taking no action			
Regulated groups: Passenger boats – cruises, ferries, fishing vessels, commercial cargo vessels, freight, coastal tankers and research vessels, charter boats, offshore mining installations, tourism operators, ports and harbours	Commercial ships operating solely in New Zealand waters would be subject to the same penalties as foreign flagged vessels under the MTA and the HSWA, yielding fairness benefits. Regulated parties charged with offences under the Regulations would have more equitable, proportionate penalties applied to their offending. Safety benefits from increased compliance.	Medium	Medium
Regulators Maritime New Zealand	Maritime NZ would have effective tools to address behaviour	Medium	High
Others (eg, wider govt, consumers, etc.) local government, passengers, recreational boat users and owners	Compliance with the Marine Protection (Offences) Regulations in particular will increase the amenity value of coastal areas and protect the environment.	Low	Low
Total monetised benefits			
Non-monetised benefits		(High, medium or low)	

All options additional for those who violate rules cost more compared to the status quo.

Section 3: Delivering an option

How will the new arrangements be implemented?

The proposed regulatory changes will be implemented through the RSTA2 Bill, which will amend and create the relevant sections of the Regulations and the MTA.

Maritime NZ will be responsible for implementing these changes. Maritime NZ's implementation planning is currently at an early stage and will be reviewed and revised as the exact proposals to be progressed in the RSTA2 are determined. However, it is likely these changes will require Maritime NZ to:

- redesign forms,
- update their IT systems,
- update both internal and external guidance, and
- disseminate and communicate these changes to stakeholders and regulated parties (using existing channels). The Ministry will support Maritime NZ with this.

This option will not impose any new ongoing administrative obligations on Maritime NZ, or anyone else (including councils who can enforce the rules). The system for recording and reporting offences is also already in place and running.

How will the new arrangements be monitored, evaluated, and reviewed?

The proposed regulatory changes build and refine existing regulatory powers and systems. As a result, a formal monitoring and evaluation programme around the specific changes proposed has not been planned at this stage. Data will be collected on the fines issued and can be analysed at a future date as appropriate.

The Ministry will monitor the implementation and effect of the proposed changes from a regulatory stewardship perspective and consider any impact that this may have on stakeholders and regulated parties.

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Appendix I. Consolidated list of offence and penalty changes

Key

New offence or penalty	Change to existing offence or penalty	(parenthesis)	*	asterisk
		previous fine / fee payable or previous rule number before realignment	fine / fee payable by Special Individual (SRI)	Regulated

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rules Part 19: Maritime transport operator – certification and responsibilities (new Part)						
Rule 19.25	A maritime transport operator must display at the operator's place of business, or make available on request, a copy of the Maritime Transport Operator Certificate	1	750*	2,500	150*	500
Rule 19.43(4)	A maritime transport operator must ensure approved survey plan available for inspection	2	3,750*	12,500	750*	2,500
Rule 19.45(3)	A maritime transport operator must make maintenance plan available for inspection, if requested	2	3,750*	12,500	750*	2,500
Rule 19.64(d)	A maritime transport operator must ensure valid Certificate of Survey by	5	15,000*	50,000	3,000*	10,000

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
	ensuring ship is operated within scope of certification listed on Certificate					
Rule 19.65	Maritime transport operator must display Certificate of Survey	1	750*	2,500	150*	500
Rules Part 20: Operating limits (renumbered)						
Rule 20.20(1) (20.5(1))	Owner of ship must ensure ship has operating limits assigned	5	15,000* (5,000)	50,000 (30,000)		
Rule 20.21 (20.6)	Owner and master of ship must ensure ship operates only within assigned limits		(5,000)	(30,000)		
Offence revoked.						
Rule 20.43(2) (20.7(2))	Responsibilities of owner and master of restricted limits ship making single voyage outside restricted or coastal limits under rule 20.43	4	10,500* (5,000)	35,000 (30,000)		
Rules Part 21: Safe ship management systems						
Rule 21.6(1)(b)	Owner of ship must maintain safety management system	5	15,000* (5,000)	50,000 (30,000)		

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 21.6(4)	Master of ship must ensure copy of Interim Document of Compliance or Document of Compliance kept on board and produced when requested	2	3,750* (1,250)		750* (500)	
Rule 21.6(5)	Master of ship must ensure original Interim Safety Management Certificate or Safety Management Certificate kept on board and produced when requested	2	3,750* (1,250)		750* (500)	
Rule 21.8	Owner and master of foreign ship must ensure appropriate Document of Compliance and Safety Management Certificate or equivalent carried on board	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
<p>Rules 21.13(1)(3)(5)(15)(19)</p> <p>All these offences to be revoked due to these rules now being redundant.</p>	<p>(1) Responsibilities of owner of ship re entry of ship into safe ship management system</p> <p>(3) Owner must retain certificate issued by surveyor as evidence of ship's eligibility re approved safe ship management system</p> <p>(5) Owner of ship must ensure ship has appropriate maintenance plan</p> <p>(15) Owner of ship must ensure copy of New Zealand Safe Ship Management Certificate displayed on ship</p>		<p>(5,000)</p> <p>(5,000)</p>	<p>(30,000)</p> <p>(30,000)</p>		

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
	(19) Owner of ship must ensure new certificate issued by surveyor and new New Zealand Safe Ship Management Certificate issued before operating ship after major modification or repair or certain other changes		(5,000) (1,250) (5,000)	(30,000) (7,500) (30,000)		
Rules Part 22: Collision prevention (renumbered)						
Rule 22.39(1)(2)(a)(b) (22.39)	Responsibilities of owners and persons responsible for navigation of vessel re observance of collision prevention requirements – (a) ensure that all lights, shapes, and means of making fog signals, are carried, exhibited, and used (b) refrain from carrying, exhibiting, or using any lights, shapes, or means of making fog signals other than those required or permitted by this rule	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 22.39(2)(c)(d) (22.39)	Responsibilities of owners and persons responsible for navigation of vessel re observance of collision prevention requirements – (c) ensure that the vessel is navigated in accordance with this Part; and (d) refrain from navigating the vessel in a manner that is contrary to this Part.	5	15,000* (5,000)	50,000 (30,000)		
Rules Part 24A: Carriage of cargoes – dangerous goods						
24A.62(1)(a) All current offences under Part 24A are revoked, and replaced with these new rationalised and correctly referenced offences.	Person who offers dangerous goods for carriage in, or causes or permits any dangerous goods to be loaded onto a ship, must ensure those dangerous goods are correctly identified and classified in accordance with Part 2 of the IMDG Code.	5	5,000	50,000	1,000	10,000

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
24A.62(1)(b)	Person who offers dangerous goods for carriage in, or causes or permits any dangerous goods to be loaded onto a ship must ensure those dangerous goods are appropriately packaged in accordance with Parts 4 and 6 of the IMDG Code	5	5,000	50,000	1,000	10,000
24A.62(1)(c)	Person who offers dangerous goods for carriage in, or causes or permits any dangerous goods to be loaded onto a ship must ensure those dangerous goods are marked and labelled in accordance with Part 5 of the IMDG Code.	5	5,000	50,000	1,000	10,000
24A.82(1)(a)	The shipper of a consignment of dangerous goods that is to transported by ship must accurately and fully complete a dangerous goods document in accordance with Chapter 5.4 of the	5	5,000	50,000	1,000	10,000

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
24A.223(1)	Person performing a dangerous goods cargo function involving the carriage of dangerous goods freight on board a ship on a domestic voyage within restricted limits other than across the Cook Strait must ensure those dangerous goods are correctly identified, classified, packaged, marked and labelled in accordance with sections 1-4 of the Land Transport Rule: Dangerous Goods 2005	5	5,000	50,000	1,000	10,000
Rules Part 24B: Carriage of cargoes – stowage and securing (new Part)						
Rules Part 24B.10(2)	The shipper of a road freight vehicle, road tank vehicle, or road livestock vehicle must not offer the vehicle for shipment on a ro-ro ship to which rule 24B.14 applies unless it is fitted with vehicle securing points and marked with an information plate in accordance with NZS 5444:2005	3	7,500*	25,000	1,500*	5,000
Rules Part 24C: Carriage of cargoes – specific cargoes						
Rule 24C.3	Responsibilities of shipper of specific cargo (other than grain) re cargo information	2	3,750* (5,000)	12,500 (30,000)	750*	2,500

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 24C.6(1)	Owner and master of ship must ensure ship loads and carries grain in accordance with Grain Code	3	7,500* (5,000)	25,000 (30,000)	1,500*	5,000
Rule 24C.6(2)	Owner and master of ship must ensure ship does not load grain unless ship holds document of authorisation in English	2	3,750* (5,000)	12,500 (30,000)	750*	2,500
Rule 24C.9	Responsibilities of owner and master of ship for assessing acceptability of solid bulk cargo before loading	5	10,000* (5,000)	50,000 (30,000)		
Rule 24C.10(1)	Owner and master of ship must ensure solid bulk cargo loaded, unloaded, and carried in accordance with IMSBC Code	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 24C.13	Responsibilities of owner and master of ship re stowing, securing, and carrying timber deck cargo according to the Code for Timber Deck Cargoes.	3	7,500* (5,000)	25,000 (30,000)	1,500*	5,000
Rule 24C.16(1)	Responsibilities of owner and master of ship re restrictions on carriage of livestock in part of ship where operation of ship would be obstructed or interfered with	3	7,500* (5,000)	25,000 (30,000)	1,500*	5,000

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 24C.17(1)	Owner of new ship or barge to carry livestock between Aotearoa-New Zealand ports must have design approved by surveyor	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 24C.17(5)	Owner of existing ship or barge to carry livestock between Aotearoa-New Zealand ports must ensure ship has appropriate certificate	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 24C.17(6)	Responsibilities of owner and master of ship not designed to carry livestock re carrying livestock between Aotearoa-New Zealand ports	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 24C.17(8)	Master of ship must ensure vehicles and equipment for transporting livestock properly stowed and secured	3	7,500* (5,000)		1,500*	
Rule 24C.18(1)(a)	Owner and master of ship must ensure no livestock loaded for export until surveyor satisfied with ship and intended load conditions in Appendices 1 to 7	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 24C.18(2)	Owner and master of ship must ensure no livestock loaded for export until requirements of Appendix 1 complied with	3	7,500* (5,000)	25,000 (30,000)	1,500*	5,000

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 24C.18(3)	Owner and master of ship must ensure requirements of Appendices 2 to 7 complied with	3	7,500* (5,000)	25,000 (30,000)	1,500*	5,000
Rule 24C.18(5)	Master of ship on which livestock to be loaded for export must produce stability information if requested by Director	2	3,750* (2,500)		750* (1,000)	
Rules Part 40B: Design, construction and equipment – SOLAS ships						
Rule 40B.33	Responsibilities of owner and master re automatic identification system	5	15,000* (5,000)	50,000 (30,000)		
Rule 40B.34	Responsibility of owner re ship identification number	2	3,750* (5,000)	12,500 (30,000)	750*	2,500
Rule 40B.35	Responsibilities of owner and master re continuous synopsis record	2	3,750* (5,000)	12,500 (30,000)	750*	2,500
Rule 40B.36	Responsibility of owner re ship security alert system	5	15,000* (5,000)	50,000 (30,000)		
Rules Part 46: Surveys, certification and maintenance						

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 46.9	Responsibilities of owner of existing Aotearoa-New Zealand passenger ship re surveys of ship	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 46.10	Responsibilities of owner of ship carrying dangerous chemicals and liquefied gas in bulk re surveys of ship	5	15,000* (5,000)	50,000 (30,000)		
Rule 46.12	Responsibilities of owner of ship re maintenance and conditions after survey	4	10,500* (5,000)	35,000 (30,000)		
Rule 46.13(12)	Owner and master of SOLAS ship must ensure relevant certificate(s) available on board for examination	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 46.13(15)	Owner of SOLAS ship must not operate ship without relevant certificate(s)	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 46.14(6)	Owner of ship not a SOLAS ship must not operate ship unless in possession of New Zealand Ship Safety Certificate	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 46.24(4)	Owner of barge must retain New Zealand Barge Safety Certificate for period of validity and make certificate available for inspection	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 46.25	Responsibilities of owner of barge existing before commencement of Part re survey	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 46.27(1)	Owner and master of foreign ship at Aotearoa-New Zealand port or offshore terminal must ensure specified safety certificates and documents carried on board	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 46.27(2)	Owner and master of foreign ship at Aotearoa-New Zealand port or offshore terminal must ensure specified certificates and documents available on board for examination	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 46.28(1)	46.28(1) Owner and master of foreign non-SOLAS ship without certificates must ensure ship surveyed as required					
Rule 46.28(3)	46.28(3) Owner and master of foreign non-SOLAS ship without certificates must ensure ship enters safe ship management system within 2 years of first survey		5,000	30,000		
Rule 46.28(5)	46.28(5) Owner and master of foreign non-SOLAS ship with recognised certificates must ensure ship enters safe ship management system within 2 years of recognition of certificates					
Offences to be revoked due to rule revocation						
Rules Part 47: Load lines (renumbered)						
Rule 47.3(1)	Master of ship 24 metres or more in length must ensure appropriate load lines not submerged		(5,000)			
Offence to be revoked due to rule revocation						

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 47.3(4)	Master of ship less than 24 metres in length must ensure appropriate load lines not submerged	4	10,500* (5,000)			
Rule 47.3(5)	Owner of barge and master of ship towing barge must ensure appropriate load lines on barge not submerged	4	10,500* (5,000)	35,000 (30,000)		
Rule 47.5(1)	Owner of ship 16 metres or more in length must ensure ship marked with draught marks	2	3,750* (5,000)	12,500 (30,000)	750*	2,500
Rule 47.5(2)	Responsibilities of owner re draught mark requirements	2	3,750* (3,000)	12,500 (20,000)	750*	2,500
Rule 47.8(2) (47.6(b))	Owner and master must not allow ship of 24 metres or more in length to proceed on voyage unless ship marked in accordance with rules	5	15,000* (5,000)	50,000 (30,000)		
Rule 47.29(1)	47.29(1) Owner of ship must ensure master supplied with information to enable master to arrange for appropriate loading and ballasting		(5,000)	(30,000)		

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 47.48	49.48 Responsibilities of master of ship assigned timber loadline re stowage of timber deck cargo		(5,000)			
Rule 47.54	47.54 Owner and master of ship must ensure no change made to items covered by survey without sanction of Director or authorised organisation		(5,000)	(30,000)		
Offences to be revoked due to rules revocation						
Rule 47.56 (47.55(3))	Owner and master of ship must ensure International Load Line Certificate or International Load Line Exemption Certificate or New Zealand Load Line Certificate or New Zealand Load Line Exemption Certificate available on board for examination	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 47.59	Responsibilities of owner and master of foreign ship at Aotearoa-New Zealand port or Aotearoa-New Zealand offshore terminal re loadlines	5	15,000* (5,000)	50,000 (30,000)		

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 47.60(b)	Owner and master of ship must not allow ship of less than 24 metres in length to proceed on voyage unless ship marked as required	4	10,500* (5,000)	35,000 (30,000)		
Rule 47.66(5) (47.54)	Owner and master of ship must ensure no change made to items covered by survey without sanction of Director or authorised organisation	4	10,500* (5,000)	35,000 (30,000)		
Rule 47.67(3)	Owner and master of ship must ensure New Zealand Load Line Certificate available on board for examination	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 47.68(b)	Owner of barge must not allow barge to proceed on voyage unless barge marked as required	4	10,500* (5,000)	35,000 (30,000)		
Rule 47.74(7)	Owner of barge must ensure no change made to items covered by survey without sanction of Director	4	10,500* (5,000)	35,000 (30,000)		
Rule 47.75(3)	Owner of barge must retain New Zealand Load Line Certificate while valid, and ensure certificate available for inspection	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rules Part 73: Logbooks (renumbered)						
Rule 73.4(1)	Owner and master of ship must ensure ship carries on board New Zealand official logbook in form specified	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 73.5	Owner and master of ship must ensure ship's record of command is entered in New Zealand official logbook in approved form	2	3,750* (3,000)	12,500 (20,000)	750*	2,500
Rule 73.5A (73.6)	Owner and master of ship must ensure that record of watch keeping crew is entered in New Zealand official logbook in approved form	2	3,750* (3,000)	12,500 (20,000)	750*	2,500
Rule 73.6 (73.7)	Owner and master of ship must ensure that record of depth to which ship is loaded and the freeboard is entered in approved form in New Zealand official logbook whenever ship proceeds on a voyage	2	3,750* (3,000)	12,500 (20,000)	750*	2,500
Rule 73.7 (73.8)	Owner and master of ship must ensure that records of on board inspection drills, musters, and training are entered in New Zealand official logbook	2	3,750* (3,000)	12,500 (20,000)	750*	2,500

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 73.8 (73.9)	Owner and master of ship must ensure that appropriate entry recording any specified occurrence is made in New Zealand official logbook	2	3,750* (3,000)	12,500 (20,000)	750*	2,500
Rule 73.10(1)(b) (73.11(1)(b))	Owner and master of ship must ensure New Zealand official logbook available for inspection at all reasonable times	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 73.10(2) (73.11(2))	Owner of ship must ensure New Zealand official logbook is preserved for 3 years after date of last entry	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 73.11 (73.12)	Owner and master of ship must ensure ship carries on board engine-room logbook in approved form	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 73.12 (73.13)	Owner, master, chief engineer or engineer must ensure that appropriate entry is made in engine-room logbook recording specified occurrences	2	3,750* (3,000)	12,500 (20,000)	750*	2,500
Rule 73.14(1)(a) (73.15(1)(a))	Owner and master of ship must ensure engine-room logbook kept on board	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 73.14(1)(b) (73.15(1)(b))	Owner and master of ship must ensure engine-room logbook available for inspection at all reasonable times	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 73.14(2) (73.15(2))	Owner of ship must ensure engine-room logbook is preserved for 3 years after date of last entry	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rules Part 100: Port Reception Facilities (oil, noxious liquid substances and garbage)						
Rule 100.4(1)	Duties to ensure port has reception facilities for oily mixtures and oily wastes.	4	10,500*	35,000	2,100*	7,000
Rule 100.4(2)	Duties to ensure port has reception facilities for oil residue (sludge)	4	10,500*	35,000	2,100*	7,000
Rule 100.5(1)	Duties to ensure the port has reception facilities for cargo residues from oil tankers	4	10,500*	35,000	2,100*	7,000
Rule 100.5(2)	Duties to ensure the port has reception facilities for residues where more than 1,000 tons oil other than crude oil loaded per day.	4	10,500*	35,000	2,100*	7,000

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 100.6	Duties to ensure the port has reception facilities for cargo residues and solvents arising from cleaning tanks from which high density oils unloaded.	4	10,500*	35,000	2,100*	7,000
Rule 100.7	Duties to ensure the port has reception facilities for ports that have ship repair yards or tank cleaning facilities	4	10,500*	35,000	2,100*	7,000
Rule 100.8	Duties to ensure the port has reception facilities for oil residues at ports that load dry bulk cargoes on board combination carriers.	4	10,500*	35,000	2,100*	7,000
Rule 100.9	Duties to ensure the port has reception facilities for oil residue (sludge), dirty ballast, tank washing water, and other oily mixtures from ships proceeding to or from the Antarctic area	4	10,500*	35,000	2,100*	7,000
Rule 100.10(1)	Duty to ensure reception facilities at port loading and unloading NLS	4	10,500*	35,000	2,100*	7,000
Rule 100.10(2)	Duty to ensure reception facilities at port where repairs carried out to chemical carriers.	4	10,500*	35,000	2,100*	7,000
Rule 100.11	Duties to ensure the port has reception facilities for garbage.	4	10,500*	35,000	2,100*	7,000
Rule 100.12(1)	Duty to ensure the port has arrangements to facilitate stripping of	4	10,500*	35,000	2,100*	7,000

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
	cargo tanks of ships unloading noxious liquid substances.					
Rule 100.12(2)	Duty to ensure that cargo hoses and piping systems containing noxious liquid substances received from ships unloading these substances are not drained back to the ships.	4	10,500*	35,000	2,100*	7,000
Rule 100.13(1)	Duty to ensure reception facilities for ballast water and sediments.	4	10,500*	35,000	2,100*	7,000
Rule 100.13(2)	Duty to ensure reception facilities for ballast water and sediments if repairs are carried out at the port.	4	10,500*	35,000	2,100*	7,000
Rules Part 101A: Surveys and inspections – oil						
Rule 101A.6(1)	Owner and master of ship must ensure condition of ship and equipment maintained after survey	4	10,500* (5,000)	35,000 (30,000)	2,100*	7,000
Rule 101A.6(2)	Owner and master of ship must ensure no change made to ship's structure, equipment etc. after survey without approval	4	10,500* (5,000)	35,000 (30,000)		

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 101A.6(4)	Owner and master of ship must report accident to ship or defect discovered in ship to Director, authorised organisation, and appropriate authorities	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 101A.6(5) Offence merged with 101A.6(4) above.	Owner and master of ship must ensure report of accident or defect made to Director, authorised organisation, and appropriate authorities		(5,000)	(30,000)		
Rule 101A.7(2)	Owner of oil tanker over certain age must ensure oil tanker subject to enhanced programme of inspections	5 (6)	15,000* (5,000)	50,000 (30,000)		
Rule 101A.7(3)	Owner and master of oil tanker over certain age must ensure complete file of survey reports on board	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 101A.7(4)	Owner and master of oil tanker over certain age must ensure survey file accompanied by condition evaluation report, and both in standard format	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rules Part 101B: Surveys and inspections – noxious liquid substances carried in bulk						
Rule 101B.6(1)	Owner and master of ship must ensure condition of ship and equipment maintained after survey	4	10,500* (5,000)	35,000 (30,000)	2,100*	7,000

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 101B.6(2)	Owner and master of ship must ensure no change made to ship's structure, equipment etc. after survey without approval	4	10,500* (5,000)	35,000 (30,000)		
Rule 101B.6(4)	Owner and master of ship must report accident to ship or defect discovered in ship	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 101B.6(5)	Owner and master of ship must ensure report of accident or defect made to Director, authorised organisation, and appropriate authorities	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rules Part 120: Discharge of oil						
Rule 120.3A	Owner and master exceeding allowable discharge of oil and oily mixtures in polar waters	5	15,000*	50,000		
Rule 120.5(1)	Owner and master of oil tankers exceeding allowable discharge of oil or oily mixtures outside special areas and Arctic waters	5	15,000*	50,000		

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 120.5(5)	Owner and master of oil tankers discharging oil or oily mixtures that contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment; introducing chemical or other substances of the purpose of circumventing conditions of discharge	5	15,000*	50,000		
Rule 120.6(1)	Owner and master of ships other than oil tankers exceeding allowable discharge of oil or oily mixtures outside special areas and arctic waters	5	15,000*	50,000		
Rule 120.6(2)	Owner and master of ships other than oil tankers discharging oil or oily mixtures that contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment; introducing	5	15,000*	50,000		
Rule 120.8(1)	Owner and master of oil tankers and ships other than oil tankers exceeding allowable discharge of oil and oily mixtures within special areas except Antarctic area	5	15,000*	50,000		

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 120.8(2)	Owner and master of oil tankers and ships other than oil tankers discharging oil or oily mixtures within special areas except Antarctic area that contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment; introducing chemical or other substances of the purpose of	5	15,000*	50,000		
Rule 120.9(1)	Owner and master of ships less than 400 tonnes gross tonnage other than oil tankers exceeding allowable discharge of oil or oily mixtures within special areas except Antarctic area	5	15,000*	50,000		
Rule 120.9(2)(i) & (2)(ii)	Ships less than 400 tonnes gross tonnage other than oil tankers discharging oil or oily mixtures within special areas except Antarctic area that contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment; or introducing chemical or other substances of the purpose of circumventing conditions of discharge	5	15,000*	50,000	3,000*	10,000
Rule 120.10	Owner and master failing to ensure that oil residues from the ship, that cannot be discharged into the sea in compliance with the conditions specified in this Part, are retained on board or discharged to	5	15,000*	50,000	3,000*	10,000

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
	reception facilities					
Rule 120.12	Owner and master to ensure discharge of ballast water and oil contaminated water from cargo tanks is managed in accordance with rules	4	10,500*	35,000		
Rule 120.14(1)	Owner and master to ensure discharge of contaminated washings, cargo residues and any solvents to port reception facilities	4	10,500*	35,000	2,100*	7,000
Rule 120.15	Duties to report a discharge or escape of oil		<p>No regulation-level penalty as breach of this rule is sufficiently serious to rely on Act-level penalties of section 238 involving failure to report discharge of harmful substances into sea or seabed:</p> <ul style="list-style-type: none"> • an imprisonment term not exceeding 2 years, or a fine not exceeding \$200,000, and, if the offence is a continuing one, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence is continued, and • to pay such amount as the court may assess in respect of the costs incurred in respect of or associated with removing, containing, rendering harmless, or dispersing any harmful substance discharged as a result of the offence; and • to an additional penalty under section 409 (for offence involving commercial gain). 			
Rule 120.16	Duties to report a probable discharge of oil		<p>No regulation-level penalty as breach of this rule is sufficiently serious to rely on Act-level penalties of section 238 re failure to report discharge of harmful substances into sea or seabed:</p> <ul style="list-style-type: none"> • an imprisonment term not exceeding 2 years, or a fine not exceeding \$200,000, and, if 			

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 120.17	Duty to report damage, failure or breakdown of a ship					
Rule 120.19	Master assisting or salvaging a ship involving the discharge or escape of oil into the sea must report action taken, planned and keep the coastal state informed	5	15,000*	50,000		
Rules Part 122: Marine protection products (oil)						
Rule 122.4(2)	Owner must ensure ship is fitted with oil filtering equipment meeting specified requirements	5	15,000*	50,000	3,000*	10,000
Rule 122.4(3)	Owner of ship: <ul style="list-style-type: none"> 10,000 gross tons or more 	5	15,000*	50,000	3,000*	10,000

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
	<ul style="list-style-type: none"> 400 gross tons or more but less than 10,000 gross tons that carries ballast water in oil fuel tanks - <p>must ensure oil filtering equipment fitted with alarm and arrangements to ensure discharge of oily mixture is automatically stopped if oil content of effluent exceeds 15 parts per million (ppm).</p>					
Rule 122.7	Owner must ensure ship of 400 gross tons or more complies with the requirements for oil residue (sludge) tanks and piping in regulation 12 of Chapter 3 of Annex I of MARPOL.	5	15,000*	50,000	3,000*	10,000
Rule 122.19(3)	The owner of an oil tanker to keep the record produced by the oil discharge monitoring and control system recording device for at least three years; and note any failure of the system in the oil record book.	2	3,750*	12,500	750*	2,500
Rule 122.22	The owner of an oil tanker (<150 GT) and other ships (<400 GT) to have on board arrangements for handling oily wastes.	4	10,500*	35,000	2,100*	7,000
Part 123A: Documents – oil						

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 123A.4(1)	Owner and master of New Zealand ship must ensure a valid International Oil Pollution Prevention Certificate is held in respect of ship	No regulation-level penalty as breach of this rule is sufficiently serious to rely on Act-level offences of section 277 re acting without necessary marine protection document: <ul style="list-style-type: none"> • an imprisonment term not exceeding 12 months, or • a fine not exceeding \$10,000, and • an additional penalty under section 409 (for offence involving commercial gain). 				
Rule 123A.4(2)	Owner and master of Aotearoa-New Zealand ship must ensure International Oil Pollution Prevention Certificate carried on board and made available for inspection	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 123A.6(2)	Owner and master of Aotearoa-New Zealand ship must ensure Record of Construction and Equipment carried on board and made available for inspection	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 123A.8(1)(b)	Owner and master of foreign ship registered in state party to MARPOL must ensure text of international oil pollution prevention certificate includes translation into French or English	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 123A.8(2)	Owner and master of foreign ship registered in state party to MARPOL must ensure international oil pollution prevention certificate carried on board and made available for inspection	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 123A.9(1)(c)	Owner and master of foreign ship registered in state party to MARPOL must ensure record of construction and equipment includes translation into English or French	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 123A.9(2)	Owner and master of foreign ship registered in state party to MARPOL must ensure record of construction and equipment carried on board and made available for inspection	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 123A.11(1)(b)	Owner and master of foreign ship registered in state not party to MARPOL must ensure oil pollution prevention document includes translation into English or French	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 123A.11(2)	Owner and master of foreign ship registered in state not party to MARPOL must ensure oil pollution prevention document carried on board and made available for inspection	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 123A.12(1)(b)	Owner and master of foreign ship registered in state not party to MARPOL must ensure record of construction and equipment includes translation into English or French	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 123A.12(2)	Owner and master of foreign ship registered in state not party to MARPOL must ensure record of construction and equipment carried on board and made available for inspection	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rules Part 123B: Documents (record books and manuals) – oil						
Rule 123B.4	Owner and master of Aotearoa-New Zealand ship must ensure oil record books carried on board	2	3,750* (5,000)	12,500 (30,000)	750*	2,500
Rule 123B.5(1)	Owner and master of New Zealand ship must ensure records entered in oil record book	2	3,750*	12,500	750*	2,500
Rule 123B.5(3)	Master of Aotearoa-New Zealand ship must sign each page of oil record books	2	3,750* (625)		750* (250)	
Rule 123B.5(5)	Owner and master of Aotearoa-New Zealand ship must ensure oil record books available for inspection and kept on board	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 123B.8(1)	Owner and master of foreign ship must ensure records entered in oil record book	2	3,750*	12,500	750*	2,500
Rule 123B.8(3)	Master of foreign ship must sign each	2	3,750*		750*	

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
	page of oil record books		(625)		(250)	
Rule 123B.8(5)	Owner and master of foreign ship engaged in international trade must ensure entries in oil record books are in required languages	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 123B.8(6)	Owner and master of foreign ship engaged in trade other than international trade must ensure entries in oil record books are in required languages	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 123B.8(7)	Owner and master of foreign ship must ensure oil record books available for inspection and kept on board	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 123B.11(1)	Owner and master of small New Zealand oil tanker must ensure records entered in oil record book	2	3,750*	12,500	750*	2,500
Rule 123B.11(3)	Master of small Aotearoa-New Zealand oil tanker must sign each page of oil record book	2	3,750* (625)		750* (250)	
Rule 123B.11(5)	Owner and master of small Aotearoa-New Zealand oil tanker must ensure oil record book available for inspection and kept on board	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 123B.14(1)	Owner and master of small foreign oil	2	3,750*	12,500	750*	2,500

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
	tanker must ensure records entered in oil record book					
Rule 123B.14(3)	Master of small foreign oil tanker must sign each page of oil record book	2	3,750* (625)		750* (250)	
Rule 123B.14(5)	Owner and master of small foreign oil tanker engaged in international trade must ensure entries in oil record book are in required languages	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 123B.14(6)	Owner and master of small foreign oil tanker engaged in trade other than international trade must ensure entries in oil record book are in required languages	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 123B.14(7)	Owner and master of small foreign oil tanker must ensure oil record book available for inspection and kept on board.	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 123B.19	Owner and master of foreign oil tanker operating with dedicated clean ballast tanks must ensure required manual carried on board	4	10,500* (5,000)	35,000 (30,000)	2,100*	7,000

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 123B.20	Owner and master of foreign oil tanker with crude oil washing system must ensure required manual carried on board	4	10,500* (5,000)	35,000 (30,000)	2,100*	7,000
Rule 123B.21(2)	Owner and master of foreign ship with oil discharge monitoring and control system must ensure required manual carried on board	4	10,500* (5,000)	35,000 (30,000)	2,100*	7,000
Rules Part 125: Shipboard operations – oil						
Rule 125.4(1)	Owner and master of ship must ensure no ballast water carried in ship's oil fuel tanks except in certain circumstances under 125.4(2)	5	15,000* (5,000)	50,000 (30,000)		
Rule 125.4(3)	Owner and master of ship must ensure no ballast water carried in any oil fuel tank except in certain circumstances under 125.4(4)	5	15,000* (5,000)	50,000 (30,000)		
Rule 125.6(1)	Owner and master of ship must ensure no ballast water carried in any cargo tank except in certain circumstances	5	15,000* (5,000)	50,000 (30,000)		
Rule 125.6(4)	Owner and master of crude oil tanker must ensure sufficient cargo tanks are crude oil washed prior to ballast voyage	5	15,000* (5,000)	50,000 (30,000)		

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 125.7	Master of oil tanker must ensure valves or closing devices kept closed when ship en route and ship's cargo tanks contain cargo oil	5	15,000* (5,000)		3,000*	
Rule 125.8	Owner and master of ship required to carry manual under rule 123B.19 or rule 123B.20 or rule 123B.21(2) must ensure operational procedures in manual complied with	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 125.10(2)	Owner and master to ensure ship does not carry heavy grades of oil as cargo, or use as ballast or carry and use as fuel in the Antarctic area	5	15,000*	50,000		
Rules Part 130A: Shipboard marine oil spill contingency plans						
Rule 130A.20	Responsibilities of owner and master of Aotearoa-New Zealand ship re periodic testing of ship's New Zealand shipboard marine oil spill contingency plan	5	15,000* (3,000)	50,000 (20,000)	3,000*	10,000
Rule 130A.21	Responsibilities of owner of Aotearoa-New Zealand ship re notification of modifications to ship's New Zealand shipboard marine oil spill contingency plan	2	3,750* (3,000)	12,500 (20,000)	750*	2,500

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 130A.23	Owner and master of foreign ship must ensure appropriate oil pollution emergency plan carried on board	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rules Part 130B: Oil transfer site marine oil spill contingency plans						
Rule 130B.4	Offence revoked. This offence is of sufficient gravity to rely on Act-level provisions in section 277.		(5,000)	(30,000)	(2,000)	(12,000)
Rule 130B.8(a)	Operator of oil transfer site must ensure certain personnel receive appropriate training	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Rule 130B.8(b)	Operator of oil transfer site must ensure a record of training is kept	5	15,000*	50,000	3,000*	10,000
Rule 130B.8(c)	Operator of oil transfer site must maintain access to equipment to deal with oil spill	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Rule 130B.8(d)	Operator of oil transfer site must, when called upon by the Director, justify response option in contingency plan as effective and achievable		(3,000)	(20,000)	(1,200)	(7,200)
Agreed revoke offence						

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 130B.9(1)	Operator of oil transfer site must keep Director's written approval of contingency plan, and make both documents available to Director on request	2	3,750* (3,000)	12,500 (20,000)	750* (1,200)	2,500 (7,200)
Rule 130B.9(2)	Operator of oil transfer site must ensure site marine oil spill contingency plan kept and available at site	2	3,750*	12,500	750*	2,500
Rule 130B.9(3)	Operator must, as soon as practicable, supply a copy of Director's written approval and approved contingency plan to Director, District Chief Officer, and regional on-scene commander (if any)	2	3,750* (3,000)	12,500 (20,000)	750* (1,200)	2,500 (7,200)
Rule 130B.10	Operator of oil transfer site must: (1) ensure contingency plan is tested and reviewed	5	15,000* (3,000)	50,000 (20,000)	3,000* (1,200)	10,000 (7,200)
Rule 130B.10(2)	Operator of oil transfer site must: (2) keep record of every test and review, and the results and findings	2	3,750* (2,500)	12,500 (15,000)	750* (500)	2,500 (3,000)
Rule 130B.10(3)	Operator of oil transfer site must: (3) determine and implement changes to contingency plan	2	3,750* (2,500)	12,500 (15,000)	750 (500)	2,500 (6,000)

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 130B.11(1)	Operator of oil transfer site must ensure any modification to contingency plan is notified	2	3,750* (1,250)	12,500 (6,000)	750* (500)	2,500 (6,000)
Rule 130B.12(1)	Operator of oil transfer site must obtain approval for modifications to contingency plan	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 130B.13	Offence revoked. This offence is of sufficient gravity to rely on Act-level provisions in section 238.				(2,000)	(1,200)
Rules Part 131: Offshore installations – oil spill contingency plans and oil pollution prevention certification						
Rule 131.21	Offence revoked. This offence is of sufficient gravity to rely on Act-level provisions in section 277 re acting without necessary marine protection document.		(5,000)	(30,000)		

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 131.25(1)	Owner of installation must keep approved oil spill contingency plan with Director's written approval, and make both documents available to Director on request	2	3,750*	12,500	750* (500)	2,500 (3,000)
Rule 131.25(4)	If offshore installation is within a region, owner must supply a copy of Director's written approval and approved oil spill contingency plan to regional on-scene commander as soon as practicable after approval is issued	2	3,750* (1,250)	12,500 (6,000)	750* (500)	2,500 (3,000)
Rule 131.26(1)	Owner of installation must apply to Director for approval of modification to oil spill contingency plan in accordance with rule	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 131.27(1)	Owner of installation must notify Director and every person holding a copy of oil spill contingency plan required to be kept or supplied under rule 131.25 of modification made to that plan	2	3,750* (1,250)	12,500 (6,000)	750* (500)	2,500 (3,000)
Rule 131.27(2)	Owner of installation must keep a record of notifications of modifications.	2	3,750* (1,250)	12,500 (6,000)	750* (500)	2,500

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
						(3,000)
Rule 131.28(a)(c)	Owner of offshore installation must – (a) ensure personnel are aware of their responsibilities under approved oil spill contingency plan and receive appropriate training; (c) maintain access to equipment to deal with spill at appropriate level	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Rule 131.28(b)	Owner of offshore installation must – (b) ensure training is undertaken and recorded, and training record maintained and provided to Director in accordance with rule;	2	3,750* (1,250)	12,500 (6,000)	750* (500)	2,500 (3,000)
131.28(d) Offence revoked	Owner of offshore installation must – (d) when requested by Director, justify response option identified in oil spill		(1,250)			(3,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
	contingency plan as effective and achievable					
Rule 131.29(1)	Owner of offshore installation responsibilities must test emergency response procedures and review effectiveness of procedures in accordance with rule	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Rule 131.29(2)	Owner must notify Director of test or review, make and keep a record of every test and review made under rule 131.29(1) and of the results, and provide a copy of the results to Director in accordance with rule	2	3,750* (2,500)	12,500 (15,000)	750* (500)	2,500 (3,000)
Rule 131.29(3)	Following every review of emergency response procedures, owner must determine modifications to oil spill contingency plan, submit modifications to Director for approval, and implement modifications in accordance with rule	4	10,500* (2,500)	35,000 (15,000)	2,100* (500)	7,000 (3,000)
Rule 131.41(1)	Owner of installation must report oil spill in accordance with rule	5	15,000*	50,000	3,000* (2,000)	10,000 (12,000)
Rule 131.41(2)	Person responsible for implementing emergency response procedures must report oil spill that he or she considers	5	5,000	50,000	1,000 (2,000)	10,000 (12,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
	cannot be contained or cleaned up using the resources available in accordance with rule					
Rule 131.42(1)	Owner of installation must ensure event or defect is reported in accordance with rule 131.42(2)	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Rule 131.61(1)	Owner of installation must ensure there is a valid International Oil Pollution Prevention Certificate held in respect of installation	5	15,000* (2,500)	50,000 (15,000)	3,000* (1,000)	10,000 (6,000)
Rule 131.61(2)	Owner of installation must ensure international oil pollution prevention certificate held in respect of offshore installation is available in accordance with rule	2	3,750* (2,500)	12,500 (15,000)	750* (1,000)	2,500 (6,000)
Rule 131.62(1)	Owner of offshore installation must ensure installation undergoes initial survey, renewal surveys, annual survey, and intermediate survey	5 (6)	15,000* (5,000)	50,000 (30,000)	2,000	12,000
Rule 131.66(1)	Owner must ensure the offshore installation's equipment is maintained in condition complying with the rules and its IOPP certificate, and does not present an unreasonable threat of harm to the marine environment.	4	10,500* (5,000)	35,000 (30,000)	2,100* (2,000)	7,000 (12,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 131.66(2)	Owner must ensure no change is made to offshore installation's structure, equipment, systems, piping, fittings, arrangements, or material covered by survey, without approval of surveyor (except direct replacement of equipment and fittings)	4	10,500* (5,000)	35,000 (30,000)	2,100* (2000)	7,000 (12,000)
Rule 131.81	Owner of installation must ensure placards re discharge requirements are displayed and in required languages	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 131.82(1)(a)	Owner of installation in territorial sea must ensure installation has garbage management plan complying with rule	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 131.82(1)(b)	Owner of installation in territorial sea must ensure up-to-date copy of garbage management plan is carried on board installation	2	3,750* (5,000)	12,500 (30,000)	750*	2,500
Rule 131.82(1)(c)	Owner of installation in territorial sea must ensure all persons on board comply with garbage management plan	4	10,500* (5,000)	35,000 (30,000)		
Rule 131.82(3)	All persons on board offshore installation in territorial sea must comply with garbage management plan	4	3,500 (5,000)			

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 131.83	Owner of offshore installation must comply with garbage record book requirements	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 131.84(1)	Owner of offshore installation must ensure installation is fitted with oil filtering equipment meeting specified requirements	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Rule 131.84(2)	Offshore installation of 10 000 gross tons or more must have oil filtering equipment fitted with alarm and arrangements to ensure discharge of oily mixture is automatically stopped if oil content of effluent exceeds 15 parts per million	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Rule 131.85(1)	Owner of offshore installation that is not fixed offshore installation must ensure installation is fitted with oil residue (sludge) tank that complies with prescribed requirements	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Rule 131.85(3)	Owner of fixed offshore installation must ensure installation is fitted with oil residue (sludge) tank that complies with prescribed requirements	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 131.86(1)	Owner of offshore installation must provide installation with oil record book in approved form	2	3,750* (4,000)	12,500 (25,000)	750* (1,000)	2,500 (6,000)
Rule 131.86(2)	Owner must ensure an entry is made in oil record book of certain operations taking place on offshore installation and of certain discharges	2	3,750* (4,000)	12,500 (25,000)	750* (1,000)	2,500 (6,000)
Rule 131.86(3)	Owner must ensure statement is made in oil record book of the circumstances of and reasons for discharge or escape of oil or oily mixtures or substances containing oil	2	3,750* (4,000)	12,500 (25,000)	750* (1,000)	2,500 (6,000)
Rule 131.86(6)	Owner must ensure oil record book is available for inspection and is kept in accordance with rule	2	3,750* (4,000)	12,500 (25,000)	750* (1,000)	2,500 (6,000)
Rule 131.86(7)	Owner must ensure a true copy of every completed page of offshore installation's oil record book is forwarded to Director in accordance with rule	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 131.86(8)	Owner must preserve oil record book for 3 years after last entry	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rules Part 132: New Zealand oil spill control agents						

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 132.20(1)	No person to use or discharge an OSCA unless it is an NZOSCA and use is authorized under a marine oil spill contingency plan or by an on-scene commander	5	15,000*	50,000	3,000*	10,000
Rule 132.20(2)	A person using an NZOSCA to comply with conditions or requirements imposed by the Director	5	15,000*	50,000	3,000*	10,000
Rules Part 140: Discharge of noxious liquid substances carried in bulk						
Rule 140.5(1) (140.17(1))	Owner and master of ship outside special area must ensure tank from which Category X substance unloaded is washed in accordance with rule.	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 140.5(2)	Responsibilities of owner and master of ship outside special area re prewashing of tank from which Category X substance unloaded	5	15,000*	50,000	3,000*	10,000
Rule 140.5(3)	Responsibilities of owner and master of ship to ensure that appropriate records of the operations undertaken under sub-rule (2) are made as required by Part 142B	2	3,750*	12,500	750*	2,500

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 140.6(1)	Responsibilities of owner and master of ship outside special area re tank from which Category Y or Z substance unloaded	5	15,000*	50,000	3,000*	10,000
Rule 140.6(2)	Responsibilities of owner and master of Aotearoa-New Zealand ship outside special area re discharge and washing of tanks—Category Y and Z substances	5	15,000*	50,000	3,000*	10,000
Rule 140.8	Owner and master to ensure uncategorized liquid substances in bulk not carried until Director notifies provisional assessment of substance.	5	15,000*	50,000	3,000*	10,000
Rule 140.12	Duty to report damage, failure or breakdown of a ship	No regulation-level penalty as breach of this rule is sufficiently serious to rely on Act-level penalties of section 71 re failure to report accidents or incidents: <ul style="list-style-type: none"> • in the case of an individual, a fine not exceeding \$5,000 • in the case of a body corporate, a fine not exceeding \$30,000. 				
Rule 140.14	Responsibilities of master of ship rendering assistance or undertaking salvage re reporting to nearest coastal state	5	15,000*		3,000*	
Rule Part 142A: Documents (certificates) – noxious liquid substances						

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 142A.4(1)	Owner and master of Aotearoa-New Zealand ship must ensure a valid International Pollution Prevention Certificate for Carriage of Noxious Liquid Substances in Bulk is held					
		No regulation-level penalty as breach of this rule is sufficiently serious to rely on Act-level penalties of section 277 re acting without necessary marine protection document: <ul style="list-style-type: none"> • an imprisonment term not exceeding 12 months, or • a fine not exceeding \$10,000, and • an additional penalty under section 409 (for offence involving commercial gain). 				
Rule 142A.4(2)	Owner and master of Aotearoa-New Zealand ship must ensure international pollution prevention certificate for carriage of noxious liquid substances in bulk is carried on board and made available for inspection	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 142A.7(1)(b)	Owner and master of foreign ship registered in state party to MARPOL must ensure text of international pollution prevention certificate for carriage of noxious liquid substances in bulk includes translation into English, French or Spanish	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 142A.7(3)	Owner and master of foreign chemical tanker registered in state party to MARPOL issued with certificate of fitness must ensure certificate includes translation into English, French or Spanish	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 142A.7(4)	Owner and master of foreign ship registered in state party to MARPOL must ensure international pollution prevention certificate for carriage of noxious liquid substances in bulk or certificate of fitness is carried on board and made available for inspection	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 142A.9(1)(b)	Owner and master of foreign ship registered in state not party to MARPOL must ensure noxious liquid substance pollution prevention document includes translation	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 142A.9(3)	Owner and master of foreign chemical tanker registered in state not party to MARPOL issued with document of fitness of standard equivalent to international bulk chemical code or bulk chemical code must ensure document includes translation into English, French or Spanish	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 142A.9(4)	Owner and master of foreign ship registered in state not party to MARPOL must ensure noxious liquid substance pollution prevention document or document of fitness carried on board and made available for inspection	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule Part 142B: Documents (record books and manuals) – noxious liquid substances						
Rule 142B.5(1)	Owner and master must ensure records entered in cargo record book (Aotearoa-New Zealand ship)	2	3,750*	12,500	750*	2,500
Rule 142B.5(5)	Owner and master of New Zealand ship must ensure cargo record book available for inspection and kept on board	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 142B.5(7)	Owner of Aotearoa-New Zealand ship must preserve cargo record book for 3 years after last entry	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 142B.8(1)	Owner and master must ensure records entered in cargo record book (foreign ship)	2	3,750*	12,500	750*	2,500
Rule 142B.8(5)	Owner and master of foreign ship engaged in international trade must ensure entries in cargo record book are in the national language of the state the ship is registered in and in English, French or Spanish	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 142B.8(6)	Owner and master of foreign ship engaged in trade other than international trade must ensure entries in cargo record book are in the national language of the state the ship is registered in and	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
	in English					
Rule 142B.8(7)	Owner and master of foreign ship must ensure Cargo Record Book available for inspection and kept on board	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 142B.10(1)	Owner and master of Aotearoa-New Zealand ship must ensure that ship has a Procedures and Arrangements Manual approved by the Director	5 (6)	15,000*	50,000		
Rule 142B.10(5)	Responsibilities of owner of Aotearoa-New Zealand ship re revision of Procedures and Arrangements Manual	2	3,750* (3,000)	12,500 (20,000)	750*	2,500
Rule 142B.11	Owner and master of foreign ship must ensure that Procedures and Arrangements Manual or other appropriate manual carried on board.	4	10,500* (5,000)	35,000 (30,000)	2,100*	7,000
Rule Part 143: Shipboard marine pollution emergency plans for noxious liquid substances						
Rule 143.4(1)	Owner and master to ensure ship carries on board an emergency plan for noxious liquid substances	5 (6)	15,000*	50,000		
Rule 143.7	Owner to ensure ship carries the noxious liquid substances plan and written approval, and make these	2	3,750*	12,500	750*	2,500

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
	available to the Director, District Chief Fire Officer and Harbourmaster					
Rule 143.8	Owner and master to ensure testing of the noxious liquid substances plan, keep records, update the plan and notify the Director of any changes	5 (6)	15,000*	50,000		
Rule 143.10(1)	Owner and master of a ship registered in a state party to MARPOL to carry on board an emergency plan for noxious liquid substances	5 (6)	15,000*	50,000		
Rule 143.10(2)	Owner and master of a ship registered in a state not party to MARPOL to carry on board an emergency plan for noxious liquid substances	5 (6)	15,000*	50,000		
Rule Part 150: Carriage of cargoes – harmful substances						
Rule 150.4	Responsibilities of owner and master of ship re jettison of harmful substances	5	15,000* (5,000)	50,000 (30,000)		
Rule 150.5(5)	Responsibilities of owner and master of ship re washing of leakages overboard	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Rule Part 160: Prevention of pollution by sewage from ships in the Antarctic Treaty Area						

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 160.5	Owner and master of Aotearoa-New Zealand ship must ensure condition of ship maintained after survey and no change made to equipment etc. after survey without approval	5	15,000* (5,000)	50,000 (30,000)		
Rule 160.6(2)	Owner and master of Aotearoa-New Zealand ship must ensure International Sewage Pollution Prevention Document of Compliance carried on board and made available for inspection	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 160.10(1)	Owner and master of Aotearoa-New Zealand ship must ensure sewage record book kept on board and available for inspection	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 160.10(2)	Owner of Aotearoa-New Zealand ship must preserve sewage record book for 3 years after last entry	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 160.11	Owner of Aotearoa-New Zealand ship must ensure discharge connection complies with prescribed requirements	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Part 170: Prevention of pollution by garbage from ships and offshore installations						
Rule 170.3(2)	No person is to discharge garbage into the sea except as provided in this Part or the Act.	4	3,500		700	

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 170.18	Owner and master of Aotearoa-New Zealand ship must ensure placards re discharge requirements are displayed	2	3,750* (5,000)	12,500 (30,000)	750* (500)	2,500 (12,000)
Rule 170.19(2)(a)	Owner and master of Aotearoa-New Zealand ship must ensure ship has garbage management plan that complies with rule	5	15,000* (5,000)	50,000 (30,000)	3,000*	10,000
Rule 170.19(2)(b)	Owner and master of Aotearoa-New Zealand ship must ensure up-to-date copy of garbage management plan is carried on board ship	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 170.19(2)(c)	Owner and master of Aotearoa-New Zealand ship must ensure all persons on board comply with garbage management plan	4	10,500* (5,000)	35,000 (30,000)		
Rule 170.19(3)(c)	Owner and master of Aotearoa-New Zealand ship must ensure garbage management plan is written in working language of the crew and in English	2	3,750* (1,250)	12,500 (7,500)	750* (500)	2,500 (3,000)
Rule 170.19(4)	All persons on board Aotearoa-New Zealand ship must comply with garbage management plan	4	3,500 (5,000)		700	

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 170.20(2)	Responsibilities of owner and master of Aotearoa-New Zealand ship re provision of garbage record book	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 170.20(3)	Master of Aotearoa-New Zealand ship must sign each page of garbage record book	2	3,750* (5,000)		750* (2,000)	
Rule 170.20(4)	Owner of Aotearoa- New Zealand ship must preserve garbage record book for 24 months	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 170.21	Owner and master of ship must report loss or discharge of fishing gear	5 (6)	15,000* (5,000)	50,000 (30,000)	2,000	(12,000)
Rule 170.23	Responsibilities of owner and master of foreign ship within Aotearoa-New Zealand jurisdiction re provision of placards	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)
Rule 170.24	Responsibilities of owner and master of foreign ship within Aotearoa-New Zealand jurisdiction re provision of garbage management plans	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Rule 170.25	Responsibilities of owner and master of foreign ship within Aotearoa-New Zealand jurisdiction re provision of garbage record book	2	3,750* (5,000)	12,500 (30,000)	750* (2,000)	2,500 (12,000)

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule Part 190: Mandatory ships routeing						
Rule 190.3(2)	Owner, charterer, and master of ship of more than 45 m LOA not to enter Poor Knights area in transit	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Rule 190.4	Owner, charterer, and master of ship of 500 GT and above not to enter the Three Kings area	5	15,000* (5,000)	50,000 (30,000)	3,000* (2,000)	10,000 (12,000)
Rules Part 300: Ballast water						
Rule 300.41(1)	Owner and master of party State ship to ensure valid IBWM certificate held	No regulation-level penalty as breach of this rule is sufficiently serious to rely on Act-level penalties of section 277 re acting without necessary marine protection document: <ul style="list-style-type: none"> • an imprisonment term not exceeding 12 months, or • a fine not exceeding \$10,000, and • an additional penalty under section 409 (for offence involving commercial gain). 				
Rule 300.41(2)	Owner and master of party State ship to ensure valid IBWM certificate carried on board, and made available for inspection	2	3,750*	12,500	750*	2,500
Rule 300.41(3)	Owner and the master of party State ship to comply with conditions on certificate.	No regulation-level penalty as breach of this rule is sufficiently serious to rely on Act-level penalties of section 278 re acting in breach of marine protection document: <ul style="list-style-type: none"> • an imprisonment term not exceeding 12 months, or • a fine not exceeding \$10,000, and 				

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
						<ul style="list-style-type: none"> an additional penalty under section 409 (for offence involving commercial gain).
Rule 300.42(1)	Owner and master of non-party State ship to ensure valid BWM document held					<p>No regulation-level penalty as breach of this rule is sufficiently serious to rely on Act-level penalties of section 277 re acting without necessary marine protection document:</p> <ul style="list-style-type: none"> an imprisonment term not exceeding 12 months, or a fine not exceeding \$10,000, and an additional penalty under section 409 (for offence involving commercial gain).
Rule 300.42(2)	Owner and master of non-party State ship to carry BWM document; and make it available for inspection	2	3,750*	12,500	750*	2,500
Rule 300.42(3)	Owner and the master of non-party State ship to comply with conditions on BWM document.					<p>No regulation-level penalty as breach of this rule is sufficiently serious to rely on Act-level penalties of section 278 re acting in breach of marine protection document:</p> <ul style="list-style-type: none"> an imprisonment term not exceeding 12 months, or a fine not exceeding \$10,000, and an additional penalty under section 409 (for offence involving commercial gain).
Rule 300.80(1)	Owner and the master to ensure Aotearoa-New Zealand ship has a ballast water management plan	5	15,000*	50,000	3,000*	10,000
Rule 300.80(3)(a)	Owner and the master to ensure Aotearoa-New Zealand ship carries a ballast water management plan	2	3,750*	12,500	750*	2,500
Rule 300.80(3)(b)	Owner and the master to ensure Aotearoa-New Zealand ship officers and crew familiar with plan and their duties					No regulation-level penalty added as section 396(3)(aa)(ii) of the Act re audit and inspection power provides for Director to require person to demonstrate familiarity with procedures for prevention of harm to the environment, human health, property or resources from ballast water.

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
	under it.	Detention under section 397 may be imposed until satisfied that the risk of proceeding to sea is acceptable.				
Rule 300.80(3)(c)	Owner and the master to ensure Aotearoa-New Zealand ship BW operations carried out in accordance with the plan and persons on board comply with the plan.	5 (6)	15,000*	50,000		
Rule 300.81(1)(a)&(b)	Owner and the master to ensure Aotearoa-New Zealand ship has, carries on board, and makes available for inspection a ballast water record book	2	3,750*	12,500	750*	2,500
Rule 300.81(1)(c)	Owner and the master to ensure Aotearoa-New Zealand ballast water record book maintained without delay in accordance with subrule (3).	2	3,750*	12,500	750*	2,500
Rule 300.81(3)(b)-(d)	Owner and the master of Aotearoa-New Zealand ship to maintain record in record book of BW operations including any accidental exceptional or exempt discharges.	2	3,750*	12,500	750*	2,500
Rule 300.81(4)(a)&(b)	Duty to retain on board completed record book for 2 years and by the owner for a further 3 years.	2	3,750*	12,500	750*	2,500

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 300.82(1)	Owner and master of a foreign ship registered in a State party to the Convention to ensure that a current ballast water management plan and ballast water record book are carried on the ship	2	3,750*	12,500	750*	2,500
Rule 300.82(2)	Owner and master of a foreign ship that is not registered in a State party to the Convention to ensure that a current ballast water management plan, ballast water record book and evidence that the plan and record book comply with the requirements of subpart D are carried on the ship	2	3,750*	12,500	750*	2,500
Rule 300.100(2)	Owner and master of a Aotearoa-New Zealand ship to ensure that a ballast water management system meets the requirements of the applicable subpart (F-H).	4	10,500*	35,000	2,100*	7,000
Rule 300.100(3)*	Owner and master of a Aotearoa-New Zealand ship to ensure that a ballast water management system is approved by the Director and is safe for the ship, its equipment and crew.	5 (6)	15,000*	50,000		

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Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
Rule 300.100(4)	Owner and master of a Aotearoa-New Zealand ship to ensure that that the ballast water management system is in accordance with the standards and requirements specified in Appendix A.	4	10,500*	35,000	2,100*	7,000
Rule 300.102(a)	Owner and master of foreign ship to ensure BWM system approved by Administration	4	10,500*	35,000	2,100*	7,000
Rule 300.102(b)	Owner and master of foreign ship to ensure BWM system safe in relation to ship, its equipment and crew	5 (6)	15,000*	50,000		
Rule 300.102(c)	Owner and master of foreign ship to ensure BWM system uses approved active substance (if used)	4	10,500*	35,000	2,100*	7,000
Rule 300.102(d)	Owner and master of foreign ship to ensure BWM system complies with regulation B3 (concerning transition from discharge to treatment)	4	10,500*	35,000	2,100*	7,000
Rule 300.103(2)	Owner and master (all ships) to ensure ballast water discharge is in accordance with the exchange standard (subpart F) or performance standard (subpart G), or an approved alternative method (subpart H for NZ ship), or a foreign ship's Administration.	<p>No regulation-level penalty as breach of this rule is covered by statutory offence in section 246C re discharge of ballast water in breach of section 246B re ballast water may be discharged from ship only in accordance with applicable marine protection rules:</p> <ul style="list-style-type: none"> • an imprisonment term not exceeding 2 years, or • a fine (or fines) not exceeding \$200,000, and • if the offence is a continuing one, a further fine not exceeding \$10,000 for every day or 				

Provision	Brief description	Category assigned	Maximum fine for individual (\$)	Maximum fine for body corporate (\$)	Maximum infringement fee for individual (\$)	Maximum infringement fee for body corporate (\$)
		part of a day during which the offence is continued.				

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Appendix II. Summary of proposed changes to Maritime (Offences) Regulations 1998

Rule Part and purpose	Application	Issues	Proposed changes
<p>Part 19: Maritime Transport Operator – Certification and Responsibilities</p> <p>Requires maritime transport operators to develop, and operate according to, a safety system specific to their operation. The objective of the rule is to improve the safety record of commercial ship operators in New Zealand and affirm the responsibility operators have for the safety of their operation and the vessels used within it.</p>	<p>Most domestic commercial ship operators - every person conducting a maritime transport operation, operating a New Zealand commercial ship—</p> <ul style="list-style-type: none"> (a) in New Zealand waters (b) on the New Zealand coast; or (c) outside New Zealand waters— <ul style="list-style-type: none"> (i) if the ship is registered in New Zealand under the Ship Registration Act 1992; or (ii) if the ship is, or is required to be, licensed or registered in New Zealand under any applicable New Zealand fisheries law. 	<p>There are currently no offences in the Regulations for breaches of Part 19, which most domestic commercial vessel operators must operate under. This means there is no deterrent in the legislation to encourage compliance with those rules. Consequently, Maritime NZ has limited ability to respond to and address breaches of those rules.</p> <p>Most operator duties in Rules Part 19 are minor matters and there is a high rate of voluntary compliance so the power to issue infringement fees or fines is not necessary. However, there are five duties in the Rule Part that we consider are sufficiently important to warrant being offences.</p> <p>All five new offences are “straightforward and relatively</p>	<p>Establish offences and associated infringement fees and fines based on the Effective Transport Financial Penalties Framework (Framework) for rules 19.24, 19.43(4), 19.45(3), and 19.65.</p>

Rule Part and purpose	Application	Issues	Proposed changes
		<p>minor” offences and appropriate for infringement fee penalties to deter straightforward lower-level offending.</p>	
<p>Part 20: Operating Limits</p> <p>Defines physical operating limits for ships for the purpose of all Maritime Rules. These operating limits are enclosed water, inshore, inshore fishing, coastal and offshore limits and unlimited area.</p> <p>Requires ships to be assigned operating limits and keep within the assigned operating limits, subject to exceptions.</p>	<p>New Zealand commercial ships, foreign commercial ships operating in New Zealand waters or foreign fishing vessels registered under the Fisheries Act 1996.</p> <p>Does not apply to pleasure craft, New Zealand ships which have current SOLAS certificates, or foreign ships visiting New Zealand ports, New Zealand offshore terminals or transiting New Zealand waters.</p>	<p>Offences have been reviewed in line with the Effective Transport Financial Penalties Framework (Framework) and penalties require changes to better reflect the severity and likelihood of harm.</p> <p>Offences relating to rules 20.20(1) and 20.43(2) require renumbering and rewording to align with a previous change in the rules.</p> <p>Current rule 20.21 corresponds to the offence under rule 20.6 in the regulations. This offence is overridden by another offence in the MTA (section 67B(1)(b)), which carries a penalty appropriate for the seriousness of the offence. It is considered inappropriate to duplicate the offence in the regulations and therefore the</p>	<p>Increase penalty levels for rules 20.20(1) and 20.43(2), based on the Framework.</p> <p>Renumber and reword rules 20.20(1) and 20.43(2).</p> <p>Remove offence under 20.6.</p>

Rule Part and purpose	Application	Issues	Proposed changes
<p>Part 21: Safe Ship Management Systems</p> <p>Requires certain New Zealand commercial ships to establish safe ship management procedures which are consistent with the duties of participants in the maritime system stated in the MTA.</p>	<p>Section 1 relates to foreign-going ships which are subject to SOLAS requirements, and to other large ships, other than fishing ships, which proceed beyond restricted limits.</p> <p>Section 2 (revoked) relates to restricted limit ships, fishing ships and ships of less than 54 meters in length which are not required to comply with section 1.</p>	<p>offence under 20.6 can be revoked.</p> <p>Offences have been reviewed in line with the Framework and penalties require changes to better reflect the severity and likelihood of harm.</p> <p>Section 2 of Part 21 was revoked by Part 19. There was a caveat that provisions continued to apply to maritime transport operators who were operating under a deemed Maritime Transport Operator Certificate after 1 July 2014, until their certificate expired. The last certificate expired on 1 July 2019. Consequently, offence provisions relating to former section 2 rules 21.13(1), (3), (5), (15) and (19) are now redundant.</p>	<p>Increase penalty levels for offences under rules 21.6(1)(b), 21.6(4), 21.6(5) and 21.8, based on the Framework.</p> <p>Remove offence under revoked rules 21.13(1), (3), (5), (15) and (19).</p>
<p>Part 22: Collision Prevention</p> <p>Gives effect to the Convention on the International Regulations for</p>	<p>Owners and persons responsible for navigation of:</p> <ul style="list-style-type: none"> New Zealand ships, including pleasure craft, wherever they are 	<p>There is only one offence under these rules, 22.39. This is a catch-all offence covering all the rules in the Part. We consider that offences under rule 22.39 need amending to provide for</p>	<p>Replace the current single offence for rule 22.39 with two separate offences. The first offence would relate to subrules 22.39(1), (2)(a) and (2)(b) and would include a new infringement fee and a revised fine penalty based on the</p>

Rule Part and purpose	Application	Issues	Proposed changes
<p>Preventing Collisions at Sea, to which New Zealand is party.</p> <p>Provides the steering and sailing rules for ships, as well as standards for the installation, performance and use of lights for collision avoidance and the sound and light signals used for communication of safety information.</p>	<ul style="list-style-type: none"> foreign ships, including pleasure craft, in New Zealand waters ships of the Defence Force and foreign defence forces in New Zealand waters seaplanes when manoeuvring on the surface of New Zealand waters craft in inland waters, such as lakes and rivers 	<p>infringement-level penalties, where suitable.</p> <p>The current single offence provides only fine-level penalties. It would be beneficial to have infringement penalties available to address breaches for subrules 22.39(1), (2)(a) and (2)(b). These are straightforward, easily provable, low severity breaches relating to operators not having or using the right navigation equipment.</p> <p>Offences under the remaining two subrules, 22.39(2)(c) and (d), are broad, referring to navigating in accordance with the whole of Rule Part 22, and could be complex to prove. A fine imposed by the Courts is therefore appropriate for offending against these subrules.</p> <p>Offences have been reviewed in line with the Framework and</p>	<p>Framework. The second offence would relate to subrules 22.39(2)(c) and (2)(d), with only a revised fine penalty.</p> <p>Reword the two offences to reflect this change.</p>

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Rule Part and purpose	Application	Issues	Proposed changes
<p>Part 24A: Carriage of Cargoes – Dangerous Goods</p> <p>Implements New Zealand’s obligations under the Convention for the Safety of Life at Sea (SOLAS) with respect to the carriage of dangerous goods.</p> <p>Prescribes rules governing the carriage of dangerous goods by sea by certain commercial ships.</p> <p>The SOLAS requirements cover a series of mandatory codes for dangerous goods in packaged form, dangerous goods in solid form in bulk, dangerous liquid chemicals in bulk, liquefied gases in bulk as well as packaged irradiated nuclear fuel, plutonium</p>	<p>New Zealand commercial ships in New Zealand waters and elsewhere, and foreign ships in New Zealand waters, carrying dangerous goods as cargo.</p> <p>All persons involved in any way with the carriage of dangerous goods on a ship, whether they are shore-based or on board a ship, including:</p> <ul style="list-style-type: none"> • owners, operators and masters of ships • shippers of dangerous goods • any person engaged in packing dangerous goods or consolidating cargo containing dangerous goods for carriage on a ship • any person who loads, stows or unloads dangerous goods on a ship • any person who manufactures or supplies 	<p>penalties require changes to better reflect the severity and likelihood of harm.</p> <p>There are 34 offences relating to Part 24A. Due to subsequent rule amendments, most of these offences relate to the wrong rule or a revoked rule. Without this correction the rules may be unenforceable. For this reason, the entire set of offences for Part 24A requires a complete review to be fit-for-purpose.</p> <p>Offences have been reviewed in line with the Framework and penalties require changes to better reflect the severity and likelihood of harm and to align them more closely with the levels for the most serious dangerous goods-related offences in land transport and civil aviation offences regulations.</p>	<p>Replace the current Part 24A offences with a reduced, rationalised, and correctly referenced set of five new offences. These cover what we consider are the most critical code requirements to support compliance with the Part 24A rules which are:</p> <ul style="list-style-type: none"> • 24A.62(1)(a) – Identifying and classifying • 24A.62(1)(b) – Packaging • 24A.62(1)(c) – Marking and labelling • 24A.82(1)(a) – Documentation • 24A.223(1) – Alternative standards for carriage of dangerous goods freight on a ship on a domestic voyage within restricted limits other than across Cook Strait.

Rule Part and purpose	Application	Issues	Proposed changes
<p>and high-level radioactive wastes on board ships.</p>	<p>packaging for dangerous goods that will be carried on a ship</p> <ul style="list-style-type: none"> any person, including a passenger, who carries dangerous goods onto a ship or allows them to be brought onto a ship. <p>Does not apply to dangerous goods that form part of the stores or equipment of the ship. Does not apply to pleasure craft, warships or fishing ships.</p>		<p>Establish revised penalties for the new offences based on the Framework.</p>
<p>Part 24B: Carriage of Cargoes – Stowage and Securing</p> <p>Implements SOLAS requirements for stowing and securing cargo.</p> <p>Prescribes the requirements for the stowage and securing of all cargoes other than liquid, gas or solid bulk cargoes, grain, timber deck cargoes and livestock (except</p>	<p>New Zealand ships carrying cargo in any location and foreign ships carrying cargo in New Zealand.</p> <p>New Zealand ships loading cargo at any port, and foreign ships loading cargo at a New Zealand port, before embarking on an international voyage.</p>	<p>There are currently no offences for breaches of Rules Part 24B. However, we think it would be beneficial if there was an offence to address breaches of rule 24B.10(2), which requires shippers of freight vehicles to fit those vehicles with securing points and an information plate if they are to be shipped on a ro-ro ship. This means there is no deterrent in the legislation to encourage compliance with this rule. Consequently, Maritime NZ has</p>	<p>Create a new offence for rule 24B.10(2).</p> <p>Establish infringement fee and fine for the offence based on the Framework.</p>

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Rule Part and purpose	Application	Issues	Proposed changes
livestock carried in road or rail vehicles).		<p>limited ability to respond to and address breaches.</p> <p>The proposed offence is a straightforward and relatively minor offence and appropriate for infringement fee penalties to deter straightforward lower-level offending.</p>	
<p>Part 24C: Carriage of Cargoes – Specific Cargoes</p> <p>Implements SOLAS requirements and IMO codes of practice for loading and/or carrying specific cargoes, namely grain, solid bulk cargoes, timber deck cargoes and livestock.</p>	<p>Shippers of solid bulk and timber deck cargoes and livestock</p> <p>Owners and masters of ships carrying grain, solid bulk cargoes, timber deck cargoes and livestock.</p>	<p>Offences with fine-level penalties exist for fifteen rules in Part 24C. Only one of these offences (associated with rule 24C.18(5)) currently also has an infringement-level penalty attached. We consider all these offences (except rule 24C.9) meet the criteria for infringement offences and would benefit from having associated infringement penalties. The exception is the offence associated with rule 24C.9, as it is broadly framed to relate to loading an entire ship and for this reason is not appropriate as an infringement offence.</p>	<p>Establish infringement fees based on the Framework for all offences except 24C.9.</p> <p>Amend penalty levels (some increases, some decreases) for all offences, based on the Framework.</p> <p>Reword offences 24C.6(2) and 24C.9</p>

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Rule Part and purpose	Application	Issues	Proposed changes
		<p>Offences have been reviewed in line with the Framework and penalties require changes to better reflect the severity and likelihood of harm.</p> <p>The wording in the offences for rules 24C.6(2) and 24C.9 also needs minor amendment, to align better with the wording in the rules themselves.</p>	
<p>Part 40B: Design, Construction and Equipment – SOLAS ships</p> <p>Covers the requirement of SOLAS ships to comply with the design, construction and equipment applicable at the time the ship was built.</p> <p>Requires compliance with relevant IMO Codes for certain types of ship such as bulk chemical carriers and liquefied gas carriers.</p>	<p>Foreign-going passenger ships</p> <p>Foreign-going non-passenger ships (other than fishing ships) of 500 GT or more (300 GT or more for radio requirements)</p> <p>Ships (other than fishing ships) of 45 metres or more in length that proceed beyond restricted limits.</p>	<p>There are no infringement offences associated with Part 40B. Two of the four offences (associated with rules 40B.34 and 40B.35) are suitable to be infringement offences. The significance of the offence associated with rule 40B.36 and resulting penalty level makes it unsuitable as an infringement offence.</p> <p>Offences have been reviewed in line with the Framework and penalties require changes to better</p>	<p>Establish infringement fees based on the Framework for rules 40B.34 and 40B.35.</p> <p>Amend penalty levels (some increases, some decreases) for all offences, based on the Framework.</p>

Rule Part and purpose	Application	Issues	Proposed changes
<p>Includes some requirements not covered by SOLAS, e.g. requirements for passenger accommodation.</p>		<p>reflect the severity and likelihood of harm.</p>	
<p>Part 46: Surveys, Certification and Maintenance</p> <p>Prescribes the survey and certification requirements of SOLAS 74, to which New Zealand is party, for those New Zealand ships to which the convention applies. Incorporates the harmonised system of survey and certification adopted by the 1988 SOLAS Protocol.</p> <p>Implements the United Nations Convention of the Law of the Sea (UNCLOS) port state control regime in respect of a foreign ship's SOLAS certificates whilst it is at a New Zealand port or offshore terminal.</p>	<p>Owners and masters of:</p> <p>SOLAS ships and ships, other than fishing ships, of 45 metres or more in length which operate outside restricted limits.</p> <p>Unmanned barges exceeding 24 metres or going overseas.</p> <p>Port state control of foreign ships.</p>	<p>The offences associated with rules 46.9, 46.13(15), 46.24(4) and 46.25 would benefit from having associated infringement offences and are appropriately straightforward and relatively minor offences.</p> <p>The ten current offences associated with Rules Part 46 have been reviewed in line with the Framework. In this case higher penalties have been proposed for all offences due to the level of system or safety harm associated with each offence.</p> <p>The offences associated with rules 46.10 and 46.13(12) require minor amendments to ensure the</p>	<p>Establish infringement fees based on the Framework for offences associated with rules 46.9, 46.13(15), 46.24(4) and 46.25.</p> <p>Increase penalty levels for all current offences, based on the Framework.</p> <p>Reword offences associated with rules 46.10 and 46.13(12).</p> <p>Remove the offences associated with revoked rules 46.28(1), 46.28(3) and 46.28(5).</p>

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Rule Part and purpose	Application	Issues	Proposed changes
<p>Prescribes survey requirements for barges.</p>		<p>wording is better aligned with the rules.</p> <p>Three rules (46.28(1), 46.28(3), 46.28(5) have been revoked and therefore the associated offences also need to be removed.</p>	
<p>Part 47: Load Lines</p> <p>Implements the International Convention on Load Lines 1966, focussing on the strength and stability of the ship in relation to the loads it will carry, the watertight integrity of all openings on the ship, and protection of the crew.</p> <p>Prescribes requirements for assigning and marking load lines and the issue of load line certificates in respect of the ship or barge. The load lines indicate the draught to which the ship or barge may be safely loaded having</p>	<p>Commercial ships and barges which carry cargo.</p> <p>Excludes fishing ships, and barges which operate outside the coastal limit</p>	<p>Penalty levels for the current offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm.</p> <p>The numbering of three offences for the part (47.6(b), 47.55(3), 47.54) also needs to be changed to realign with the correct current rules (47.8(2), 47.56), 47.66(5)). Without this correction the rules may be unenforceable.</p> <p>Four rule sub-parts in Part 47 (47.3(1), 47.29(1), 47.48, 47.54) have been revoked and therefore</p>	<p>Amend penalty levels (some increases, some decreases) for all current offences, based on the Framework.</p> <p>Re-number offences associated with rules 47.6(b), 47.55(3) and 47.54 to realign with the current rules (47.8(2), 47.56) and 47.66(5)).</p> <p>Remove offences for revoked rules 47.3(1), 47.29(1), 47.48 and 47.54.</p>

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Rule Part and purpose	Application	Issues	Proposed changes
<p>regard to its design, construction and area of operation.</p> <p>Requires periodic to verify the marked load line and appropriate maintenance of the ship or barge.</p>		<p>their corresponding offences need to also be revoked.</p>	
<p>Part 73: Logbooks</p> <p>Gives effect to the recording requirements under SOLAS 74.</p> <p>Provides for standardised shipboard recording of routine and emergency operational information and significant events affecting the ship and its safety, and the safety and well-being of the people on board.</p> <p>Provides verification of compliance with the submersion requirements of the International Convention on Load Lines 1966.</p>	<p>New Zealand commercial ships engaged on international voyages.</p> <p>Passenger and non-passenger ships of 45 metres or more in length that proceed beyond restricted limits.</p> <p>Self-propelled mobile offshore drilling units of 500 GT or more.</p> <p>Fishing ships involved in international voyages, meaning voyages involving a call at a port in a country outside New Zealand.</p>	<p>Penalty levels for the offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm.</p> <p>The numbering for all offences associated with the rules in this part, except rules 73.4.1 and 73.5, is out of alignment with the current rules numbering. Unless the numbering is corrected the rules may be unenforceable.</p>	<p>Amend penalty levels (some increases, some decreases) for all offences, based on the Framework.</p> <p>Renumber all offences except those associated with rules 73.4.1 and 73.5 to realign with the current rules.</p> <p>Add infringement fees to 73.5, 73.5A, 73.6, 73.8, 73.9 73.12 under the framework</p>

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Rule Part and purpose	Application	Issues	Proposed changes
Provides for recording exercises of shipboard oil pollution emergency plans, which are required to be carried under MARPOL 73/78.			
<p>Part 91: Navigation safety rules</p> <p>No changes are proposed to offences and penalties for this Rules Part in this set of amendments. This is because the part is currently undergoing a major review as a result of which new offences and penalties are likely to be established. Maritime NZ proposes to consult on the Part 91 review in 2022.</p>			

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Appendix III. Summary of proposed changes to the Marine Protection (Offences) Regulations 1998

Rules Part and purpose	Application	Issues	Proposed changes
<p>Part 100: Port Reception Facilities (Oil, Noxious Liquid Substances and Garbage)</p> <p>Gives effect to regulation 38 of Annex I, regulation 18 of Annex II and regulation 7 of Annex V of MARPOL.</p> <p>Objective of part 100 is to protect the marine environment from ship-sourced oil, noxious liquid substances and garbage by ensuring the provision of port reception facilities to receive these waste substances, which cannot be discharged into the sea under the controlled conditions prescribed by MARPOL.</p>	<p>Port operators operating ports in New Zealand, the internal waters of New Zealand, or New Zealand continental waters, which have been required by notice in writing under section 236 of the Maritime Transport Act 1994, to provide at that port a facility for the reception of harmful substances from ships</p>	<p>There are currently no offences in the Regulations for breaches of Part 100. This means there is limited deterrent in the legislation to encourage compliance with those rules. Consequently, Maritime NZ does not have an ability to respond to and address breaches of those rules. This in turn presents risks to the marine environment from ships not having appropriate facilities in which to discharge their waste, making it more likely ships may discharge waste into the marine environment.</p> <p>Penalties for new offences have been analysed in line with the Framework to reflect the severity and likelihood of harm, and to ensure they are consistent with the new Annex VI offences. All new offences have been assessed as suitable for infringement fees.</p>	<p>Establish offences and associated infringement fees and fines based on the framework for rules 100.4(1), 100.4(2), 100.5(1), 100.5(2), 100.6, 100.7, 100.8, 100.9, 100.10(1), 100.10(2), 100.11, 100.12(1), 100.12(2), 100.13(1) and 100.13(2).</p>

Rules Part and purpose	Application	Issues	Proposed changes
<p>Part 101A: Surveys and Inspections (Oil)</p> <p>Applies the survey and inspection requirements of regulation 4 of Annex I of MARPOL, to verify compliance with the construction and equipment requirements set out in Marine Protection Rules Parts 121A, 121B and 122.</p> <p>These surveys are a key part of the marine protection system relating to the prevention of oil spills. Unless they are carried out regularly and effectively there is a risk of oil spills occurring due to non-compliance with technical construction and equipment requirements. The environmental impact of oil spills can range from minor to catastrophic, as New Zealand's experience with the <i>Rena</i> demonstrates.</p>	<p>Oil tankers of 150 GT or more and ships other than oil tankers of 400 GT or more.</p> <p>Warships and other ships of the New Zealand Defence Force which are oil tankers of 150 GT or more, or ships other than oil tankers of 400 GT or more.</p>	<p>Offences 101A.6(4) and 101A.6(5) are essentially parts of the same offence. The 101A.6(4) offence involves breaching the requirement to report an accident to a ship or a defect discovered in a ship. The 101A.6(5) offence involves not reporting an accident or defect to the Director, authorised organisation or appropriate authorities. Thus, the 101A.6(5) offence effectively adds detail to the 101A.6(4) offence and can be treated as one offence.</p> <p>We consider the merged 101A.6(4) and (5)) is a straightforward offences suitable to be an infringement offences.</p> <p>Penalty levels for the offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm.</p>	<p>Combine offences under 101A.6(4) and (5) into one offence.</p> <p>Establish infringement fees based on the Framework for merged offences 101A.6(4) and (5).</p> <p>Amend penalty levels (some increases, some decreases) for all offences, based on the Framework.</p>

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Rules Part and purpose	Application	Issues	Proposed changes
<p>Part 101B: Surveys and Inspections: Noxious Liquid Substances Carried in Bulk</p> <p>Gives effect to regulation 8 of Annex II of MARPOL.</p> <p>Contains requirements for initial and periodic surveys of tankers carrying noxious liquid substances in bulk, to verify compliance with the construction and equipment requirements set out in Marine Protection Rules Part 141.</p> <p>These surveys are a key part of the marine protection system relating to the prevention of chemical and other noxious liquid spills and discharges. Unless they are carried out regularly and effectively there is a risk of spills occurring due to non-compliance with technical construction and equipment requirements. Chemical and noxious liquid spills and discharges are always treated seriously. They are rare in New</p>	<p>All New Zealand ships which carry noxious liquid substances in bulk</p> <p>Warships and other ships of the New Zealand Defence Force which carry noxious liquid substances in bulk.</p>	<p>Two of the four offences (101B.6(4) and (5)) are straightforward offences which are appropriate to also be infringement offences.</p> <p>The four offences associated with Rules Part 46 have been reviewed in line with the Framework. In this case higher penalties have been proposed for all offences due to the level of environmental and safety harm associated with each offence.</p>	<p>Establish infringement fees based on the Framework for offences associated with rules 101B.6(4) and (5).</p> <p>Increase penalty levels for all offences, based on the Framework.</p>

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Rules Part and purpose	Application	Issues	Proposed changes
Zealand but potentially catastrophic.			
<p>Rules Part 120: Discharge of Oil</p> <p>Gives effect to Regulations 4, 15 and 34 of Annex I of MARPOL and to that instrument's Protocol I. These are concerned with reducing the quantity of environmentally harmful oil and oily mixtures entering the sea from ships.</p> <p>Prohibits discharge of oil cargo residues into the sea from oil tankers within 50 nautical miles of land and in defined 'special areas' (such as Antarctica). Imposes controls on the flow, concentration and quantity of discharges in other areas.</p> <p>Imposes controls on discharge of machinery space bilge water containing oil.</p>	<p>New Zealand ships, warships and other ships of the New Zealand Defence Force operating outside the New Zealand coastal marine area and within the internationally recognised "special areas".</p> <p>Foreign ships operating within areas of the sea under New Zealand jurisdiction.</p> <p>As with other MARPOL-based operational discharge requirements, the marine protection rules deal with such discharges outside the coastal marine area. Within the CMA (that is, within the 12 mile limit) these requirements are found in the Resource Management (Marine Pollution) Regulations 1998.</p>	<p>There are currently no offences associated with Part 120. This means the regulatory framework to reduce the quantity of environmentally harmful oil and oily mixtures entering the sea from ships lacks important incentives, deterrents and responses to breaches of requirements. Currently the only available enforcement option is prosecution under the MTA, which is a costly course of action suitable for the most serious breaches.</p> <p>We consider it desirable to introduce a suite of lower-level offences addressed at small-scale oil spills and discharges, which are common in Aotearoa-New Zealand waters. These include several straightforward offences appropriate to be infringement offences.</p> <p>We do not consider it is necessary to establish offences in regulations for</p>	<p>Create new offences under rules 120.3A, 120.5, 120.5(5), 120.6(1), 120.6(2), 120.8(1), 120.8(2), 120.9(1); 120.9(2)(i) and (ii), 120.12, 120.14(1), 120.15, 120.16, 120.17 and 120.19.</p> <p>Establish penalties for each offence based on the Framework.</p> <p>Establish infringement fees based on the Framework for offences under rules 120.9(2)(i) & (2)(ii), 120.10 and 12.14(1).</p>

Rules Part and purpose	Application	Issues	Proposed changes
<p>Oil residues which cannot be discharged into the sea in compliance with the conditions specified in Part 120 must be retained on board or discharged to reception facilities.</p>		<p>rules 120.15, 120.16 and 120.17. This is because we consider that breaches of these rules are of sufficient seriousness to rely on the MTA-level offences of section 238 involving failure to report discharge of harmful substances into sea or seabed (for rules 120.15 and 120.16) and section 71, failure to report accidents or incidents (for rule 120.17).</p>	
<p>Rules Part 122: Marine Protection Products (Oil)</p> <p>Gives effect to Regulations 3.5, 12, 13, 14, 18.8.3, 30-33 and 34.6 of Annex I of MARPOL.</p> <p>Specifies the design and fitting of shipboard equipment and systems required for preventing oil pollution (marine protection products. This includes oil filtering equipment, oil discharge monitoring and control systems, crude oil washing (oil tankers), and tanks for storage of</p>	<p>New Zealand commercial ships including oil tankers</p> <p>Warships and other ships of the New Zealand Defence Force including oil tankers.</p>	<p>There are currently no offences in regulations to support Part 122 rules, which are important to prevent oil pollution. Consequently, the regulatory framework to deter and respond to breaches is lacking.</p> <p>We consider that establishing two offences relating to Part 122 would be beneficial.</p> <p>Example: A 2021 Maritime NZ study of 24 commercial vessels under 400 GT found that a large proportion of the vessels studied did not comply with rule 122.22 related to equipment</p>	<p>Create new offences under rules 122.4(2), and 122.4(3).</p> <p>Establish penalties for each offence based on the Framework.</p>

Rules Part and purpose	Application	Issues	Proposed changes
oil residue (sludge) and oily bilge water.		for management of oily waste. The actual arrangements in place were considered by Maritime Officers to be “adequate”, but it should be noted that the arrangements were not compliant with MARPOL standards and the operators had not sought approval from the Director to use alternative arrangements. An infringement-level offence would be a useful tool to deter non-compliance and better enforce minor breaches.	
<p>Rules Part 123A: Documents (Certificates) - Oil</p> <p>Gives effect to Regulations 7, 8 and 9 of Annex I of MARPOL.</p> <p>Requires ships to hold an appropriate International Oil Pollution Prevention Certificate (IOPP Certificate) or equivalent. This evidences compliance with the applicable ship design, construction and equipment requirements, as set out in Marine</p>	<p>All New Zealand ships of 400 GT or more.</p> <p>New Zealand oil tankers of 150 GT or more.</p> <p>New Zealand warships and other ships of the New Zealand Defence Force of the above tonnages, regardless of whether they are engaged in international voyages.</p> <p>Foreign ships of the above tonnages operating in areas of the sea under New Zealand jurisdiction.</p>	<p>The offences associated with Part 123A all involve breaching requirements for the requisite certificates and records of construction and equipment (with translations) to be on board and available for inspection.</p> <p>Penalty levels for the offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm.</p>	<p>Amend penalty levels (some increases, some decreases) for all offences, based on the Framework.</p> <p>Insert new offence for rule 123A.4(1)</p>

Rules Part and purpose	Application	Issues	Proposed changes
Protection Rules Parts 121A, 121B and 122.			
<p>Rules Part 123B: Documents (Record Books and Manuals) - Oil</p> <p>Gives effect to standards found in Regulations 13A, 13B, 15, and 20 of Annex I of MARPOL.</p> <p>Sets requirements for standardised recording of shipboard operations involving oil or oily mixtures and their discharge and escape.</p> <p>Covers the provision of shipboard manuals to guide crew involved in operations involving oil or oily mixtures and dedicated clean ballast tanks.</p> <p>Requires smaller New Zealand and foreign oil tankers to have oil record books if they retain oil on board and to discharge</p>	<p>New Zealand oil tankers of 150 GT or more</p> <p>New Zealand ships other than oil tankers of 150 GT or more that carry oil in bulk of an aggregate capacity of 200 cubic metres or more,</p> <p>Other types of New Zealand tankers which discharge oil or oily mixtures</p> <p>New Zealand ships of 400 GT or more.</p> <p>Foreign ships of the types listed above visiting New Zealand.</p>	<p>Four rules (123B.5(1), 123B.8(1), 123B.11(1), 123B.14(1)) have no associated offences but we consider offences (with associated infringements) are needed. These all involve the breach of not ensuring records are entered in oil record books.</p> <p>Rules 123B.4, 123B.19, 123B.20 and 123B.21(2) are the only ones in Part 123B that do not have associated infringement offences. Given they are straightforward and relatively minor offences like others in the part, we consider infringement offences should be created to give Maritime NZ more enforcement options for low-level offending.</p> <p>Penalty levels for the offences have been reviewed in line with the Framework and require changes to</p>	<p>Create new offences (with associated infringement offences) for rules 123B.5(1), 123B.8(1), 123B.11(1) and 123B.14(1).</p> <p>Establish penalties based on the Framework, including infringement fees, for each new offence.</p> <p>Establish infringement fees based on the Framework for offences associated with rules 123B.4, 123B.19, 123B.20 and 123B.21(2).</p> <p>Amend penalty levels (some increases, some decreases) for all existing offences, based on the Framework.</p>

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Rules Part and purpose	Application	Issues	Proposed changes
<p>contaminated washings at reception facilities.</p> <p>Requires certain oil tankers to have operations and equipment manuals on board approved by the Director of Maritime NZ or by the ship's flag state.</p>		<p>better reflect the severity and likelihood of harm.</p>	
<p>Rules Part 125: Shipboard Operations (Oil)</p> <p>Gives effect to Regulations 16, 18.3, 18.4, 35.2, 40, 41 and 43 of MARPOL Annex I.</p> <p>Imposes operational constraints on the carriage of water ballast in oil fuel tanks and oil cargo tanks, and the discharge of oil contaminated waters into the sea.</p> <p>Requires oil tankers to plan for any ship to ship transfer of oil cargoes.</p>	<p>Oil tankers of 150 GT or more.</p> <p>Other ships of 4000 GT or more.</p> <p>Ships of 150 GT or more, other than oil tankers, that have cargo spaces carrying oil with an aggregate capacity of 200 cubic metres or more.</p> <p>New Zealand ships, warships and other ships of the New Zealand Defence Force in the above categories.</p>	<p>Rule 125.10(2) has no associated offence but we consider an offence (with associated infringement) is needed. This offence involves the carriage of heavy fuel oil in the environmentally sensitive Antarctic region, which is a serious system harm offence with a possibility of environmental harm.</p> <p>No rules in Part 123B have associated infringement offences. Given they are straightforward and relatively minor offences, we consider infringement offences should be created to give Maritime NZ more enforcement options for low-level offending.</p>	<p>Create new offence (with associated infringement offence and penalties based on the Framework) for rule 125.10(2).</p> <p>Establish infringement fees based on the Framework for rules 125.7 and 125.8.</p> <p>Amend penalty levels (some increases, some decreases) for all existing offences, based on the Framework.</p>

Rules Part and purpose	Application	Issues	Proposed changes
<p>Prohibits the carriage in bulk as cargo or carriage and use as fuel of heavy oils on board ships below latitude 60°S.</p>	<p>Foreign ships in the above categories operating in areas of the sea under New Zealand jurisdiction.</p>	<p>Penalty levels for the offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm.</p>	
<p>Rules Part 130A: Shipboard Marine Oil Spill Contingency Plans</p> <p>Forms one part of our marine oil spill preparedness and response arrangements. Gives effect to Regulation 37 of MARPOL Annex I and</p> <p>supports New Zealand's participation in the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC Convention).</p> <p>Requires ships to have an oil spill contingency plan to assist personnel to deal with an unexpected discharge of oil. This includes procedures for the notification of authorities, securing</p>	<p>Oil tankers of 150 GT or more.</p> <p>Other ships of 400 GT or more.</p>	<p>None of the three rules with associated offences in this part has an associated infringement offence. Given they are straightforward and relatively minor offences, we consider infringement offences should be created to give Maritime NZ more enforcement options for low-level offending.</p> <p>Penalty levels for the offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm.</p>	<p>Establish infringement fees based on the Framework for all existing offences.</p> <p>Amend penalty levels (some increases, some decreases) for all existing offences, based on the Framework.</p>

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Rules Part and purpose	Application	Issues	Proposed changes
<p>salvage services and obtaining technical advice on appropriate operational measures to mitigate the discharge, such as moving cargo and ballast around the ship.</p>			
<p>Rules Part 130B: Oil Transfer Site Marine Oil Spill Contingency Plans</p> <p>Supports Maritime NZ's marine oil spill preparedness and response arrangements and helps New Zealand fulfil its obligations under the OPRC Convention.</p> <p>Requires owners of oil transfer sites (any site where oil is transferred to or from a ship or offshore installation in any part of the sea inside the outer boundary of the exclusive economic zone of New Zealand) to have an oil spill contingency plan to assist personnel to deal with an unexpected discharge of oil. An approved oil spill contingency plan is a marine protection document,</p>	<p>Owners of oil transfer sites.</p>	<p>Rule 130B.9(2) has no associated offence but we consider an offence (with associated infringement) is needed. The rule is about ensuring that the oil spill contingency plan is available at the site for inspection. A breach of this rule carries a high system harm as a contingency plan is an essential document for assurance of compliance. The absence of an offence is inconsistent with other similar rules.</p> <p>Penalty levels for the existing offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm.</p> <p>We consider that offences under rules 130B.4 and 130B.13 are of sufficient seriousness to rely on the</p>	<p>Create new offence (with associated infringement offence and penalties based on the Framework) for rule 130B.9(2).</p> <p>Amend penalty levels (some increases, some decreases) for all existing offences, based on the Framework.</p> <p>Remove the offences under 130B.4 and 130B.13.</p> <p>Remove the offences associated with revoked rules 130B.4 (Responsibilities of owner of oil transfer site re training of personnel ...), 130B.5(1)(a) and 130B.5(1)(b).</p>

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Rules Part and purpose	Application	Issues	Proposed changes
<p>indicating its key role in system assurance.</p> <p>Plans must cover the procedures for reporting:</p> <ul style="list-style-type: none"> • marine oil spills • action to be taken to contain and clean up a spill from the site • contact information for other persons likely to be affected by a spill and details of the response equipment available. 		<p>statutory offences under MTA (respectively section 277 - acting without a necessary marine protection document, and section 238 – failure to report discharge of harmful substances). We therefore propose to remove these offences at the rule-level.</p> <p>Offences in relation to several revoked rules have been left in the current version of Schedule 1 of the Regulations in error, and should be removed.</p>	
<p>Rules Part 131: Offshore Installations - Oil Spill Contingency Plans and Oil Pollution Prevention Certification</p> <p>In conjunction with the Exclusive Economic Zone and Continental Shelf (Environmental Effects-Discharge and Dumping) Regulations 2015, gives effect to the provisions of the International Convention for the Prevention of Pollution from Ships 1973/78</p>	<p>Subparts A, B and C apply to any offshore installation operating in the internal waters of New Zealand or New Zealand continental waters. These installations include all drilling platforms, drill ships, well head platforms, production platforms, floating production storage and offloading facilities (FPSOs); and pipelines that are attached to any of these installations.</p>	<p>Rule 131.28 currently carries a single offence and penalty. However it is divided into four sub-rules which cover offences of differing levels of risk and severity. Sub-rules (a) and (c), deal with operational activities (training staff and maintaining equipment). Failure to comply carries very high risk of harm to the regulatory system and also the possibility of environmental harm due to an inadequate oil spill response. Sub-rules (b) and (d) are record-</p>	<p>Split rule 131.28 into four separate offences with associated infringement offences and penalties based on the Framework.</p> <p>Establish an infringement fee based on the Framework for offences associated with rules 131.82(1)(a) and (b).</p> <p>Add a fine based on the Framework for the offences</p>

Rules Part and purpose	Application	Issues	Proposed changes
<p>(MARPOL) and the International Convention on Oil Pollution Preparedness, Response and Co-operation 1990 (OPRC) in respect of offshore installations.</p> <p>Requires offshore installations operating in New Zealand continental waters and in the internal waters of New Zealand to have marine oil spill contingency plans (OSCP) that will support an efficient and effective response to an oil spill.</p> <p>Requires that certain pollution prevention equipment and arrangements on board installations meet international performance standards and in-service maintenance requirements.</p>	<p>Subpart D applies to every offshore installation within the New Zealand territorial sea.</p>	<p>keeping requirements with risk of high system harm only.</p> <p>Rules 131.82(1)(b), 131.82(1)(c) and 131.82(3) do not have associated infringement fees. Given they are straightforward and relatively minor offences, we consider infringement fees should be created to give Maritime NZ more enforcement options for low-level offending.</p> <p>Rules 131.25 and 131.41(1) carry an infringement fee without an associated fine. A fine should be added to correct this omission.</p> <p>Penalty levels for the existing offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm.</p> <p>We consider that the offence under rule 131.21 is of sufficient</p>	<p>associated with rules 131.25(1) and 131.41(1).</p> <p>Amend penalty levels (some increases, some decreases) for all existing offences, based on the Framework.</p> <p>Remove the offence under 131.21.</p>

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Rules Part and purpose	Application	Issues	Proposed changes
		seriousness to rely on the statutory offence under MTA (section 277 - acting without a necessary marine protection document). We therefore propose to remove this offence at rules level.	
<p>Rules Part 132: New Zealand Oil Spill Control Agents</p> <p>Require approval of oil spill control agents (OSCA) for use in an oil spill at sea, have been approved as New Zealand OSCAs.</p> <p>Sets out the requirements for use of OSCAs.</p>	Users of New Zealand OSCAs.	There are currently no offences in regulations to support Part 132 rules, which are important to ensure safe and appropriate response to oil spills. Consequently, the regulatory framework to deter and respond to breaches is lacking. We consider that establishing two offences relating to Part 132 would be beneficial. They cover use of unapproved substances and misuse of an OSCA, which are fundamental breaches of the NZOSCA scheme. Both are straightforward and relatively minor offences appropriate to be infringement offences.	Create new offences (with associated infringement offences and penalties based on the Framework) for rules 132.20(1) and 20(2).
<p>Rules Part 140: Discharge of Noxious Liquid Substances Carried In Bulk</p> <p>Gives effect to standards found in Regulations 6 and 13 of MARPOL</p>	<p>All ships carrying noxious liquid substances in bulk as cargo.</p> <p>New Zealand ships, warships and other ships of the New Zealand Defence Force</p>	The rules part was completely replaced in 2008 but these offences have not been updated. The numbering and wording of rules has changed to the extent that we consider a completely revised set of offences and penalties is required.	Renumber offence 140.17(1) to align with rule provision (140.5(1)), and update existing penalties based on the Framework.

Rules Part and purpose	Application	Issues	Proposed changes
<p>Annex II and to Protocol I of that instrument.</p> <p>Sets out the permitted operational discharges into the sea of cargo residues from noxious liquid substances carried in bulk by chemical tankers. Set limits on total quantity and concentration of discharges, and specifies minimum water depths and distance from land. More stringent discharge conditions apply to those substances that are categorised as most harmful to the marine environment.</p> <p>Contains requirements for the carriage of uncategorised noxious liquid substances from New Zealand.</p> <p>Requirements for reporting of non-operational discharges of noxious liquid substances to the appropriate coastal authorities.</p>	<p>operating outside the New Zealand coastal marine area and within internationally recognised “special areas”.</p> <p>Foreign ships operating within areas of the sea under New Zealand jurisdiction are subject to the reporting requirements of Part 140.</p> <p>As with other MARPOL-based operational discharge requirements, the marine protection rules deal with such discharges outside the coastal marine area. Within the CMA (that is, within the 12 mile limit) these requirements are found in the Resource Management (Marine Pollution) Regulations 1998.</p>	<p>While these offences are seldom referred to, we consider that it is important to retain them because of the potentially catastrophic nature of a severe noxious substance spill.</p> <p>All proposed new offences are all straightforward and relatively minor and we consider it would be helpful to have associated infringements to allow Maritime NZ to take action in the case of a less serious breach.</p>	<p>Replace existing offences and penalties with new offences (with associated infringement offences and penalties based on the Framework) for rules 140.5(1), 140.5(2), 140.6(1), 140.6(2), 140.8 and 140.14.</p>

Rules Part and purpose	Application	Issues	Proposed changes
<p>Rules Part 142A: Documents (Certificates) – Noxious Liquid Substances</p> <p>Sets out requirements for the standardised certification of ships carrying noxious liquid substances in bulk in accordance with Regulations 9 and 10 of MARPOL Annex II. Certification evidences compliance with the pollution prevention equipment and survey requirements of that Annex.</p>	<p>New Zealand ships, warships and other ships of the New Zealand Defence Force.</p> <p>Foreign ships operating in areas of the sea under New Zealand jurisdiction, however foreign ships may, as an alternative to the International Pollution Prevention Certificate, present a certificate of fitness issued under the International Bulk Chemical Code.</p>	<p>Penalty levels for the existing offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm.</p>	<p>Amend penalty levels (some increases, some decreases) for all existing offences, based on the Framework.</p>
<p>Rules Part 142(B): Documents (Record Books and Manuals) – Noxious Liquid Substances</p> <p>Gives effect to Regulations 14 and 15 of MARPOL Annex II and, in respect of manuals, the internationally-agreed interpretation that the Annex’s provisions require each ship to have a Procedures and Arrangements manual.</p>	<p>New Zealand ships, warships and other ships of the New Zealand Defence Force.</p> <p>Foreign ships in areas of the sea under New Zealand jurisdiction that carry noxious liquid substances in bulk.</p>	<p>Rules 142B.5(1) and 142B.8(1) have no associated offences but we consider that offences (with associated infringements) are needed. The rules are about ensuring that ships carrying noxious liquid substances keep appropriate cargo records. A breach of these rules carries a high system harm as cargo records are essential documents for assurance of compliance. The absence of an offence is inconsistent with other similar rules.</p>	<p>Create new offences (with associated infringement offences and penalties based on the Framework) for rules 142B.5(1) and 142B.8(1).</p> <p>Create new offence and penalties based on the Framework for rule 142B.10(1).</p> <p>Amend penalty levels (some increases, some decreases) for all existing offences, based on the Framework.</p>

Rules Part and purpose	Application	Issues	Proposed changes
<p>Requires standardised recording of shipboard operations involving noxious liquid substances and their discharge, and the provision of shipboard manuals to guide crew involved in operations involving such substances.</p>		<p>Rule 142B.10(1) has no associated offences but we consider that an offence is needed. The rule is about ensuring that Aotearoa-New Zealand ships have an approved Procedures and Arrangements manual. A breach of this rule carries a very high risk of system harm, as well as some risk of environmental and safety harm, as the manual underpins the proper functioning of cargo management, tank shipping and discharge procedures. In view of the severity of the offence we consider that infringements are not appropriate for this rule.</p> <p>Penalty levels for the existing offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm.</p>	
<p>Rules Part 143: Shipboard Marine Pollution Emergency Plans for Noxious Liquid Substances</p>	<p>Ships of 150 GT or more that carry noxious liquid substances in bulk as cargo.</p>	<p>There are currently no offences in regulations to support Part 143 rules, which are important to ensure safe and appropriate response to chemical spills. Consequently, the</p>	<p>Create new offences with associated penalties based on the Framework) for rules 143.4, 143.7, 143.10(1) and 143.10(2).</p>

Rules Part and purpose	Application	Issues	Proposed changes
<p>Gives effect to Regulation 17 of MARPOL Annex II.</p> <p>Prescribes requirements for shipboard marine pollution emergency plans for noxious liquid substances including plans' contents, approval, maintenance, testing and review.</p>		<p>regulatory framework to deter and respond to breaches is lacking. We consider that establishing five offences for rules 143.4, 143.7, 143.8, 143.10(1) and 143.10(2) would be beneficial.</p> <p>143.7 is a straightforward and relatively minor offence, and we consider it would be helpful to have an associated infringement fee to allow Maritime NZ to take action in the case of a less serious breach.</p>	<p>Add infringement fee for rule 143.7.</p>
<p>Rules Part 150: Carriage of Cargoes – Harmful Substances Carried in Packaged Form</p> <p>Sets out requirements, drawn from MARPOL Annex III, for the prevention of pollution by harmful substances carried by sea in packaged form, including responsibilities relating to the jettison of harmful substances, and reporting of occurrences involving harmful substances.</p>	<p>New Zealand ships anywhere, except ships of the New Zealand Defence Force.</p> <p>Foreign ships operating within areas of the sea under New Zealand jurisdiction.</p>	<p>The two offences associated with Rules Part 150 have been reviewed in line with the Framework. In this case higher penalties have been proposed for both offences due to the level of system and environmental harm associated with each offence.</p>	<p>Increase penalty levels for both offences, based on the Framework.</p>

Rules Part and purpose	Application	Issues	Proposed changes
<p>Rules Part 160: Prevention of Pollution by Sewage from Ships in the Antarctic Treaty Area</p> <p>Gives effect to MARPOL Annex IV as it applies to the Antarctic Treaty area, in fulfilment of New Zealand's obligations under the 1991 Protocol of Environmental Protection to the Antarctic Treaty.</p> <p>Sets out requirements for the discharge of sewage in the Antarctic Treaty area (sea area below 60° S).</p> <p>Covers onboard sewage arrangements (treatment systems, holding tanks, discharge connections) and their survey and certification, record keeping and operational discharge requirements.</p>	<p>New Zealand ships, warships and other ships of the New Zealand Defence Force sailing in the Antarctic Treaty area.</p> <p>Any foreign ship departing from a New Zealand port for the Antarctic Treaty area.</p>	<p>Penalty levels for the existing offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm.</p>	<p>Amend penalty levels (some increases, some decreases) for all existing offences, based on the Framework.</p>

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Rules Part and purpose	Application	Issues	Proposed changes
<p>Rules Part 170: Prevention of Pollution by Garbage from Ships</p> <p>Gives effect to requirements of MARPOL Annex V.</p> <p>Defines the classes of garbage that may be discharged from ships and offshore installations outside the coastal marine area.</p> <p>Incorporates requirements for shipboard garbage management plans, the maintenance of garbage record books and the display of placards indicating to crew and passengers the applicable garbage discharge requirements.</p>	<p>New Zealand ships, warships and other ships of the New Zealand Defence Force.</p> <p>Foreign ships operating in areas of the sea under New Zealand jurisdiction.</p> <p>As with other MARPOL-based operational discharge requirements, the marine protection rules deal with such discharges outside the coastal marine area. Within the CMA (that is, within the 12 mile limit) these requirements are found in the Resource Management (Marine Pollution) Regulations 1998.</p>	<p>Rule 170.3(2) has no associated offence but we consider that an offence is needed. The rule is about ensuring that people on board ships comply with the requirements concerning discharge of garbage. A breach of these rules carries a high system harm and a likelihood of environmental harm.</p> <p>Rules 170.19(2)(a) does not have an associated infringement offence. Given that it is a straightforward and relatively minor offence, we consider an infringement fee should be created to give Maritime NZ more enforcement options for low-level offending.</p> <p>Penalty levels for the existing offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm.</p>	<p>Create a new offence with associated penalties based on the Framework for rule 170.3(2).</p> <p>Establish infringement fee based on the Framework for the offence associated with rule 170.19(2)(a).</p> <p>Amend penalty levels (some increases, some decreases) for all existing offences, based on the Framework.</p>

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Rules Part and purpose	Application	Issues	Proposed changes
<p>Rules Part 190: Mandatory Ships' Routeing</p> <p>Part 190 gives effect to two areas to be avoided (ATBA):</p> <ul style="list-style-type: none"> the marine area lying between Bream Head and Cape Brett, including the Poor Knights Islands; and the sea area adjacent to the Three Kings Islands. <p>The rules instruct the owners, the charterers and masters of ships to avoid the defined areas.</p> <p>'Areas to be avoided' is one of the mandatory ships' routeing measures adopted by the International Maritime Organization (IMO) to protect sensitive marine environments from the risks, principally of marine oil spills, posed by shipping operations.</p>	<p>In the case of the Poor Knights ATBA, every ship of more than 45 metres length overall except:</p> <ul style="list-style-type: none"> a fishing ship engaged in a fishing operation; or a barge under tow provided its cargo does not include oil or any other harmful liquid substance as defined in Annexes I and II of MARPOL. <p>In the case of the Three Kings Island ATBA, every ship of 500 tons gross tonnage or more.</p>	<p>Penalty levels for the existing offences have been reviewed in line with the Framework and require changes to better reflect the severity and likelihood of harm. In this case higher penalties have been proposed for both offences due to the level of system and environmental harm associated with each offence.</p>	<p>Increase penalty levels for both offences, based on the Framework.</p>
<p>Rules Part 300: Ballast Water</p>	<p>New Zealand ships [excludes warships] and foreign ships in</p>	<p>There are currently no offences associated with Part 300. This</p>	<p>Create new offences under rules 300.41(2), 300.42(2), 300.80(1),</p>

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Rules Part and purpose	Application	Issues	Proposed changes
<p>Gives effect to the provisions of the International Convention for the Control and Management of Ships' Ballast Water and Sediments 2004.</p>	<p>New Zealand jurisdiction that are designed or constructed to carry ballast water on an international voyage.</p>	<p>means the regulatory framework to prevent harm to the environment from ballast water lacks important incentives, deterrents and responses to breaches of requirements. Currently the only available enforcement option is prosecution under the MTA, which is a costly course of action suitable for the most serious breaches.</p>	<p>300.80(3)(a) and (c); 300.81(1)(a)-(b) and (c), 300.81(3)(b)-(d), 300.81(4)(a)-(b), 300.82(1), 300.82(2), 300.100(2), 300.100(3), 300.100(4), 300.102(a), 300.102(b), 300.102(c) and 300.102(d).</p>
<p>The purpose of Part 300 is to prevent, minimise and ultimately eliminate the risk to the environment, human health, property and resources arising from the transfer of harmful aquatic organisms and pathogens through the control and management of ships' ballast water and sediment.</p>		<p>We consider it desirable to introduce a suite of lower-level offences to enable enforcement of smaller-scale offending. These include several straightforward, and relatively minor offences appropriate to be infringement offences.</p>	<p>Establish penalties for each offence based on the Framework.</p>
<p>Includes provisions for certification, documentation, ballast water management systems, and discharge of ballast water.</p>		<p>We do not consider it is necessary to establish offences in regulations for rules 300.41(1), 300.41(3), 300.42(1), 300.42(3) or 300.103(2). This is because we consider that breaches of these rules are of sufficient seriousness to rely on the MTA-level offences under sections 277 and 278: acting without or in breach of necessary marine</p>	<p>Establish infringement fees based on the Framework for offences under rules 300.41(2), 300.42(2), 300.80(1), 300.80(3)(a); 300.81(1)(a)-(b) and (c), 300.81(3)(b)-(d), 300.81(4)(a)-(b), 300.82(1), 300.82(2), 300.100(2), 300.100(4), 300.102(a), 300.102(c) and 300.102(d).</p>

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Rules Part and purpose	Application	Issues	Proposed changes
		<p>protection documents; and for rule 300.103(2), section 246C: discharge of ballast water in breach of section 246B.</p>	

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Office of Hon Kieran McAnulty

Member of Parliament for Wairarapa

Minister for Emergency Management
Minister for Racing
Associate Minister of Local Government
Associate Minister of Transport
Deputy Leader of the House

Background Information and Talking Points

Cabinet Committee: Economic Development (DEV)

Paper Title: Final policy approvals for the Regulatory Systems (Transport) Amendment Bill No. 2

Portfolios: Transport

Key points: Final policy approvals for the Regulatory Systems (Transport) Amendment Bill No. 2

- Regulatory stewardship involves the robust development of quality regulation, that reflects considered choices about the right type of regulation, the appropriate regulatory tools to use, and who is best placed to operate them.
- These proposals will improve the regulatory system. In the case of the maritime transport system, a number of proposals ensure compliance with the Code of the Maritime Labour Convention 2006 (the MLC), and in the case of the land transport system, support the implementation of other priority projects, such as Road to Zero.
- In May 2022, Cabinet agreed to publicly consult on a package of proposals to amend the land and maritime regulatory systems. These proposals will form the Regulatory Systems (Transport) Amendment Bill No 2 (RSTA 2).
- Public consultation has now taken place, submissions have been analysed and the proposals refined. Feedback from submitters broadly supports the intent of the proposals.
- Since Cabinet last saw this package in May 2022, there have been a number of changes to the RSTA 2 proposal list. This includes some proposals being removed (to be progressed through other workstreams), one proposal being slightly modified, and new proposals added in.
- There were also two proposals which we consulted on at a high level only. Feedback has informed the content of these proposals, which I am seeking Cabinet agreement to.
- Appendix One and Two of the Cabinet paper provides a summary of the proposals, feedback received, and any changes to it as a result of feedback. This includes proposals that have been added to or removed from the RSTA 2 proposal list.

Questions and Answers

What are the new proposals that have been added to the RSTA 2 proposal list?

- There are two new proposals which have been added to the RSTA 2 proposal list:
 - Enabling Waka Kotahi to declare a road a State Highway, and
 - Changes to how Waka Kotahi makes declarations under section 168A of the Land Transport Act 1998 (declaring vehicles to not be a motor vehicle).

Enabling Waka Kotahi to declare a road a State Highway

- Up until 2008, Waka Kotahi was able to declare a road it had built to be a State Highway under section 60 of the GRPA. This power was then repealed and transferred to section 103 of the Land Transport Management Act 2003 (the LTMA).
- However, a drafting oversight meant that the definition of 'road' in the LTMA was not updated to include roads built by the Crown. This creates a clear inconsistency with the function of Waka Kotahi to construct new State Highways, and the ability to declare these new roads as State Highways.
- To rectify this issue, I propose amending the definition of 'road' to include those laid out by, or vested in, the Crown.
- There is a need to ensure the validity of State Highway declarations and any enforcement activities that have occurred from 2008 onwards. Therefore, I also propose inserting a provision into the LTMA that states that prior State Highway declarations from 2008 are valid, and remain in force.

Changes to how Waka Kotahi makes declarations under section 168A of the Land Transport Act 1998

- The second new proposal has come from the Accessible Streets package. Through this package, the Ministry consulted on a proposal to make changes to section 168A of the Land Transport Act 1998 (the LTA). This section enables Waka Kotahi to declare a vehicle to be a motor vehicle, when particular criteria have been met.
- This declaration process has come under scrutiny following complaints to the Regulations Review Committee on the 2018 notice declaring E-Scooters to not be motor vehicles. Complaints centred on a lack of transparency as to the declarations process, and a lack of consultation by Waka Kotahi prior to making the declaration.
- This proposal will improve the workability and transparency of the declaration process. It will require that Waka Kotahi conducts an appropriate level of consultation before making declarations.

What proposals have been removed from the RSTA 2 proposal list?

- The three proposals that have been removed from the RSTA 2 proposal list are:

- Transferring the roading provisions (Part 21) of the Local Government Act 1974 (the LGA 74) to the GRPA (land proposal 5.1). This proposal will now be progressed through the Reshaping Streets project, which is also considering changes to the LGA 74.
- Amending section 22AB of the LTA to remove the restriction on cost-recovery when Road Controlling Authorities set up resident parking schemes. This proposal has since been removed to be reconsidered alongside wider work being undertaken in the Ministry's Parking Review.
- Addressing an inconsistency between two subsections of the Maritime Transport Act 1994 (the MTA) regarding what incidents must be reported to Maritime New Zealand (maritime proposal 4.2). This proposal will now be considered as part of the MTA review, which is currently underway.

What were the two proposals consulted on at a high level only?

- These proposals were:
 - To amend the Director of Land Transport's powers to respond to emergency and time critical events (land proposal 5.3), and
 - To include te reo Māori name 'Waka Kotahi' in legislation (land proposal 5.2).

Amendments to the Director of Land Transport's powers

- The proposal to amend the Director of Land Transport's powers has its origins in the COVID-19 response. The response highlighted limitations with how the Director of Land Transport's powers can be applied to land transport documents – such as driver licences and vehicle Certificates and Warrants of Fitness.
- Analysis at the time confirmed there were no other actors, aside from the Minister and Governor-General, who could unilaterally extend the term of all land transport documents for affected people.
- It took several weeks for the necessary amendments to be made to the legislation, as Ministers dealt with competing priorities. During this time, Waka Kotahi faced increasing pressure to provide certainty to holders of expired or expiring land transport documents.
- Feedback from submitters highlighted the need for the system to be able to respond quickly when regulatory issues arise, particularly where there is a risk to safety. However, submitters also stressed the importance of appropriate accountability and oversight over the use of such powers.
- Looking ahead, it is likely that New Zealand will experience another pandemic or natural disaster such as an earthquake, which could disrupt the land transport regulatory system.
- There may also be future scenarios we have yet to experience, such as a cyber attack or software failure with automated vehicles (self-driving cars), or defective lithium-ion batteries causing fires in electric vehicles.
- As such, I am proposing three new powers for the Director of Land Transport to enable them to better respond to these types of situations:

- **The first is the introduction of new emergency powers.** These powers would be 'activated' when either a state of national or local emergency has been declared, an epidemic notice is in force, or otherwise with the agreement of the Minister of Transport that there is an emergency impacting the land transport regulatory system. These powers will enable the Director of Land Transport to extend the term of any land transport document to a specified date.
- **The second is the introduction of a power to require a vehicle or class of vehicles to present for inspection by a specified date.** This power would be used in situations where there is a suspected safety issue with a vehicle make or model, but not be enough evidence to issue a compulsory product recall notice under the Fair Trading Act 1986. Failure to present a vehicle for inspection by the specified date could result in that vehicle's CoF or WoF being revoked, or being unable to have its CoF or WoF renewed at its next due inspection.
- **The third and final new power I propose is the power to revoke a class of vehicles' CoF or WoF.** This power would be used when there is significant evidence as to a serious safety concern with a type of vehicle, and it is imperative that these vehicles are removed from public roads until the issue is resolved. A person who drives a vehicle without a CoF or WoF would risk receiving a \$200 infringement fee. Given the significant impacts on sector participants, the Director of Land Transport would be required to notify the Ministry's Chief Executive of their intention to use this power. However, they would not require the Ministry's Chief Executive's approval, in line with the Director's statutory independence.

Including 'Waka Kotahi' in legislation referencing the New Zealand Transport Agency

- On the second proposal, te reo Māori name 'Waka Kotahi' has fast become the commonly referred name for the New Zealand Transport Agency. Use of te reo Māori is a key public sector commitment to Te Tiriti o Waitangi. It also contributes to Maihi Karauna, the Crown's strategy for Māori language revitalisation.
- Feedback from consultation fully supported the recognition of 'Waka Kotahi' in legislation. Several submitters suggesting the name be dual te reo Māori and English to support clarity.
- As such, I propose the name 'Waka Kotahi New Zealand Transport Agency' be the new legislatively recognised name. This approach is supported by Waka Kotahi.

Were there any proposals submitters did not agree with?

- Feedback did not support two maritime proposals. These proposals seek changes to the investigations of maritime transport document holders (proposals 3.2.1 and 3.2.2).
- Submitters raised concerns with proposal 3.2.1 in particular, as it would enable the Director of Maritime NZ to commence an investigation on 'reasonable grounds'.
- It is considered changing from the current wording of 'belief' to 'reasonable grounds' lowers the evidential threshold too much, and introduces too much subjectivity. However, officials advise that the provisions in the legislation, as well as supporting operational guidance, should not result in undue investigations to the extent submitters believe.

- Officials consider this change will enable the Director of Maritime NZ to uncover covert behaviour or latent systemic risks by means of investigation.
- As such, I recommend we progress with these proposals as consulted on, but with further analysis of these provisions forming part of the wider MTA review.

What are the risks associated with the RSTA 2 proposal list and Bill?

- There have been delays to progressing the RSTA 2 Bill. These delays are due to resources being redirected to priority work to develop the Criminal Activity Intervention Legislation Bill.
- Delays to the RSTA 2 Bill may have implications for other work, such as the safety camera work under Road to Zero (land proposal 1.2), as well as the ability for RCAs to continue using electronic servicing for documents (land proposal 1.1) and automated infringement processes (land proposal 1.3).
- Delays may also impact New Zealand's ability to improve compliance with the Code of the Maritime Labour Convention 2006 (the MLC).
- In terms of the proposals, there are risks with the proposed amendments to the Director of Land Transport's powers during emergency and time-critical events. As this proposal was only consulted on at a high level, there is a possibility some stakeholders have strong views about the specific options we are proposing to progress.
- There are also risks with progressing with the two maritime proposals around investigations (proposals 3.2.1 and 3.2.2), despite submitters feedback
- However, I consider the Select Committee stage will provide another opportunity for interested people to submit their feedback on the detail of these proposals.

What are the next steps for this work?

- Following Cabinet decisions, drafting instructions will be issued to the Parliamentary Counsel Office (PCO). Given the proposals amend 9 pieces of legislation, it is anticipated that extra drafting time will be required.
- This means that I will be looking to introduce a bill to the House in August 2023.



Cabinet Economic Development Committee

Minute of Decision

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Regulatory Systems (Transport) Amendment Bill: Policy Approval

Portfolio Associate Transport

On 23 November 2022, the Cabinet Economic Development Committee (DEV):

Background

- 1 **noted** that the Ministry of Transport has committed to a regular series of Regulatory System (Transport) Amendment Bills to support effective regulatory stewardship, described in the Transport Regulatory Stewardship Plan for 2019-2022;
- 2 **noted** that the Ministry of Transport has developed a number of proposals to amend both land and maritime legislation through the second Bill of this series, the Regulatory Stewardship (Transport) Amendment Bill No 2 (the No 2 Bill);
- 3 **noted** that on 11 May 2022, DEV agreed to the release of two consultation documents on a package of 34 proposals to amend transport legislation across land and maritime modes [DEV-22-MIN-0110];
- 4 **noted** that 23 submissions were received across the proposals, comprising 17 submissions to the land consultation document, and six to the maritime consultation document;
- 5 **noted** that there was broad support for the land proposals, with feedback largely centring on implementation considerations;

Powers to respond to emergency and time-critical events

- 6 **noted** that the Ministry consulted on a high-level proposal to amend the Director of Land Transport's powers to respond to emergency and time-critical events;
- 7 **noted** that there was support for a review of the Director of Land Transport's powers to enable more responsive action, particularly where there are safety concerns;
- 8 **agreed** to introduce new emergency powers for the Director of Land Transport, that will enable the Director of Land Transport to extend the term of any land transport document when either:
 - 8.1 a state of national or local emergency has been declared under the Civil Defence and Emergency Management Act 2002;
 - 8.2 an Epidemic Notice is in force, under the Epidemic Preparedness Act 2006;

8.3 otherwise with the agreement of the Minister of Transport;

- 9 **noted** that changes to section 23 of the Land Transport Act 1998 will be required in order to ensure the legal recognition of driver licences that have received an emergency extension;
- 10 **noted** that the legislation will include a requirement that ensures liability for payment of motor vehicle licences (registration) despite being granted an extension;
- 11 **agreed** to introduce a new power for the Director of Land Transport to require any vehicle, or class of vehicle, to present for inspection by a specified date;
- 12 **noted** that failure to present a vehicle as required under paragraph 11 above could result in that vehicle's Certificate or Warrant of Fitness being revoked, or otherwise being unable to obtain a Certificate or Warrant of Fitness at the vehicle's next due inspection;
- 13 **agreed** to introduce a new power for the Director of Land Transport to be able to revoke the Certificate or Warrant of Fitness of a class of vehicles on the grounds of not meeting safety requirements;
- 14 **agreed** that the Director of Land Transport be required to notify the Chief Executive of the Ministry of Transport of their intention to use the power outlined in paragraph 13 above;
- 15 **noted** that the agreement of the Chief Executive of the Ministry of Transport would not be required to approve the use the power outlined in paragraph 13 above, as this would interfere with the statutorily independent functioning of the Director of Land Transport's powers;

Including the name 'Waka Kotahi' in legislation

- 16 **noted** that the Ministry of Transport consulted on including the New Zealand Transport Agency's te reo Māori name 'Waka Kotahi' in legislation;
- 17 **agreed** to replace 'New Zealand Transport Agency' in legislation with 'Waka Kotahi New Zealand Transport Agency';

Other land proposals

- 18 **noted** that one land proposal has been removed from the No 2 Bill's proposal list, and will be progressed through a separate workstream (Reshaping Streets);
- 19 **noted** that two land proposals have been added to the No 2 Bill's proposal list, relating to State highway declarations and declaring vehicles to not be a vehicle;

Maritime proposals

- 20 **noted** that there was support for the intention of the maritime proposals, with submitters raising additional considerations;
- 21 **noted** that since consultation on proposals for inclusion in the No 2 Bill began, the Ministry of Transport has commenced a wider review of the Maritime Transport Act 1994;
- 22 **noted** that two maritime proposals relating to when investigations of maritime transport document-holders may be commenced will progress as consulted on, but will be further analysed as part of the wider Maritime Transport Act 1994 review outlined in paragraph 21 above;

- 23 **noted** that further analysis of proposals to amend section 27 of the Maritime Transport Act 1994 (proposal 3.2) will likely now require a full repeal and replacement of this section;
- 24 **noted** that maritime proposal 4.2 (notification of incidents) will not be progressed, but will instead be considered in the review of the Maritime Transport Act 1994;

Legislative implications

- 25 **noted** the summary of the proposals across land and maritime modes, the feedback received, and any changes since Cabinet last reviewed the proposals, as set out in Appendices One and Two to the paper under DEV-22-SUB-0284;
- 26 **invited** the Associate Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office for the following 15 land proposals:
- 26.1 enabling electronic service of documents and electronic signatures (proposal 1.1);
 - 26.2 clarifying the enforcement of point-to-point speeding offences (proposal 1.2);
 - 26.3 providing for the future use of automated infringement offences (proposal 1.3)
 - 26.4 allowing Waka Kotahi to proactively close parts of the State Highway network to address safety concerns (proposal 2.2);
 - 26.5 allowing Waka Kotahi to declare a road a State Highway (not publicly consulted on);
 - 26.6 clarifying pedestrian access to approved areas within motorway corridors (proposal 2.3);
 - 26.7 introducing reactive investigation powers for Waka Kotahi under the Railways Act 2005 (proposal 3.1);
 - 26.8 modernising the enforcement regime for Transport Service Licences (proposal 3.2);
 - 26.9 strengthening and clarifying the requirements around limited access roads (proposal 3.3);
 - 26.10 removing time constraints in rail safety case application process (proposal 4.1);
 - 26.11 simplifying the rule consultation process to increase consistency (proposal 4.2);
 - 26.12 including the name 'Waka Kotahi New Zealand Transport Agency' in legislation referencing the New Zealand Transport Agency's name in legislation (proposal 5.2);
 - 26.13 introducing emergency powers for the Director of Land Transport (proposal 5.3);
 - 26.14 increasing the maximum level of fines and infringement fees that can be set through regulations (proposal 5.4);
 - 26.15 changes to section 168A regarding how Waka Kotahi declares vehicles to not be a vehicle (part of the Accessible Streets package);
- 27 **invited** the Associate Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to give effect to the following 15 maritime proposals:
- 27.1 enabling electronic service of documents and electronic signatures (proposal 1.1);

- 27.2 updating the definition of ‘convention’ (proposal 2.1);
- 27.3 conferring powers on the Minister of Conservation to effectively manage maritime safety in the Subantarctic and Kermadec Islands (proposal 3.1);
- 27.4 clarifying the threshold for starting an investigation (proposal 3.2.1);
- 27.5 providing certainty that breaches of maritime document holders’ duties are grounds for an investigation (proposal 3.2.2);
- 27.6 addressing an inconsistency with prohibiting charges for placing seafarers in employment (proposal 4.1.1);
- 27.7 aligning seafarer employment agreement clauses with Maritime Labour Convention 2006 requirements (proposal 4.1.2);
- 27.8 addressing an inconsistency with the Maritime Labour Convention 2006 requirement that a seafarer’s record of employment not include any statement as to the quality of the seafarer’s work (proposal 4.1.3);
- 27.9 aligning with the Maritime Labour Convention 2006 requirement to prohibit people younger than 16 years old from working on a ship and people under 18 years old from undertaking hazardous work (proposal 4.1.4);
- 27.10 revise and reorganise Part 3 of the Maritime Transport Act 1994 (proposal 4.1.5);
- 27.11 clarifying Rule-making and compliance powers to support the implementation of Maritime Labour Convention requirements (proposal 4.1.6);
- 27.12 correcting a technical issue regarding the definition of unit of account (proposal 4.3);
- 27.13 bringing floating product and storage and offloading units within scope of the maritime levy (proposal 4.4);
- 27.14 updating the maximum level of fines and infringement fees that can be set through regulations in the MTA (proposal 5.1);
- 27.15 modernising the penalties for the safety offences in the Maritime Transport Act 1994 (proposal 5.2);
- 28 **noted** that the above proposals will be included in the Regulatory Systems (Transport) Amendment Bill No 2 (the No 2 Bill), which has a category 4 priority on the 2022 Legislation Programme (to be referred to a select committee in 2022);
- 29 **noted** that there have been delays to progressing the No 2 Bill due to resources being redirected to progress other priority work;
- 30 **noted** that consequential changes to some clauses in Transport Rules will be required to give effect to the land proposals;
- 31 **noted** that the Minister of Transport may authorise the Ministry of Transport to issue drafting instructions to the Parliamentary Counsel Office about Rule-level changes that are essential to achieving proposal outcomes;
- 32 **invited** the Associate Minister of Transport to issue drafting instructions to the Parliamentary Counsel regarding amendments to the Maritime (Offences) Regulations 1998 and the Marine Protection (Offences) Regulations 1998;

- 33 **noted** that further technical amendments to remove proposed new offences and infringement fees will be made to the Maritime (Offences) Regulations 1998 and the Marine Protection (Offences) Regulations 1998 as the drafting progresses;
- 34 **authorised** the Associate Minister of Transport approving minor and technical changes that arise during the drafting process that are within scope of the original policy intent;
- 35 **noted** that changes to the Maritime (Offences) Regulations 1998 and the Marine Protection (Offences) Regulations 1998 will occur after the No 2 Bill has received Royal Assent.

Janine Harvey
Committee Secretary

Present:

Hon Grant Robertson (Chair)
Hon Dr Megan Woods
Hon David Parker
Hon Damien O'Connor
Hon Willie Jackson
Hon Michael Wood
Hon Dr David Clark
Hon Dr Ayesha Verrall
Hon Priyanca Radhakrishnan
Hon Meka Whaitiri
Hon Phil Twyford
Hon Kieran McAnulty
Rino Tirikatene, MP
Dr Deborah Russell, MP

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

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Cabinet

Minute of Decision

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Report of the Cabinet Economic Development Committee: Period Ended 25 November 2022

On 28 November 2022, Cabinet made the following decisions on the work of the Cabinet Economic Development Committee for the period ended 25 November 2022:

DEV-22-MIN-0285	New Zealand Emissions Trading Scheme: 2022 Update to Limits and Price Control Settings for Units Portfolio: Climate Change	Separate minute: CAB-22-MIN-0533
DEV-22-MIN-0280	Foreign Reserves Management and Coordination Framework Portfolio: Finance	CONFIRMED
DEV-22-MIN-0287	Taking Action on Fuel Prices: Next Steps Portfolios: Finance / Energy and Resources / Transport	Separate minute: CAB-22-MIN-0534
DEV-22-MIN-0288	Supporting Commercial Bargaining for Online News Portfolio: Broadcasting and Media	CONFIRMED
DEV-22-MIN-0289	Supporting Ongoing AM Transmission for Emergency Management Communications in Northland: Drawdown of Tagged Contingency Funding Portfolio: Broadcasting and Media	CONFIRMED
DEV-22-MIN-0286	Providing Rebates or Grants for Zero Emission ATVs Portfolio: Transport	CONFIRMED
DEV-22-MIN-0279	Mandatory Unit Pricing for Grocery Products Portfolio: Commerce and Consumer Affairs	CONFIRMED
DEV-22-MIN-0281	New Zealand Association to Horizon Europe: Negotiating Mandate Portfolio: Research, Science and Innovation	CONFIRMED

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| DEV-22-MIN-0283 | Targeted Business Research and Development Funding Appropriations: Transfer of Funds
Portfolio: Research, Science and Innovation | CONFIRMED |
| DEV-22-MIN-0277 | Te Ara Paerangi: Future Pathways
Portfolio: Research, Science and Innovation | CONFIRMED |
| DEV-22-MIN-0284 | Regulatory Systems (Transport) Amendment Bill: Policy Approval
Portfolio: Associate Transport | CONFIRMED |

Rachel Hayward
Secretary of the Cabinet

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