

Departmental Disclosure Statement

Land Transport Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Ministry of Transport.

The Ministry of Transport certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

1 September 2016.

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Part One: General Policy Statement

The overarching objective of the Land Transport Amendment Bill (the **Bill**) is to provide better regulation that maintains and improves the efficiency, effectiveness, and safety of the land transport system. The Bill has 6 components, which propose changes to—

- strengthen the legislation relating to alcohol interlocks:
- strengthen the framework for managing public transport fare evasion:
- create more effective deterrents to reduce the incidents of fleeing drivers:
- heavy vehicle regulation, to complement recent and proposed changes to the Land Transport (Vehicle Dimensions and Mass) Rule 2002 (the **VDAM Rule**):
- the regulatory framework for small passenger services:
- make a range of minor amendments to ensure that the Land Transport Act 1998 (the **Act**) is clear and operating as intended.

Mandatory alcohol interlocks

The Bill proposes to improve road safety by reducing recidivist drink driving.

The Act contains a discretionary alcohol interlock sentence that the courts can impose on first-time offenders with high alcohol levels and offenders with repeat drink-drive convictions. However, the discretionary sentence is applied sparingly. The Bill makes alcohol interlocks mandatory for these offenders, with limited grounds for exception. Alcohol interlocks will also become mandatory for drink-drive offenders subject to alcohol assessment orders under section 65 of the Act.

The Bill also sets out how the mandatory alcohol interlock sentence applies when other offences with mandatory disqualification penalties have been committed. Changes for this purpose cover situations where the offender—

- is currently disqualified or suspended:
- is being sentenced concurrently for other offences:
- is serving an alcohol interlock sentence and is convicted of a subsequent drinkdrive offence:
- is serving an alcohol interlock sentence and is convicted of a subsequent nondrink-drive offence.

Alcohol interlocks are a highly effective tool for reducing the incidents of recidivist drink-driving. International reviews of alcohol interlock programmes indicate that alcohol interlocks can reduce drink-drive reoffending by an average of 60% while the device is fitted. The amendments contained in the Bill are expected to result in greater use of alcohol interlocks by high-risk offenders and, in turn, improve road safety.

Managing fare evasion on public transport services

The Bill seeks to assist enforcement officers in dealing with cases of fare evasion, reduce risks of fare evasion (particularly on train services) and promote the efficiency of public transport operations.

Although there is an infringement offence relating to fare evasion in the Act, it is very difficult for enforcement officers (other than the Police) to get the information necessary to issue infringement notices. This is because there is currently no obligation on passengers to produce evidence that they have paid the fare or to provide their name and address details to an enforcement officer.

The Bill, if enacted, will therefore give enforcement officers new powers to require passengers to provide evidence that they have paid a fare and provide their contact details when a valid ticket is not produced, and to order a passenger to disembark the public transport service. It will be an offence for a person to fail to comply with an enforcement officer's directions.

This approach is being taken to assist enforcement officers in dealing with most cases of fare evasion, and to make sure that the efficiency benefits of electronic ticketing are retained, while reducing the risk of fare evasion. The Police could be called in the more difficult cases involving non-compliant passengers, and would continue to attend more serious cases involving antisocial behaviour.

Increases to penalties for drivers who fail to stop for Police

Failing to stop for the Police is a serious offence as the actions of fleeing drivers often result in serious injury or death. The Bill seeks to—

- send a clear signal that failing to stop on a request or signal from an enforcement officer is a serious criminal act:
- deter drivers from fleeing the Police:
- reduce the number of repeat fleeing-driver offences.

The Bill proposes to increase the penalties for drivers who fail to stop for the Police. The disqualification penalties for failing to stop will scale up, based on whether an offence is a driver's first, second, or third and subsequent offence of this kind. The Bill also proposes strengthening the powers of the courts to permanently confiscate vehicles involved in fleeing-driver incidents.

The mandatory driving disqualification period for a first-time conviction will increase from 3 months to 6 months if the failing to stop also involves speeding or driving in a dangerous manner, and from 3 months to 1 year for a second conviction. The mandatory disqualification period for a third and subsequent offence will increase from 1 to 2 years.

The Bill also proposes, under the Sentencing Act 2002, mandatory vehicle confiscation for second and subsequent convictions for failing to stop within a 4-year period, unless the confiscation would result in extreme or undue hardship.

The Bill proposes extending Police discretionary powers to seize and impound a motor vehicle to 28 days. This is in cases where the Police suspect, on reasonable grounds, that—

- the owner or person in lawful possession of a motor vehicle that has failed to stop for the Police knows the identity of the driver; and
- that person has failed or refused to provide that information, or has provided false or misleading information, in response to a Police request.

Updates to heavy vehicle regulation

The objectives of proposed updates to heavy vehicle regulation contained in the Bill are to—

- improve transport productivity:
- improve road safety and community well-being:
- improve compliance:
- optimise road network utilisation.

The Bill complements the recent and proposed changes to the VDAM Rule and corresponding regulations by making technical amendments to clarify existing provisions, address operational enforcement issues, and correct anomalies.

The Bill modernises enforcement provisions, including updating penalties. The proposals will—

- amend provisions that empower the stopping of vehicles for inspection purposes (including weighing) to reduce the costs imposed on compliant operators and enable more efficient use of enforcement resources:

- amend the conditions under which a heavy vehicle can be redirected for more than 5 km in order to reach a suitable site for weighing:
- increase the maximum level of infringement fee that can be set for overloading offences from \$10,000 to \$15,000 to compensate for inflation and the removal of other penalties:
- provide more visible and adequate sanctions for breaches of prescribed limits on vehicle height, length, and width:
- empower the Police to order trucks to be offloaded where they are overloaded by either 10% or more than 2 tonnes, whichever is the lesser (instead of the existing blanket allowance of 10%).

The Bill also proposes changes to rationalise powers for local authorities to close roads to heavy traffic and updates provisions relating to rule and regulation making under the Act to include references to managing the impact of vehicles on infrastructure.

These amendments will—

- reduce the costs of enforcement activity for both the Police and compliant operators:
- help mitigate the risks associated with higher legal weight limits:
- help protect compliant operators against unfair competition from those who deliberately overload.

In some cases, the proposals could involve added compliance costs for some operators. However, these costs, which will fall largely on operators who fail to observe the law, are justified by the benefits stated above.

Future regulatory system for small passenger services

The regulatory system for small passenger services proposed by the Bill—

- responds to emerging technology and the introduction of new business models within the sector (developments in those areas are making the existing regulatory distinctions between different classes of passenger services problematic and obsolete):
- reduces barriers to entry, thereby encouraging competition in the small passenger services market:
- ensures that the regulatory system is fit for purpose to meet New Zealand's future needs and delivers maximum benefits for consumers.

Currently, under the Act and the Land Transport Rule: Operator Licensing 2007, there are separate categories and rules for taxis, private hire services, and shuttle services. These regulatory distinctions apply varying levels of compliance burdens and restrictions across the types of operators.

The Bill simplifies the regulatory framework by creating a single class of small passenger service operators. The proposed single class will enable operators to compete on an even footing and to provide a range of services that respond to market signals, while providing the necessary fundamentals for safety.

Under the single class of small passenger services, the following provisions for safety will be retained for all (except for those sharing rides on a cost-sharing basis):

- drivers will continue to require a P endorsement and to display a driver identification card. A fit and proper person check, including a Police check, is undertaken before a P endorsement is granted:
- drivers must continue to operate within their work time limits:
- vehicles will continue to require a certificate of fitness:
- vehicles operating within the 18 main urban areas will require an in-vehicle recording camera, unless they have an exemption.

The proposals in this Bill are to be part of a package with revised rules. The package will remove a number of the current regulatory requirements that impose costs on operators but no longer offer any significant benefits. These include the following requirements:

Small passenger service vehicles:

- about signage (including information about fares, mandatory branding, and information supplied in Braille):

Drivers:

- to hold an area knowledge certificate:
- to have passed a full licence test in the preceding 5 years:
- to have completed the passenger endorsement course:

Taxi Operators:

- to belong to an approved taxi organisation:
- to provide small passenger services on a 24/7 basis:
- to hold a certificate of knowledge of law and practice:
- to have driver panic alarms that are monitored 24/7 from a fixed location.

As a consequence of these changes, the Bill also makes sure that provisions related to land transport rule making are fit for purpose. The Bill also updates the offences and penalties applicable to small passenger services.

Following a review of small passenger services in New Zealand, this approach was preferred because it will reduce the regulatory burden for a single class of licensed transport service operator, will provide New Zealand with an optimal regulatory system, and will best deliver the Government's objectives.

Operators will be able to compete on an even footing and offer a range of services that respond to market signals. The proposed system will deliver benefits through increased competition, more flexibility to accommodate new technologies, and will enable operators to make their own business decisions on a range of issues, while the system will provide the fundamental safety requirements.

Miscellaneous provisions

The Bill makes a range of minor amendments to clarify interpretations or the intent of the legislation, improve operations, remove inconsistencies, and make minor technical adjustments. The amendments involve—

- allowing a person or an animal to assist with vehicle inspections concerning dangerous goods as is the case for dangerous goods in relation to railway lines and rail vehicles, or premises used for loading and unloading dangerous goods:
- clarifying who is to be served with a parking infringement notice and that such a notice is deemed to have been served on every person liable under the Act:
- clarifying that notice of a suspension under the demerit points system can be created and served by either the New Zealand Transport Agency (the **Agency**) or the Police:
- simplifying the requirement to provide a summary of the procedure to transfer liability on a stationary vehicle infringement notice:
- allowing a stationary vehicle infringement notice to be served by providing it to the person who is apparently in charge of the vehicle at the time of service:
- correcting an error to allow vehicle seizure and impoundment warrants to be signed by Justices of the Peace or Registrars:
- making electronic forms of vehicle licensing lawful:

- allowing recovery of bank charges associated with payments by credit card:
- aligning the maximum fee for a breach of a bylaw provided for in the Act and in the Government Roadway Powers Act 1989 with infringement fees in provisions already in the Land Transport (Offences and Penalties) Regulations 1999:
- enabling automated enforcement of certain traffic signs:
- clarifying the powers of the Police to take certain actions, including forbidding driving and immobilising vehicles, in the interests of public safety:
- redefining moped to enable 3-wheeled mopeds to be registered for use on New Zealand's roads:
- preventing unlicensed drivers, who qualify for a mandatory 28-day licence suspension imposed by the Police, from obtaining or renewing their licence until they have served the full 28 day period.

These proposed amendments help to ensure that the provisions of the Act are operating effectively and as intended. None of these proposed amendments imposes additional costs on businesses. They do not impair property rights, affect market competition, or the incentives for business to innovate and invest, or override fundamental common law principles.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<p>The following reports informed the proposed updates to heavy vehicle regulation to be given effect by this Bill:</p> <ul style="list-style-type: none">• <i>Strategic electronic monitoring and compliance of heavy commercial vehicles in the Upper North Island</i>, NZ Transport Agency Research report 500, October 2012 can be accessed at: https://www.nzta.govt.nz/resources/research/reports/500/.• <i>Annual weigh-in-motion (WiM) report 2014</i>, NZ Transport Agency, October 2015 can be accessed at: http://www.nzta.govt.nz/assets/resources/weigh-in-motion/docs/2014-wim-report.pdf. <p>A report on drink drive sanctions, and Cabinet paper and benefit-cost analysis for the alcohol interlock policy to be given effect by this Bill can be accessed at: http://www.transport.govt.nz/alcohol-interlocks/.</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
<p>The future framework for small passenger services to be given effect to by the Bill has been developed with regard to New Zealand's obligations as a party to the UN Convention on the Rights of Persons with Disabilities.</p>	

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p>Six regulatory impact statements were produced to inform the policy decisions that led to this Bill:</p> <ul style="list-style-type: none"> • <i>Proposal to Manage Fare Evasion on Public Transport Services</i>, Ministry of Transport, 10 September 2015. • <i>Future framework for small passenger services</i>, Ministry of Transport, 15 March 2016. • <i>Land Transport Act 1998: vehicle dimensions and mass related provisions</i>, Ministry of Transport, 7 April 2016. • <i>Reducing Road Trauma and the Cost of Reoffending: Mandatory Alcohol Interlocks</i>, Ministry of Transport, 18 April 2016. • <i>Options to increase penalties for failing to stop and failing or refusing to provide information or providing false information</i>, NZ Police, 16 October 2015. • <i>Land Transport Act 1998: proposed miscellaneous amendments</i>, Ministry of Transport, 14 May 2016. • <i>Road user charges: administration fee credit card bank charges</i>, Ministry of Transport, 31 July 2016. • <i>Third party facilitated carpooling</i>, Ministry of Transport, 15 August 2016. <p>Regulatory impact statements authored by the Ministry of Transport can be accessed at: http://www.transport.govt.nz/about/publications/ris-bccs/.</p> <p>The regulatory impact statement authored by NZ Police can be accessed online at http://www.police.govt.nz/about-us/publication/options-to-increase-penalties-for-failing-to-stop-ris.</p> <p>Certain information from these RISs has been withheld with reference to the Official Information Act 1986.</p>	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	YES
See Appendix One for details.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	YES
<p>Three aspects of the Bill were not explicitly canvassed by any of the RISs that relate to the Bill. These are:</p> <ul style="list-style-type: none"> • a requirement for small passenger service driver to present a vehicle for inspection and subsequent offence provision for when a driver fails to present a vehicle for inspection • a requirement for all transport service drivers to drive under a transport service licence subsequent offence provision for when a driver fails to drive under a transport service licence holder • extension of current prohibition from smoking in operating taxis to all operating small passenger service vehicles. 	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>The regulatory impact statements for the policies to be given effect to by this Bill discuss potential costs and benefits. These can be accessed at: http://www.transport.govt.nz/about/publications/ris-bccs/.</p> <p>A benefit-cost analysis for the alcohol interlock policy to be given effect by this Bill can be accessed at: http://www.transport.govt.nz/alcohol-interlocks/</p>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>Analysis on how the potential costs or benefits are likely to be impacted by the level of effective compliance or non-compliance with applicable obligations or standards, or the nature and level of regulator effort put into encouraging or securing compliance, can be found in the following RISs:</p> <ul style="list-style-type: none"> • <i>Land Transport Act 1998: vehicle dimensions and mass related provisions</i>, Ministry of Transport, 7 April 2016. • <i>Reducing Road Trauma and the Cost of Reoffending: Mandatory Alcohol Interlocks</i>, Ministry of Transport, 18 April 2016. <p>These RISs can be accessed at: http://www.transport.govt.nz/about/publications/ris-bccs/.</p> <p>The benefit-cost analysis for the alcohol interlock policy also contains relevant information can be accessed at: http://www.transport.govt.nz/alcohol-interlocks/</p>	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
The provisions of the Bill do not affect New Zealand's international obligations, and are relevant only to domestic law.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?
The provisions of the Bill apply generally to the New Zealand public and do not impact on the principles of the Treaty of Waitangi.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of the Bill. Such advice, or reports, will be accessible on the Ministry's website at: http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/	

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
See Appendix Two for details.	

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
The Ministry of Justice was a member of a reference group that developed the policy related to alcohol interlocks. The Ministry of Justice was also consulted on the policy papers that sought decisions that are to be given effect to by the Bill.	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO
New section 30Q, inserted by clause 64, requires a facilitator of a facilitated cost-sharing arrangement to keep records of payments to the driver and a record of the distance travelled on each trip. These records will reveal whether the arrangement actually is a cost-sharing arrangement as between the driver and passenger. The records must be available for immediate inspection on demand at any reasonable time by the Agency and must be kept for 12 months. These records do not include personal information per se.	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
Yes the Privacy Commissioner was consulted and expressed no concerns with the policy.	

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
See Appendix Two for details.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
The operational agencies were consulted during the development of the policy and the legislation to ensure that the changes can be successfully operationalised.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	YES
<p>Increases to penalties for drivers who fail to stop for Police</p> <p>The Bill proposes, under the Sentencing Act 2002, mandatory vehicle confiscation for second and subsequent convictions for failing to stop within a 4-year period, unless the confiscation would result in extreme or undue hardship.</p> <p>The Bill proposes extending Police discretionary powers to seize and impound a motor vehicle to 28 days. This is in cases where the Police suspect, on reasonable grounds, that—</p> <ul style="list-style-type: none">• the owner or person in lawful possession of a motor vehicle that has failed to stop for the Police knows the identity of the driver; and• that person has failed or refused to provide that information, or has provided false or misleading information, in response to a Police request. <p>Miscellaneous provisions</p> <p>Section 119(5) of the Act was amended in 2012. It sets out the requirements for a warrant to seize and impound a vehicle. In what appears to be an error, these warrants are required to be signed by a Judge, which is inconsistent with other warrants authorised under the Act.</p> <p><i>Clause 84</i> amends section 119(5) to correct an out-of-date reference mistakenly not corrected as part of the reform by the Search and Surveillance Act 2012. That Act updated references to a Judge issuing a warrant with references to a warrant being issued by an issuing officer.</p>	

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
<p><i>Clause 52</i> amends the section relating to exemptions from a requirement in a rule, which is section 166. The amendment adds another factor that must be considered if the exemption relates to a heavy vehicle. The new factor is to have regard to the potential impact on infrastructure of the exemption. This includes, for example, potential damage to the infrastructure and the cost of repairing it.</p> <p><i>Clause 53</i> inserts a new exemption power into the Act. <i>New section 166A</i> is concerned with exemptions for the New Zealand Defence Force. This new power allows the Agency to exempt the New Zealand Defence Force from a specified requirement in a rule in relation to particular vehicles or groups or types of vehicles. This will be more efficient and cost less than the current exemption power, which requires each New Zealand Defence Force vehicle to receive an individual exemption.</p>	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p><i>Clause 50</i> amends section 152, which concerns the power of the Minister to make ordinary rules. The amendment provides that rules may be made providing for the appropriate management of infrastructure.</p> <p><i>Clause 51</i> amends section 164. That section relates to matters that the Minister or Agency must have regard to when making or recommending rules. The change means that the rule-maker must have regard to the appropriate management of infrastructure, including the impact of vehicles on infrastructure and whether the costs of the use of the infrastructure are greater than the economic value generated by its use. If the costs are greater, that would mean that the use could be considered inefficient.</p> <p><i>Clause 78</i> amends section 158, which empowers rules about licensing and standards for transport service operators and transport services. These amendments reflect the Bill's changes to remove separate regulation for taxis.</p>	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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Appendix One: Further Information Relating to Part Two

Regulatory impact analysis – question 2.3.1

The Regulatory Impact Analysis Team (RIAT) at the Treasury reviewed the regulatory impact statement (RIS) entitled *Future framework for small passenger services* prepared by the Ministry of Transport and associated supporting material, and considers that the information and analysis summarised in the RIS *partially meets* the quality assurance criteria. RIAT provided the following comment:

“The RIS establishes that the existing regulatory framework in the small passenger services industry is outdated and stifles innovation. However the RIS does not identify the underlying problems the current regulations were introduced to address.

The RIS does not explain what the feasible options are in detail or analyse their costs and benefits. Therefore it is unclear whether the preferred option is the option that provides the highest net benefit. RIAT notes that the preferred option is likely to have a net benefit.

The RIS proposes that transport operators can seek an exemption from the in-vehicle camera requirement, though it is not clear how the exemption process will work or how onerous the process will be in practice.”

RIAT also reviewed the RIS prepared by the Ministry of Transport entitled *Third party facilitated carpooling*, and considers that the information and analysis summarised in the RIS *does not meet* the quality assurance criteria. RIAT provided the following comment:

“The proposed options have not been publically consulted on making it difficult to have confidence that all of the impacts have been identified. It is also unclear what the exact changes to the carpooling industry are being recommended.

The preferred option in the RIS is based on the argument that the regulations introduced in April 2016 to third party carpooling are inconsistent with the aim of the review. It is not clear then why the new regulations introduced in April 2016 are also not inconsistent with the aim of the review. There is also a lack of analysis on the risks of removing regulatory requirements for third party facilitated carpooling drivers, or conversely the costs and benefits for retaining these requirements for other small passenger service drivers.”

RIAT did not provide an independent opinion for any of the other RISs because they did not meet the threshold for RIAT assessment.

Appendix Two: Further Information Relating to Part Three

Offences, penalties and court jurisdictions – question 3.4 (a) and (b)

Mandatory alcohol interlocks

Alcohol interlock orders are currently provided for in the Act as a discretionary sentence under section 65A. Under the Bill's amendments, they will become mandatory sentences for certain qualifying offences. The new regime to be implemented by the Bill retains the same qualifying offences as the current section 65A (see new section 65AB(1) inserted by clause 19).

Part 1, subpart 1 of the Bill sets out the amendments to the penalties for these qualifying offences.

Managing fare evasion on public transport services

Clause 29 of the Bill replaces section 79M of the Land Transport Act 1998, which sets out the offences and penalties for failure to pay passenger service fares. The new section 79M creates the new infringement offence of failing to provide evidence of having paid a public transport service fare.

Two new offences are created. If a person has failed to provide evidence of having paid a public transport service fare, it is an offence to:

- fail to provide identification when asked by an enforcement officer; and
- disobey an enforcement officer's request to get off (or not board) the relevant public transport.

Increases to penalties for drivers who fail to stop for Police

Subpart 3 of the Bill contains proposed offences and penalties relating to drivers who fail to stop for Police.

The disqualification penalties for failing to stop will scale up, based on whether an offence is a driver's first, second, or third and subsequent offence of this kind. The Bill also proposes:

- strengthening the powers of the courts to permanently confiscate vehicles involved in fleeing-driver incidents
- to increase the mandatory driving disqualification period for a first-time conviction will increase from 3 months to 6 months if the failing to stop also involves speeding or driving in a dangerous manner, and from 3 months to 1 year for a second conviction. The mandatory disqualification period for a third and subsequent offence will increase from 1 to 2 years.
- under the Sentencing Act 2002, mandatory vehicle confiscation for second and subsequent convictions for failing to stop within a 4-year period, unless the confiscation would result in extreme or undue hardship
- extending Police discretionary powers to seize and impound a motor vehicle to 28 days. This is in cases where the Police suspect, on reasonable grounds, that—
 - the owner or person in lawful possession of a motor vehicle that has failed to stop for the Police knows the identity of the driver; and
 - that person has failed or refused to provide that information, or has provided false or misleading information, in response to a Police request.

Clause 95 amends the Sentencing Act 2002. Section 128 is amended to update references changed by the Bill. Section 129 is amended so that a subsequent offence of failing to stop or remain stopped offence under the Land Transport Act 1998 committed within 4 years must lead to a confiscation of the vehicle concerned under the Sentencing Act 2002 (unless extreme hardship to the offender or undue hardship to any other person would result).

Updates to heavy vehicle regulation

Clause 44 replaces section 43. Section 43 is currently concerned with the offence of overloading a heavy vehicle. The *new section 43* also provides that it is an offence for a heavy vehicle to breach prescribed requirements in relation to dimensions.

Clause 54 amends section 167, which is concerned with regulations. The amendments reflect the other dimension-related changes elsewhere in *subpart 4*. Also, an amendment to section 167(1)(e)(iv) replaces the amount of an infringement fee in relation to an overloading or (after the changes in the Bill) over-dimension infringement offence from \$10,000 to \$15,000.

Future regulatory system for small passenger services

New section 79AB makes it an offence to drive a vehicle being used in a transport service if there is no relevant transport service licence held by the driver, by the transport service operator on whose behalf the driver is driving, or by the facilitator who facilitated the driver to connect with passengers. The maximum penalty on conviction for such an offence is a fine not exceeding \$10,000.

Clause 72 amends the offence provision providing that it is an offence to carry on a transport service without a licence. The amendment addresses the changes made in the Bill relating to small passenger service operators so as to capture the facilitators of such arrangements. This offence mirrors the new requirement in the amendment to section 30L that a person who facilitates a small passenger service must be licensed. And so *new section 79A(1)* makes it an offence to be unlicensed.

Clause 74 amends section 79C. That section makes it an offence if the holder of a transport service licence fails to present a transport service vehicle for inspection when required to do so by the Agency. The amendment creates a new offence for any driver of a small passenger service vehicle if the driver fails to present the vehicle for inspection when required. *Clauses 75, 76, and 77* make consequential amendments to the Act as a result of the Bill's amendments.

Miscellaneous provisions

Clause 80 amends the definition of moving vehicle offence to include failures to comply with directions given by a traffic sign that is a variable traffic or lane control sign.

External consultation – question 3.6

Mandatory alcohol interlocks

The Ministry of Transport engaged with stakeholders as part a review of drink-drive sanctions. A stakeholder workshop included government departments, treatment providers, interlock providers and interest groups such as the New Zealand Automobile Association and the New Zealand Drug Foundation.

Managing fare evasion on public transport services

Ministry of Transport engaged with Auckland Transport and the Greater Wellington Regional Council on the development of the policy. The Ministry of Transport also engaged with the Bus and Coach Association and the Public Transport Users Association in developing the policy.

Increases to penalties for drivers who fail to stop for Police

No external consultation on this policy because it only concerns amendments to sentencing provisions. The policy does not impose additional compliance requirements. Interested parties will have an opportunity to submit on the proposed amendments during the select committee phase of the Land Transport Amendment Bill.

Updates to heavy vehicle regulation

Most of the proposals to be given effect to by this Bill have been discussed with transport stakeholder groups through workshops held to help define the scope of the Vehicle Dimensions and Mass review and identify reform proposals.

Specific consultation was undertaken with stakeholders on proposals relating to redirection of vehicles for weighing and the threshold for offloading of overweight loads. Six organisations and businesses made submissions, including the main road transport industry associations (the Road Transport Forum and the Bus and Coach Association).

Future regulatory system for small passenger services

As part of a review of small passenger services, the Ministry of Transport held two sets of meetings with a range of sector stakeholders in the first half of 2015. These included taxi, private hire and shuttle operators, technology companies, and passenger representative groups. The purpose of the first set of meetings was to hear, from the sector's perspective, what the issues with the current system were, and what the key features for the future system might be. The second set of meetings was used as a means to test the review's thinking and receive feedback.

The future of small passenger services consultation paper was released for public consultation on 14 December 2015 outlining the five proposed options to reform the sector. Public consultation took place over nine weeks, closing on 12 February 2016.

Seventy-five submissions were received on the future of the small passenger services consultation paper.

Submitters were asked about their views on the review's objectives and whether they supported the review's preferred option, or one of the four other options the review had considered. They were then asked their views on proposed changes to current operator or driver licensing rules or requirements arising from the regulatory system proposed by one of the options. Each question asked provided an opportunity for general comment.

No specific external consultation was undertaken on third party facilitated carpooling. However, the issue arose out of the formal consultation, in which a submitter raised issues about how third party carpooling would fit into the new regulatory system for small passenger services.

Miscellaneous provisions

No external consultation on these policies because they are minor and technical in nature and interested parties will have an opportunity to submit on these matters during the select committee phase of the Land Transport Amendment Bill.