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as at 19 May 2026

Railways Act 2005

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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1 Title

This Act is the Railways Act 2005.

2 Commencement

This Act comes into force 3 months after the date on which it receives the Royal assent.

Part 1
Preliminary provisions

3 Purpose

The purpose of this Act is to—

(a) promote the safety of rail operations by—

(i) stating the duty of rail participants to ensure safety; and

(ii) authorising the Minister to make rules relating to rail activities; and

(iii) clarifying the nature of approved safety systems established by rail participants:

(b) restate and amend the law relating to the management of the railway corridor:

(c) consolidate legislation relating to railways.

4 Interpretation

(1) In this Act, unless the context otherwise requires,—

access provider, in relation to a railway line, means the person who controls the use of that railway line by rail operators (including that person if it is also a rail operator), whether or not that person engages rail personnel to exercise or assist in exercising that control on its behalf; but does not include those rail personnel

accident means an occurrence associated with the operation of a rail vehicle or the use of railway infrastructure or railway premises that causes—

(a) the death of, or serious injury to, individuals; or

(b) significant damage to property

Agency means the New Zealand Transport Agency established under section 93 of the Land Transport Management Act 2003

amusement device—

(a) means an appliance—

(i) to which the motion of a prime mover is transmitted; and

(ii) that is used, or designed or intended to be used, for the amusement, recreation, or entertainment of persons being carried, raised, lowered, or moved by the appliance or any part of the appliance while it is in motion; and

(b) includes the prime mover, transmission machinery, supporting structure, and any equipment used or intended to be used in connection with the appliance

approved safety case means a safety case that the Director has approved under section 32; and includes any variation approved or confirmed under section 35

Commission means the Transport Accident Investigation Commission established under section 3 of the Transport Accident Investigation Commission Act 1990

director,—

(a) in relation to a company, has the same meaning as in section 126 of the Companies Act 1993 as if—

(i) this Act were referred to in subsections (1)(b) to (d), (2), and (3) of that section; and

(ii) subsection (1A) of that section were omitted:

(b) in relation to any other body corporate, means a person occupying a position in, or in relation to, the body corporate that is comparable with that of a person who is a director of a company within the meaning of paragraph (a)

Director or **Director of Land Transport** means the Director of Land Transport appointed under section 104A of the Land Transport Management Act 2003

enforcement officer—

(a) means any of the following:

(i) a constable:

(ii) a Police employee who is not a constable who is authorised by the Commissioner to be an enforcement officer for the purposes of the Land Transport Act 1998:

(iii) a person who is appointed as an enforcement officer or a dangerous goods enforcement officer for the purposes of the Land Transport Act 1998 by warrant under section 208 of that Act or who holds that office by virtue of that Act:

(iv) a person who is appointed as an enforcement officer by warrant under section 102 or who holds that office by virtue of this Act; but

(b) does not include a safety assessor

equipment includes software

health and safety regulator has the same meaning as regulator in section 16 of the Health and Safety at Work Act 2015

incident means an occurrence, other than an accident, that is associated with the operation of a rail vehicle or the use of railway infrastructure or railway premises that placed, or could have placed,—

(a) a person at risk of death or serious injury; or

(b) property at risk of significant damage

information system, in relation to an electronic communication, means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications

infrastructure owner means a person who owns, or leases for a period of 7 years or more, any railway infrastructure, whether or not that person engages rail personnel to exercise or assist in exercising the rights and duties of ownership on its behalf; but does not include those rail personnel

inspector means a person appointed under section 72Z

issuing officer has the same meaning as in section 3(1) of the Search and Surveillance Act 2012

level crossing—

(a) means any place where—

(i) a railway line crosses a road on the same level; or

(ii) the public is permitted to cross a railway line on the same level; and

(b) includes a bridge used for both rail vehicles and road traffic on the same level; but

(c) does not include a railway line on a road that is intended solely for the use of light rail vehicles

licence means a licence granted under section 17 that is in force

licence holder means a person who—

(a) is required to hold a licence under section 15; and

(b) was granted a licence under section 17

light rail vehicle—

(a) means a rail vehicle that is designed to run on or along a road with other road vehicles and users; and

(b) includes a tram; but

(c) does not include—

(i) a rail vehicle approaching or on a level crossing; or

(ii) a rail vehicle while it is on a railway line that is not on a road

maintenance provider means a person who provides maintenance services for any railway infrastructure or rail vehicle, whether or not that person engages rail personnel to do so on its behalf; but does not include those rail personnel

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

network controller means a person who authorises entry onto, occupancy of, or movement of rail vehicles on a railway line, whether or not that person engages rail personnel to do so on that person's behalf; but does not include that rail personnel

ordinary safety assessment means a safety assessment undertaken of all parts or any part of a rail participant's rail activities to enable the Director—

(a) to gain appropriate assurances that those rail activities will continue to be conducted safely; or

(b) to determine the action that must be taken by the rail participant so that those assurances may be gained

prime mover means an engine, motor, or other appliance that provides mechanical energy derived from steam, water, wind, electricity, gas, gaseous products, compressed air, the combustion of fuel, or any other source

rail activities has the meaning specified in subsection (2)

rail document means a document that a rail participant or any rail personnel is required to hold under this Act; and includes a licence

rail operator means a person who provides or operates a rail vehicle, whether or not that person engages rail personnel to do so or to assist in doing so on its behalf; but does not include those rail personnel

rail participant means any of the following:

(a) an infrastructure owner:

(b) a rail vehicle owner:

(c) a railway premises owner:

(d) an access provider:

(e) a rail operator:

(f) a network controller:

(g) a maintenance provider:

(h) a railway premises manager:

(i) any other class of person prescribed as a rail participant by regulations

rail personnel, in relation to a rail participant, means an individual engaged by the rail participant or by an agent or contractor of the rail participant, whether as an employee, agent, contractor, or volunteer, for the purposes of carrying out, or assisting in carrying out, rail activities of the rail participant

rail traffic control equipment means train control and signal equipment and systems

rail vehicle—

(a) means any vehicle that runs on, or uses, a railway line; and

(b) includes—

(i) a locomotive, rail carriage, rail wagon, railcar, light rail vehicle, rail maintenance vehicle (whether or not self-propelled), and any other vehicle prescribed as a rail vehicle by regulations; and

(ii) a vehicle designed to operate both on rails and off rails, but only when that vehicle is running on rails

rail vehicle owner means a person who owns, or leases for a period of 7 years or more, a rail vehicle, whether or not that person engages rail personnel to exercise or to assist in exercising the rights and duties of ownership on its behalf; but does not include those rail personnel

railway means the railway infrastructure, rail vehicles, and other property (other than railway premises), including property specified by regulations made under section 59(j) and vehicles prescribed under section 59(k), that together are being used for the purpose of transporting people or goods by rail; but excludes—

(a) a railway used as an amusement device:

(b) a railway that operates on a set of rails with a gauge of less than 550 mm between them, unless that set of rails is designated as a railway line under section 59(l):

(c) a railway that operates on a railway line excluded by regulations made under section 59(m):

(d) a private cable car

railway infrastructure means—

(a) railway lines:

(b) rail traffic control equipment:

(c) communications equipment:

(d) electrical traction equipment:

(e) any other property specified as railway infrastructure in regulations

railway line—

(a) means a single rail or set of rails, having a gauge of 550 mm or greater between them, laid for the purposes of transporting people or goods by rail; and

(b) includes—

(i) sleepers, associated formation and ballast, tunnels, and bridges; and

(ii) in relation to a single rail or set of rails that are laid on a road for the purposes of 1 or more light rail vehicles,—

(A) any area between the rails; and

(B) the area that extends 500 mm outside the extremity of any light rail vehicle being used on that single rail or set of rails; and

(iii) a set of rails, having a gauge of less than 550 mm between them, that is designated as a railway line in regulations made under section 59(l); and

(iv) except as provided in subparagraph (ii), any area within 5 m of a single rail or within 5 m of a line drawn midway between a set of rails; but

(c) excludes—

(i) a railway line that is part of a railway used as an amusement device:

(ii) a railway line excluded by regulations made under section 59(m):

(iii) a railway line that exclusively serves private cable cars

railway premises means the land, buildings, or structures that are—

(a) located near a railway line; and

(b) used for the purposes of, in connection with, or for obtaining access to, a railway

railway premises manager means a person who manages and operates any railway premises, whether or not that person engages rail personnel to do so or to assist in doing so on its behalf; but does not include those rail personnel

railway premises owner means a person who owns, or leases for a period of 7 years or more, any railway premises, whether or not that person engages rail personnel to exercise or assist in exercising the rights and duties of ownership on its behalf; but does not include those rail personnel

regulations means regulations made under this Act

road has the same meaning as in section 315 of the Local Government Act 1974; and—

(a) includes—

(i) a road under the jurisdiction of a local authority; and

(ii) a State highway within the meaning of section 2(1) of the Government Roading Powers Act 1989; but

(b) does not include—

(i) a footpath or private road within the meaning of section 315 of the Local Government Act 1974; or

(ii) a motorway within the meaning of section 2(1) of the Government Roading Powers Act 1989; or

(iii) a roadway laid out by order of the Maori Land Court under Part 27 of the Maori Affairs Act 1953 (repealed) or any former Act, unless—

(A) that order has been cancelled; or

(B) the roadway has been declared to be a road under section 421 of the Maori Affairs Act 1953 (repealed); or

(iv) a level crossing

road controlling authority means the authority, body, or other person that has control of a road; and includes a person acting under, and within the terms of, any delegation or authorisation given by that authority, body, or other person

rule means an ordinary rule or emergency rule made under this Act

safety assessment means an ordinary safety assessment or a special safety assessment

safety assessor means a person appointed as a safety assessor under section 45

safety case means a document that contains the information specified in section 30

safety improvement plan means a plan required to be prepared under section 36

safety system, in relation to a rail participant, means a written record of all the rail participant's management and operational policies and practices that relate to the safe conduct of its rail activities; and includes the rail participant's operational and training manuals

special safety assessment means a safety assessment undertaken of all parts or any parts of a rail participant's rail activities when the Director believes, on reasonable grounds, that—

(a) those rail activities could cause—

(i) the death of, or serious injury to, individuals; or

(ii) significant damage to property; and

(b) there is a need for an early determination of the nature and extent of the action that the Director would require the rail participant to take to mitigate that risk

State services has the same meaning as in section 5 of the Public Service Act 2020

transmission machinery means any shaft, wheel, drum, pulley, system of fast and loose pulleys, gearing, coupling, clutch, driving belt, chain, rope, band, or other device by which the motion of a prime mover is transmitted to or received by any machine or appliance.

(2) In this Act, the **rail activities** of a rail participant, or for which a rail participant is responsible, are as follows:

(a) in the case of an infrastructure owner, the ownership of railway infrastructure:

(b) in the case of a rail vehicle owner, the ownership and management of rail vehicles:

(c) in the case of a railway premises owner, the ownership and maintenance of railway premises (whether or not the railway premises owner is also a maintenance provider):

(d) in the case of an access provider, the operation and maintenance of all railway infrastructure that is, or relates to, the railway lines controlled by the access provider (whether or not the access provider is also an infrastructure owner, maintenance provider, or network controller):

(e) in the case of a rail operator, the operation and maintenance of rail vehicles (whether or not the rail operator is also a rail vehicle owner or maintenance provider):

(f) in the case of a maintenance provider, the maintenance of any railway infrastructure or rail vehicles or railway premises:

(g) in the case of a railway premises manager, the management and operation of railway premises:

(h) in the case of a network controller, the authorisation of rail vehicles occupying or moving on a railway line:

(i) in the case of a class of person prescribed as a rail participant by regulations, the activities prescribed by regulations as being the rail activities of persons of that class.

Section 4(1) **Agency**: inserted, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 4(1) **amusement device**: inserted, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 4(1) **approved safety case**: amended, on 1 April 2021, by section 130(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 4(1) **Authority**: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 4(1) **Director**: repealed, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 4(1) **Director** or **Director of Land Transport**: inserted, on 1 April 2021, by section 130(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 4(1) **enforcement officer** paragraph (a)(i): amended, on 1 October 2008, pursuant to section 116(a)(vii) of the Policing Act 2008 (2008 No 72).

Section 4(1) **enforcement officer** paragraph (a)(ii): amended, on 1 October 2008, pursuant to section 116(d) of the Policing Act 2008 (2008 No 72).

Section 4(1) **health and safety regulator**: inserted, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 4(1) **information system**: inserted, on 19 May 2026, by section 106 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 4(1) **inspector**: inserted, on 19 May 2026, by section 106 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 4(1) **issuing officer**: inserted, on 19 May 2026, by section 106 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 4(1) **ordinary safety assessment**: amended, on 1 April 2021, by section 130(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 4(1) **prime mover**: inserted, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 4(1) **railway** paragraph (a): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 4(1) **railway line** paragraph (c)(i): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 4(1) **road** paragraph (a)(ii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 4(1) **road** paragraph (b)(ii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 4(1) **special safety assessment**: amended, on 1 April 2021, by section 130(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 4(1) **special safety assessment** paragraph (b): amended, on 1 April 2021, by section 130(5) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 4(1) **State services**: inserted, on 19 May 2026, by section 106 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 4(1) **transmission machinery**: inserted, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 4(1) **WorkSafe**: repealed, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

5 Meaning of reasonably practicable

In this Act, unless the context otherwise requires, **reasonably practicable**, in relation to a duty to ensure health and safety or to protect property, means that which is, or was, at a particular time, reasonably able to be done in relation to ensuring health and safety or the protection of property, taking into account and weighing up all relevant matters, including—

(a) the likelihood of the hazard or the risk concerned occurring; and

(b) the degree of harm or damage that might result from the hazard or risk; and

(c) what the person concerned knows, or ought reasonably to know, about—

  (i) the hazard or risk; and

  (ii) ways of eliminating or minimising the risk; and

(d) the availability and suitability of ways to eliminate or minimise the risk; and

(e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of

eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

Section 5: replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

5A Transitional, savings, and related provisions

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

Section 5A: inserted, on 1 April 2021, by section 131 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

6 Act binds the Crown

This Act binds the Crown.

6A Act is land transport Act

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

(2) This has the effect that—

(a) transport instruments may be made for the purposes of this Act under section 168G of that Act; and

(b) enforceable undertakings may be given for the purposes of this Act in accordance with section 112A of that Act; and

(c) a land transport record may be required to be created for the purposes of this Act in accordance with section 200B of that Act.

(3) This section is intended as a guide only and is not an exhaustive statement as to the effects of this Act being a land transport Act under that Act.

Section 6A: inserted, on 1 April 2021, by section 48 of the Regulatory Systems (Transport) Amendment Act 2021 (2021 No 9).

Part 2
Safety

Subpart 1—Duties of rail participants and other persons

7 General safety duties of rail participants and persons working for rail participants

(1) A rail participant must ensure, so far as is reasonably practicable, that none of the rail activities for which it is responsible causes, or is likely to cause, the death of, or serious injury to, individuals.

(2) No rail personnel of a rail participant may do or omit to do anything in respect of a rail vehicle, railway infrastructure, or railway premises if he or she knows or ought reasonably to know that act or omission will cause, or will be likely to cause, the death of, or serious injury to, individuals.

Section 7(1): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

8 Relationship of Act with Health and Safety at Work Act 2015

(1) Nothing in this Act limits the Health and Safety at Work Act 2015.

(2) Despite subsection (1), the Agency or the Director and the health and safety regulator must enter into a memorandum of understanding with respect to investigations conducted and prosecutions taken under this Act or the Health and Safety at Work Act 2015.

(3) *[Repealed]*

Section 8 heading: amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 8(1): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 8(2): amended, on 1 April 2021, by section 132 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 8(2): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 8(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 8(3): repealed, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

9 General safety duties of other persons

(1) Every person on or near a rail vehicle, railway infrastructure, or railway premises commits an offence who fails to ensure, so far as is reasonably practicable, that no individual dies or is seriously injured, and that no property is significantly damaged, as a result of any act or omission of that person.

(2) Every person commits an offence who, not having lawful authority to do so, knowingly—

(a) places or moves any rail vehicle or other object on a railway line or leaves any rail vehicle or other object on any part of a railway line; or

(b) moves, changes, or otherwise interferes with any signal, points, or stop blocks, or shows any signal likely to mislead; or

(c) causes or uses or attempts to use, or interferes with or attempts to interfere with, any braking appliances provided in any rail vehicle; or

(d) interferes with any railway line, structure, formation, tunnel, bridge, or other part of a railway; or

(e) interferes with any telecommunications or radio facility or signal, or gives any false or misleading information by means of any message, signal, or radio that will affect the operation of any rail vehicle; or

(f) enters upon any part of a railway line or rail vehicle with the intention of doing any of the acts mentioned in paragraphs (a) to (e).

(3) Every person commits an offence who, not having lawful authority to do so, knowingly causes or caused any of the acts mentioned in subsection (2).

(4) This section does not apply to—

(a) rail participants; or

(b) any person to whom section 7(2) applies.

Compare: 1992 No 111 s 24

Section 9(1): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

10 Rail operators and access providers must hold licences

(1) A rail operator must not operate a rail vehicle or permit a rail vehicle to be operated on a railway line unless—

(a) the rail operator holds a licence as a rail operator; and

(b) the access provider for that railway line holds a licence as an access provider.

(2) An access provider must not permit a rail vehicle to be operated on a railway line controlled by it unless—

(a) the rail operator of the rail vehicle holds a licence as a rail operator; and

(b) the access provider holds a licence as an access provider.

11 Duty to comply with licences, safety cases, and safety systems

A licence holder must—

(a) ensure that—

(i) every condition of its licence is complied with; and

(ii) its approved safety case is complied with; and

(iii) no serious or sustained breach of its safety system occurs; and

(b) provide appropriate training and supervision of all rail personnel who do anything for, or on behalf of, it in respect of its rail activities, and ensure that those persons comply with—

(i) the conditions of its licence; and

(ii) its approved safety case; and

(iii) its safety system.

12 Duty to comply with instructions from network controllers

(1) A rail operator, its rail personnel, and any person authorised to access a railway line must comply with instructions given by the network controller with respect to the entry onto, occupancy of, or movement of rail vehicles on, a railway line.

(2) Despite subsection (1), a person may refuse to comply with an instruction if that person believes on reasonable grounds that complying with the instruction would imminently cause an accident or incident.

(3) If a person refuses to comply with an instruction given by a network controller, that person must immediately notify that network controller of the refusal.

13 Duties in relation to accidents and incidents

(1) If a driver of a rail vehicle believes that an accident arising directly or indirectly from the operation of the rail vehicle has occurred, the driver of the rail vehicle must—

(a) stop the rail vehicle as soon as safely practicable and ascertain whether a person has been harmed; and

(b) ensure that all practicable assistance is rendered if a person has been harmed.

(2) Rail personnel must, as soon as practicable, report any accident or incident to—

(a) 1 or more of the following (as the case may require):

(i) the relevant rail operator:

(ii) the relevant access provider:

(iii) the relevant network controller; and

(b) the rail participant that engages that rail personnel (if not done so under paragraph (a)).

(3) The rail operator or access provider concerned must ensure, as soon as practicable, that the Agency, or any other person that the Agency has designated for this purpose,—

(a) is notified of any accident or incident; and

(b) is provided with the information about the accident or incident that the rules require or that the Agency reasonably requires.

(4) As soon as practicable after the Agency is notified of any accident or incident, the Agency must,—

(a) in the case of an accident, notify the Commission of the accident, and give to the Commission the information about the accident known to the Agency that the Commission reasonably requires:

(b) in the case of an incident that the Agency considers that the Commission should investigate, notify the Commission that the Agency has been notified of the incident, and give to the Commission the information about the incident known to the Agency that the Commission reasonably requires.

Section 13(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 13(3)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 13(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 13(4)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 13(4)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

14 Duty of rail participants to comply with dangerous goods provisions of Land Transport Act 1998

A rail participant must comply with the provisions of sections 129 to 132 of the Land Transport Act 1998 that apply to that rail participant.

Subpart 2—Licensing of rail participants

15 Certain rail participants must be licensed

(1) The following rail participants must hold a licence:

(a) a rail operator:

(b) an access provider:

(c) a rail participant who is required by regulations to hold a licence.

(2) If a person is a member of more than 1 class of rail participant to which subsection (1) applies, a single licence covering each of the classes of rail participant concerned may be issued to the person, and that licence may have different conditions for the different classes covered by it.

(3) Despite subsection (1), the Director may, on the conditions that the Director considers appropriate, exempt a person from holding a licence if all of the rail activities of that person are covered under—

(a) the licence of another licence holder; and

(b) the approved safety case of that other licence holder.

Section 15(3): amended, on 1 April 2021, by section 133 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

16 Application for licence

(1) Every application for a licence must—

(a) be made to the Director in the prescribed form or, if a form is not prescribed, in the form that the Director may require; and

(b) contain the information, and comply with any other requirements, prescribed by regulations or rules or reasonably required by the Director; and

(c) be accompanied by the fee required by regulations.

(2) If a person is a member of more than 1 class of rail participant to which section 15(1) applies, a single application covering each of the classes of rail participant concerned may be made under subsection (1).

Compare: 1989 No 74 s 6

Section 16(1)(a): amended, on 1 April 2021, by section 134(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 16(1)(b): amended, on 1 April 2021, by section 134(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

17 Grant of licences

(1) After considering an application for a licence, the Director may grant the licence only if the Director has determined that—

(a) all relevant requirements of this Act, the regulations, and the rules have been complied with; and

(b) the proposed safety case has been approved under section 32; and

(c) it is not contrary to the interests of rail safety for the licence to be granted.

(2) The Director may grant an interim licence to an applicant if that applicant—

(a) is continuing an existing rail activity previously carried out by another rail participant; and

(b) has applied for a licence but is yet to have its—

(i) safety case approved; or

(ii) application determined.

(3) Section 27 applies to a decision not to grant a licence.

Section 17(1): amended, on 1 April 2021, by section 135(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 17(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 17(2): amended, on 1 April 2021, by section 135(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

18 Transfer or assignment of licence prohibited

A licence may not be transferred or assigned to any person without the prior written consent of the Director, and any purported transfer or assignment is void.

Compare: 1989 No 74 s 26(1)

Section 18: amended, on 1 April 2021, by section 136 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

19 Term of licence

(1) A licence takes effect on the day it is granted and continues in force until it is—

(a) surrendered under subsection (2); or

(b) suspended under section 23; or

(c) revoked under section 24 or section 26.

(2) A holder of a licence may surrender the licence at any time by written notice to the Director.

Compare: 1989 No 74 ss 27, 28

Section 19(2): amended, on 1 April 2021, by section 137 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

20 Register of licences

(1) The Agency must continue and maintain a register of licences.

(2) The register must show for each licence the following information:

(a) the holder's name:

(b) the holder's address:

(ba) the holder's electronic address (if the holder has an electronic address):

(c) the number of the licence:

(d) the date of issue of the licence:

(e) any conditions applying to the licence:

(f) information about any expiry, revocation, suspension, or surrender:

(g) the dates of any amendments to the licence:

(h) whether any safety case and variations to the safety case have been approved by the Agency.

(3) A person who applies to the Agency and pays the prescribed fee (if any) is entitled to the information specified in subsection (2) that relates to the licence holder named in the application.

Compare: 1989 No 74 s 29

Section 20(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 20(2)(ba): inserted, on 19 May 2026, by section 107 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 20(2)(h): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 20(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Conditions of licences

21 Conditions of licences

(1) A licence may be granted on any conditions that—

(a) the Director, on reasonable grounds, considers appropriate in the interest of safety; or

(b) are prescribed by the rules.

(2) Without limiting subsection (1), every licence has the following conditions:

(a) the licence holder has a safety liaison officer who is authorised to act as the licence holder's primary contact with the Director in relation to the licence; and

(b) the fees with respect to the licence are paid to the Agency; and

(c) the licence holder must report to the Director those matters that are specified in the licence holder's safety case and any other matters that the Director reasonably considers necessary in the interests of safety.

(3) Without limiting subsection (1), every licence held by a rail operator has the following conditions:

(a) every rail vehicle used by the rail operator must be maintained as provided for in the approved safety case:

(b) the rail operator must, whenever required to do so by the Director, present for inspection any rail vehicle that is used by the rail operator:

(c) a rail vehicle that has suffered serious damage may not be used until it has been approved in accordance with the rail operator's safety system and approved safety case:

(d) the rail operator must, on being requested to do so by the Director or an enforcement officer, immediately supply the full name, address, and electronic address (if any) of any rail personnel of the rail operator who has committed or allegedly committed an offence (being an offence of which the rail operator is aware and that may be relevant to the safe operation of a rail vehicle).

(4) Without limiting subsection (1), every licence held by an access provider has the following conditions:

(a) all railway infrastructure used by the access provider must be maintained as provided for in the approved safety case:

(b) the access provider must, whenever required to do so by the Director, present for inspection any railway infrastructure controlled by the access provider:

(c) any railway infrastructure that has suffered serious damage may not be used until it has been approved in accordance with the access provider's safety system and approved safety case:

(d) the access provider must, on being requested to do so by the Director or an enforcement officer, immediately supply the full name, address, and electronic address (if any) of any rail personnel of the access provider who has committed or allegedly committed an offence (being an offence of which the access provider is aware and that may be relevant to the safe operation of any railway infrastructure).

(5) Without limiting subsection (1), every licence has the condition that the licence holder must provide the Director with—

(a) the licence holder's current—

(i) place of business; and

(ii) postal address; and

(iii) electronic address (if any); and

(b) the safety liaison officer's contact details (including, but not limited to, current phone number and current electronic address (if any)).

Compare: 1989 No 74 ss 31, 32

Section 21(1)(a): amended, on 1 April 2021, by section 138(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 21(2)(a): amended, on 1 April 2021, by section 138(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 21(2)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 21(2)(c): amended, on 1 April 2021, by section 138(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 21(3)(b): amended, on 1 April 2021, by section 138(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 21(3)(d): amended, on 19 May 2026, by section 108 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 21(3)(d): amended, on 1 April 2021, by section 138(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 21(4)(b): amended, on 1 April 2021, by section 138(5) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 21(4)(d): amended, on 19 May 2026, by section 108 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 21(4)(d): amended, on 1 April 2021, by section 138(5) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 21(5): amended, on 1 April 2021, by section 138(6) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

22 Agents and contractors

(1) A licence may prohibit or restrict the licence holder from appointing agents or contractors to carry out any rail activities of the licence holder without the consent of the Director (which consent may not be unreasonably withheld).

(2) Every licence has the condition that,—

(a) if any rail activities of the licence holder are carried out by another person who does not hold a licence to carry out those rail activities, the licence holder must take all reasonable steps (including providing necessary monitoring personnel and resources) to ensure that the person carries out those rail activities in accordance with—

(i) the licence; and

(ii) the licence holder's approved safety case and safety system; and

(iii) any relevant rules; and

(b) the licence holder must give written notice to the Director of the appointment of, or a change in, any of the principal agents or contractors engaged by the licence holder to carry out any or all of the licence holder's rail activities.

Section 22(1): amended, on 1 April 2021, by section 139(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 22(2)(b): amended, on 1 April 2021, by section 139(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Suspensions, revocations, and other conditions of licences

23 Power of Director to suspend licence or impose temporary conditions

(1) The Director may, by written notice given to the licence holder, suspend a licence issued under this Act or impose temporary conditions in respect of that licence if the Director—

(a) considers it necessary to avoid a risk of—

(i) the death of, or serious injury to, individuals; or

(ii) significant damage to property; and

(b) is satisfied that—

(i) the action is necessary to ensure compliance with sections 7 and 10 to 13 or the rules; or

(ii) the licence holder has contravened, or failed to comply with, any of sections 7 and 10 to 13 or the rules; or

(iii) the licence holder gave false or misleading information for the purpose of obtaining the licence; or

(iv) the licence holder failed to comply with any conditions of the licence; or

(v) the circumstances of the licence holder have changed significantly and the licence holder's approved safety case does not adequately provide for those changed circumstances; or

(vi) the licence has purportedly been transferred or assigned in contravention of section 18; and

(c) in the case of suspension, has had regard to whether an action other than suspension is appropriate in the circumstances.

(2) A notice given under subsection (1) must inform the licence holder of—

(a) the decision to suspend a licence issued under this Act or impose temporary conditions on that licence; and

(b) the reasons for the decision and the information upon which the decision is based; and

(c) the licence holder's right to appeal under section 68.

(3) The duration of a temporary condition or a suspension may not exceed 10 working days unless, before the expiry of that 10-working-day period, the Director extends the temporary conditions or the suspension for a further specified period.

(4) If notice of a proposed revocation or the imposition of permanent conditions is given while a suspension is, or temporary conditions are, in force, the suspension remains, or the temporary conditions remain, in force until a final decision on revocation or permanent conditions has been made.

(5) Either a licence or a part of a licence may be suspended under this section.

(6) Section 27 applies in respect of a decision under subsection (1).

Compare: 1990 No 98 s 17

Section 23 heading: amended, on 1 April 2021, by section 140(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 23(1): amended, on 1 April 2021, by section 140(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 23(3): amended, on 1 April 2021, by section 140(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

24 Power of Director to revoke licence or impose permanent conditions

(1) The Director may, at any time, revoke, or impose permanent conditions in respect of, a licence if the Director,—

(a) by reason of a safety assessment report or otherwise, considers it necessary to avoid a risk of—

(i) the death of, or serious injury to, individuals; or

(ii) significant damage to property; and

(b) on reasonable grounds, believes that no other action under this Act is appropriate to address that risk.

(2) Either a licence or a part of a licence may be revoked, or encumbered with permanent conditions, under this section.

(3) Section 27 applies in respect of a decision under subsection (1).

Compare: 1990 No 98 s 18

Section 24 heading: amended, on 1 April 2021, by section 141(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 24(1): amended, on 1 April 2021, by section 141(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

25 Matters relating to action taken under section 23 or section 24

(1) This section applies if the Director is to determine whether a licence should be—

(a) suspended or subjected to temporary conditions under section 23; or

(b) revoked or subjected to permanent conditions under section 24.

(2) If this section applies, the Director, as the Director considers appropriate, may take into account and give weight to the following matters:

(a) the licence holder's compliance history with transport safety regulatory requirements (including this Act and the rules) and with the conditions of the licence holder's licence:

(b) any conviction of the licence holder, or any of the licence holder's officers, for a transport safety offence:

(c) evidence that the licence holder has committed a transport safety offence or has contravened or failed to comply with this Act, the rules, or any conditions of the licence holder's licence.

(3) The Director is not confined to consideration of the matters specified in subsection (2), and may take into account other matters and evidence from any source that the Director considers relevant.

Compare: 1990 No 98 s 19

Section 25(1): amended, on 1 April 2021, by section 142(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 25(2): amended, on 1 April 2021, by section 142(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 25(3): amended, on 1 April 2021, by section 142(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 25(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

26 Power of Director to amend or revoke licences in other cases

(1) The Director may, by agreement with a licence holder, amend that licence holder's licence.

(2) The Director may, without the agreement of a licence holder, do any of the following:

(a) amend a licence to reflect the fact that a rail activity for which the licence was granted is no longer being carried out by the licence holder:

(b) revoke a licence if none of the rail activities for which the licence has been granted is being carried out by the licence holder:

(c) amend a licence to correct any clerical error or obvious mistake on the face of the licence.

(3) Section 27 applies in respect of a decision under subsection (2)(a) or (b).

Compare: 1990 No 98 s 20

Section 26 heading: amended, on 1 April 2021, by section 143(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 26(1): amended, on 1 April 2021, by section 143(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 26(2): amended, on 1 April 2021, by section 143(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Adverse decisions

27 Rights of persons affected in relation to adverse decisions

(1) If the Director proposes to make an adverse decision under this Act in respect of a person, the Director must give written notice to the person directly affected of—

(a) the proposed decision; and

(b) subject to subsection (3), the reasons for the proposed decision and the information upon which the decision is based; and

(c) the date by which submissions may be made to the Director in respect of the proposed decision (which date must not be less than 15 working days after the date on which the notice is given); and

(d) if appropriate, the date on which the proposed decision takes effect, being a date not less than 20 working days after the date on which the notice is given; and

(e) the person's right to appeal under section 68 if the Director proceeds with the proposed decision; and

(f) any other matters that, in any particular case, may be required under this Act or any other Act.

(2) If the Director gives a notice under subsection (1), the Director—

(a) must also supply a copy of the notice to any affected licence holder if the Director considers that the proposed adverse decision is likely to have a significant effect on the rail activities of that affected licence holder; and

(b) may supply a copy of the notice to any other affected rail participant.

(3) No notice, or copy of a notice, given under this section may include, or be accompanied by, information that is, or may be, prejudicial to a person except to the extent that—

(a) the notice or copy is supplied to that person; or

(b) the person consents to the supply of that information to another person.

(4) If a notice, or copy of a notice, is given to a person under this section,—

(a) that person has the responsibility to ensure that all information that the person wishes to have considered by the Director in relation to the proposed adverse decision is received by the Director within the period specified in the notice, or copy, under subsection (1)(c), or within any further period that the Director may allow; and

(b) the Director may, but is not obliged to, consider information (other than information requested by the Director) supplied by the person after the expiry of the period referred to in paragraph (a); and

(c) the Director must consider submissions made in accordance with paragraph (a) and information supplied to the Director by request of the Director, but is not obliged to hear any person on the matter.

(5) After considering the matters referred to in subsection (4)(c), the Director must—

(a) decide whether or not to make the proposed adverse decision; and

(b) as soon as practicable after making the decision, give written notice to the person directly affected, and any other person of a kind referred to in subsection (2)(a), of—

(i) the reasons for the decision if those reasons differ from those notified under subsection (1)(b); and

(ii) if appropriate, the date on which the decision takes effect; and

(iii) if appropriate, the right of appeal under section 68.

(5A) If the adverse decision in question is a decision to issue an improvement notice under section 72M, references to the Director in this section are to be treated as references to the person who issues or proposes to issue an improvement notice under section 72M.

(6) In this section, unless the context otherwise requires,—

adverse decision means a decision of the Director—

(a) to refuse to grant a licence under section 17; or

(b) to suspend a licence or to impose temporary conditions on a licence under section 23; or

(c) to revoke a licence or to impose permanent conditions on a licence under section 24; or

(d) to amend a licence under section 26(2)(a); or

(e) to revoke a licence under section 26(2)(b); or

(f) to give notice of the requirement for remedial action under section 42(1); or

(g) to issue an improvement notice under section 72M

affected licence holder, in relation to a person directly affected by an adverse decision, means the holder of, or the applicant for, the licence

person directly affected, in relation to any adverse decision, means the person who would be entitled to appeal against that adverse decision under section 68.

Compare: 1989 No 74 s 25

Section 27(1): amended, on 1 April 2021, by section 144(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 27(1)(c): amended, on 1 April 2021, by section 144(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 27(1)(e): amended, on 1 April 2021, by section 144(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 27(2): amended, on 1 April 2021, by section 144(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 27(2)(a): amended, on 1 April 2021, by section 144(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 27(4)(a): amended, on 1 April 2021, by section 144(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 27(4)(b): amended, on 1 April 2021, by section 144(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 27(4)(c): amended, on 1 April 2021, by section 144(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 27(5): amended, on 1 April 2021, by section 144(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 27(5A): inserted, on 19 May 2026, by section 109(1) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 27(6) **adverse decision**: amended, on 1 April 2021, by section 144(5) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 27(6) **adverse decision** paragraph (g): inserted, on 19 May 2026, by section 109(2) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Further powers of Director

Heading: amended, on 1 April 2021, by section 145 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

28 Power of Director to prohibit operation, impose conditions, or detain or immobilise rail vehicles or railway infrastructure

(1) If the Director believes, on reasonable grounds, that the operation or use of a rail vehicle or class of rail vehicle or any railway infrastructure may endanger persons or property and that prompt action is necessary to prevent the risk, the Director may do either of the following:

(a) prohibit, or impose conditions on, the operation or use of the rail vehicle or rail vehicles of that class or railway infrastructure; or

(b) detain or immobilise the rail vehicle or any rail vehicle of that class or railway infrastructure, if the Director considers it necessary to prevent its operation or use.

(2) If a power is exercised under subsection (1), the Director must, by written notice to each rail operator and access provider concerned, inform the rail operator or access provider (as the case requires) of—

(a) the reasons for the action taken; and

(b) the right of appeal under section 68.

(3) If a rail vehicle or class of rail vehicle or any railway infrastructure is detained or immobilised under subsection (1), the following provisions apply:

(a) the detention or immobilisation may be effected in the manner and imposed for the duration that will cause only as much disruption to the

rail activities as is reasonably necessary to avoid endangering persons or property:

(b) if a rail vehicle or any railway infrastructure, or any parts of the vehicle or infrastructure, is required for the purpose of a prosecution or safety assessment under this Act or any other Act, the Director may detain the rail vehicle or railway infrastructure, or parts of the vehicle or infrastructure, for the period that the Director considers necessary for that purpose:

(c) the rail operator or access provider concerned may have access to the rail vehicle or railway infrastructure for the purpose of obtaining evidence for a prosecution or safety assessment.

Compare: 1989 No 74 s 39E

Section 28 heading: amended, on 1 April 2021, by section 146(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 28(1): amended, on 1 April 2021, by section 146(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 28(1)(b): amended, on 1 April 2021, by section 146(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 28(1)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 28(2): amended, on 1 April 2021, by section 146(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 28(3)(b): amended, on 1 April 2021, by section 146(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Subpart 3—Safety cases, safety systems, and improvement plans

29 Proposed safety case to accompany application for licence

(1) An application by a rail participant for a licence must be accompanied by a proposed safety case that contains the matters specified in section 30.

(2) A licence may not be granted to a rail participant unless—

(a) the form and content of the rail participant's proposed safety case is approved under section 32; and

(b) the safety case is derived from, and consistent with, the rail participant's safety system.

Compare: 1989 No 74 s 6A

30 Contents of safety case

(1) A safety case must contain a statement or description, as appropriate, of the following:

(a) the rail activities of the rail participant, including details of the extent and geographical location of those rail activities:

(b) the safety policy and objectives of the rail participant and of how that policy and those objectives will be implemented or given effect:

(c) the management and organisational arrangements that the rail participant will establish in order to promote the safety of its rail activities:

(d) the management systems that the rail participant has in place to—

(i) identify and assess the safety risks arising from its rail activities; and

(ii) develop and implement safety risk control measures:

(e) the safety risks arising from the rail activities of the rail participant, and details of the measures to be in place to mitigate those risks:

(f) the process for ensuring that interoperability arrangements between the rail participant and other rail participants enhance rail safety:

(g) the arrangements that are in place to ensure that—

(i) assets and equipment used are, in safety terms, fit for their purpose; and

(ii) safety-critical tasks and activities are clearly identified; and

(iii) rail personnel carrying out safety-critical tasks and activities have received appropriate training and instruction; and

(iv) the competence of rail personnel carrying out safety-critical tasks and activities has been appropriately tested; and

(v) working practices and procedures are fit for their purpose:

(h) the arrangements for procuring and maintaining evidence to ensure that the measures and processes necessary for safety are working as intended, including (but not limited to)—

(i) the identification of the key safety performance factors and measures, including (but not limited to) accidents and incidents; and

(ii) the monitoring and recording of, and reporting on (both internally and to the Director), the key safety performance factors and measures, including (but not limited to) accidents and incidents; and

(iii) the regular supervision, inspection, monitoring, and audit of the rail participant's safety case, safety system, and licence conditions; and

(iv) when required, the provision of evidence to the Director substantiating the matters in subparagraphs (i) to (iii):

(i) the process by which, in consultation with the Director, the frequency of ordinary safety assessments under section 37 may be agreed:

(j) the arrangements for the rail participant to report to other relevant rail participants concerns about the state or performance of any rail vehicle,

rail infrastructure, or railway premises that it considers has implications for the safe operation of the railway:

(k) the policies in place to ensure that the rail participant's rail personnel—

(i) are fit for duty; and

(ii) are not suffering impairment or incapacity as a result of fatigue, illness, medication, drugs, alcohol, or any other factor:

(l) the arrangements for ensuring that safety is maintained or continuously improved despite changes in circumstances that may affect the rail participant, its rail personnel, or any person that uses the rail participant's services, including (but not limited to)—

(i) the continuous review of the rail participant's activities to identify potentially significant changes (both internal and external); and

(ii) the review and revision of the rail participant's safety case and safety system, as a whole and in its various parts, to ensure that its safety case and safety system continue to be the most appropriate; and

(iii) the identification of the areas of significant risk and the plans that are in place, or being developed, to reduce those risks:

(m) the arrangements for ensuring that the rail participant consults any representatives of rail personnel (including, but not limited to, unions) with respect to the development and variation of safety systems that affect, or are likely to affect, rail personnel:

(n) any other matters that may be prescribed by the rules or that the Director considers appropriate in the interests of safety.

(2) A safety case may adopt, by reference and with any necessary modifications, 1 or more parts of another approved safety case.

(3) If a provision of an approved safety case is inconsistent with a rule,—

(a) the rule prevails; and

(b) the rail participant must amend the provision so that it is consistent with the rule.

Compare: 1989 No 74 s 6B

Section 30(1)(h)(ii): amended, on 1 April 2021, by section 147(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 30(1)(h)(iv): amended, on 1 April 2021, by section 147(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 30(1)(i): amended, on 1 April 2021, by section 147(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 30(1)(n): amended, on 1 April 2021, by section 147(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

31 Matters to be taken into account in considering proposed safety case

(1) In considering a proposed safety case, the Director must have regard and give weight to, as the Director considers appropriate, the following matters:

(a) the nature and extent of the proposed rail activities of the rail participant:

(b) the safety result attainable, consistent with the nature of the rail activities of the rail participant:

(c) the past history and performance (if any) of the rail participant within the transport industry:

(d) any submissions or representations about safety issues received from any other rail participant involved with the railway that the rail participant intends to use:

(e) any submissions or representations received from—

(i) any rail personnel of the rail participant; or

(ii) any representatives of the rail personnel of that rail participant:

(f) any other matters the Director reasonably considers appropriate in the interests of safety.

(2) The Director must not approve a proposed safety case unless satisfied that—

(a) the form and content of the proposed safety case are clearly defined; and

(b) the proposed safety case complies with section 30; and

(c) the rail participant is capable of establishing, implementing, maintaining, regularly reviewing, and improving its safety case and safety system; and

(d) the proposed safety case provides a programme of training and supervision that ensures that all rail personnel of the rail participant are capable of safely carrying out their responsibilities; and

(e) any provisions of the safety case that the Director considers should be in a standard form applicable to more than 1 rail participant are in a common form approved by the Director.

Compare: 1989 No 74 s 6C

Section 31(1): amended, on 1 April 2021, by section 148(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 31(1)(f): amended, on 1 April 2021, by section 148(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 31(2): amended, on 1 April 2021, by section 148(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 31(2)(e): amended, on 1 April 2021, by section 148(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

32 Approval of safety case

(1) The Director must consider each proposed safety case and, after consulting with WorkSafe, either—

(a) approve the form and content of the proposed safety case; or

(b) refuse to do so until the Director is satisfied under section 31(2).

(2) The Director must make reasonable efforts to make a decision under subsection (1) not later than 60 working days after receipt of the proposed safety case.

(3) The Director must give written notice to the applicant of the Director's decision under subsection (1).

(4) If the Director refuses to approve a proposed safety case, the notice under subsection (3) must state the reasons for the refusal and indicate the changes that need to be made to the proposed safety case for approval to be given.

(5) An approved safety case may not be replaced or varied unless the Director has approved the replacement or variation.

(6) An approved safety case must be made available for public inspection in a manner that the Director considers appropriate.

(7) Despite anything in this section, a rail participant may submit its safety system instead of its safety case to the Director if it considers that its safety system meets the requirements set out in section 30.

Compare: 1989 No 74 s 6D

Section 32(1): amended, on 1 April 2021, by section 149(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 32(1): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 32(1)(b): amended, on 1 April 2021, by section 149(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 32(2): amended, on 1 April 2021, by section 149(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 32(3): amended, on 1 April 2021, by section 149(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 32(3): amended, on 1 April 2021, by section 149(5) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 32(4): amended, on 1 April 2021, by section 149(6) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 32(5): amended, on 1 April 2021, by section 149(6) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 32(6): amended, on 1 April 2021, by section 149(6) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 32(7): amended, on 1 April 2021, by section 149(6) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

33 Application to replace or vary approved safety case

(1) A licence holder may, at any time, apply to the Director for approval of any replacement or variation of the licence holder's approved safety case.

(2) An application under subsection (1) must be made in writing and must include the reasons why the licence holder is requesting the replacement or variation.

(3) The proposed variation must be considered by the Director as if the licence holder were proposing a new safety case, and section 31 applies as if it were a fresh application for approval.

Compare: 1989 No 74 s 6E

Section 33(1): amended, on 1 April 2021, by section 150 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 33(3): amended, on 1 April 2021, by section 150 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

34 Requirement by Director to replace or vary approved safety case

(1) The Director may, at any time, require the replacement or variation of an approved safety case if the Director—

(a) considers it necessary in the interests of safety; and

(b) is satisfied that—

(i) the action is necessary to ensure compliance with this Act or the rules; or

(ii) the licence holder has failed to comply with this Act or the rules; or

(iii) the licence holder gave false or misleading information for the purpose of obtaining the licence; or

(iv) the licence holder failed to comply with any conditions of the licence; or

(v) circumstances have changed significantly and the licence holder's approved safety case does not adequately provide for those changed circumstances.

(2) If a replacement or variation is required under subsection (1), the Director must, by written notice, inform the licence holder—

(a) of the reasons for the requirement; and

(b) that the licence holder may, within a reasonable time specified in the notice, make written submissions regarding the replacement or variation that the Director requires.

(3) Nothing in this section affects a power of the Director under this Act, or any other Act, to take any other action in respect of a rail document or person.

Compare: 1989 No 74 s 6F

Section 34 heading: amended, on 1 April 2021, by section 151(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 34(1): amended, on 1 April 2021, by section 151(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 34(2): amended, on 1 April 2021, by section 151(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 34(2)(b): amended, on 1 April 2021, by section 151(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 34(3): amended, on 1 April 2021, by section 151(5) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

35 Procedure for replacement or variation of approved safety case

(1) If an application for a replacement or variation is made under section 33, or the Director requires a replacement or variation under section 34, the Director must, as soon as practicable but not later than 20 working days after receipt of the application, consider any submission made on the matter by the licence holder.

(2) After considering the submission (if any), the Director must, as soon as practicable but not later than 20 working days after considering any submission made by the licence holder,—

(a) decide whether or not to approve the application or confirm the requirement; and

(b) give written notice to the licence holder of the Director's decision.

(2A) The Director may require further information from the licence holder if the information is reasonably necessary in order to make a decision under subsection (2)(a).

(2B) If the Director requires and receives further information from the licence holder, any working days that fall between the day on which the Director requires the information and the day on which the Director receives the information are excluded from the 20-working-day time frames specified in subsections (1) and (2).

(3) The Director may approve an application, or confirm a requirement, in whole or in part and subject to any conditions that the Director considers appropriate.

(4) If the Director has refused to approve an application, or has confirmed a requirement, the Director must, in the written notice given under subsection (2)(b), inform the licence holder of—

(a) the reasons for the refusal or confirmation; and

(b) the right to appeal under section 68.

(5) A replacement or variation applied for under section 33 or required under section 34 does not have effect unless its approval or confirmation is notified under subsection (2).

Compare: 1989 No 74 ss 6G, 6I

Section 35(1): amended, on 1 April 2021, by section 152(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 35(2): amended, on 1 April 2021, by section 152(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 35(2)(b): amended, on 1 April 2021, by section 152(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 35(2A): inserted, on 19 May 2026, by section 110 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 35(2B): inserted, on 19 May 2026, by section 110 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 35(3): amended, on 1 April 2021, by section 152(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 35(4): amended, on 1 April 2021, by section 152(5) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

36 Safety improvement plans

(1) The Director may, by written notice, require a rail participant to prepare a safety improvement plan in respect of the rail activities specified in the notice if the Director has reason to believe that the rail participant has failed to take appropriate remedial action under sections 42 to 44.

(1A) The Director may require a rail participant to prepare a safety improvement plan under subsection (1) despite an improvement notice also being issued to the rail participant under section 72M.

(2) As soon as practicable but not later than 20 working days after receiving a plan under subsection (1), the Director must advise the rail participant by written notice—

(a) whether the Director has approved the plan; and

(b) if the Director has not approved the plan, of the changes that the Director requires to be made to the plan.

(3) A rail participant who is advised under subsection (2)(b) of changes to be made to a plan must make those changes as soon as practicable but not later than 20 working days after being advised and must submit the amended plan to the Director for the Director's approval, and subsection (2) applies in respect of the amended plan with all necessary modifications.

(4) If a plan has been approved by the Director, the rail participant must—

(a) implement the plan in accordance with its provisions; and

(b) make any amendments to the approved plan that are required at any time by the Director; and

(c) not otherwise amend the plan without first obtaining the Director's written approval of the amendment.

Section 36(1): amended, on 1 April 2021, by section 153(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 36(1A): inserted, on 19 May 2026, by section 111 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 36(2): amended, on 1 April 2021, by section 153(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 36(2)(a): amended, on 1 April 2021, by section 153(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 36(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(2)(b): amended, on 1 April 2021, by section 153(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 36(2)(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(3): amended, on 1 April 2021, by section 153(5) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 36(3): amended, on 1 April 2021, by section 153(6) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 36(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(4): amended, on 1 April 2021, by section 153(7) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 36(4)(b): amended, on 1 April 2021, by section 153(8) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 36(4)(c): amended, on 1 April 2021, by section 153(9) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Subpart 4—Safety assessments

Safety assessments

37 Ordinary and special safety assessments

(1) The Director may, at any time or times, by written notice given to the person or persons concerned, require a rail participant or any rail personnel of a rail participant to undergo either—

(a) an ordinary safety assessment at a time determined in accordance with section 30(1)(i) and specified in the notice; or

(b) a special safety assessment at a time specified in the notice.

(2) Before giving notice of the requirement for a special safety assessment, the Director must determine on reasonable grounds that the rail participant's rail activities could cause the death of, or serious injury to, individuals, or significant damage to property, by having regard to—

(a) the nature and extent of the rail activities of the rail participant concerned:

(b) the extent to which the Director considers that the duties specified in sections 7 and 10 to 13, and any rules and regulations, are being complied with:

(c) with regard to a licence holder, the time when the Director last considered the licence holder's safety case:

(d) the findings of recent safety assessments:

(e) the information on the safety of the rail participant's rail activities obtained from the safety monitoring and reporting:

(f) the nature and scope of—

(i) any safety improvement plan required to be prepared by the licence holder and approved under section 36; and

(ii) any notice issued to the licence holder under subsection (1):

(g) the extent of the improvements in rail safety produced by—

(i) those safety improvement plans and notices; and

(ii) any other safety improvements:

(h) the nature and extent of any recent accidents or incidents that the licence holder has reported to the Director under section 13(3):

(ha) the result of any investigation into an accident or incident under Part 2A:

(i) any other recent reports or information that the Director has received on—

(i) the overall safety of the rail participant's rail activities; or

(ii) the safety of particular aspects of the rail participant's rail activities:

(j) any other matters that the Director reasonably considers necessary to take into account.

(3) A safety assessment must be carried out by a safety assessor who is independent of the rail participant being assessed.

Section 37(1): amended, on 1 April 2021, by section 154(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 37(2): amended, on 1 April 2021, by section 154(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 37(2)(b): amended, on 1 April 2021, by section 154(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 37(2)(c): amended, on 1 April 2021, by section 154(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 37(2)(h): amended, on 1 April 2021, by section 154(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 37(2)(ha): inserted, on 19 May 2026, by section 112 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 37(2)(i): amended, on 1 April 2021, by section 154(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 37(2)(j): amended, on 1 April 2021, by section 154(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

38 Safety assessor must consult

(1) A safety assessor must, before completing a safety assessment, consult the rail participant and any representatives of rail personnel (including, but not limited to, unions) of that rail participant on the safety matters being assessed.

(2) Before making a report in relation to a safety assessment carried out under this Part, a safety assessor must give the rail participant and any representatives of

rail personnel consulted under subsection (1) an opportunity to comment on the safety assessor's proposed report.

39 Safety assessment report

A safety assessor must, after making a safety assessment under section 37, submit a written report that covers the matters set out in section 40 to—

(a) the Director; and

(b) the rail participant; and

(c) any representatives of rail personnel consulted under section 38(1).

Section 39(a): amended, on 1 April 2021, by section 155 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

40 Matters included in safety assessment report

(1) In a safety assessment report, the safety assessor must consider and comment on—

(a) the matters that are required to be considered or assessed by that assessor under the terms of his or her appointment under section 45; and

(b) the nature and extent of any non-compliance by the rail participant concerned or any of its rail personnel with the duties under sections 7 and 10 to 13, or any rules or regulations; and

(c) the comments with respect to safety matters (if any) made by representatives of rail personnel as a result of consultation under section 38.

(2) A safety assessor may, if he or she considers it necessary, make recommendations or suggestions to improve the safety of the rail activities of the rail participant.

41 Costs of safety assessments

(1) The Agency is responsible for paying the costs of safety assessments.

(2) The Agency may recover from a rail participant, as a debt due to the Agency, the costs of a safety assessment relating to the rail participant.

(3) The costs of a safety assessment may be specified by regulations.

Section 41(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 41(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

42 Notification of requirement for improvements

(1) As soon as practicable, but not later than 20 working days after receipt of a safety assessment report, the Director must give written notice to the rail participant that the Director considers that—

(a) no remedial action by the rail participant is necessary; or

(b) remedial action by the rail participant is necessary.

(2) If remedial action is necessary, the Director must give written notice to the rail participant of—

(a) the safety area or areas in which remedial action is required; and

(b) the time limit within which the remedial action must be effected; and

(c) any interim requirements imposed on the rail participant's rail activities under subsection (3) until the remedial action is completed; and

(d) the right of appeal under section 68.

(3) If a notice under subsection (2) refers to any non-compliance of the kind referred to in section 40(1)(b), the Director may specify, in that notice, interim requirements that the rail participant must comply with until the non-compliance ceases.

(4) If a variation to the rail participant's approved safety case is required by the Director, the Director must proceed under section 34.

(5) Section 27 applies in respect of a decision under subsection (1).

(6) Nothing in this section prevents the Director from taking further action that the Director considers appropriate in the interests of preventing the death of, or serious injury to, individuals, or significant damage to property, including, without limitation, the suspension or revocation of a licence.

Compare: 1989 No 74 s 39K

Section 42(1): amended, on 1 April 2021, by section 156(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 42(2): amended, on 1 April 2021, by section 156(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 42(3): amended, on 1 April 2021, by section 156(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 42(4): amended, on 1 April 2021, by section 156(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 42(6): amended, on 1 April 2021, by section 156(5) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

43 Report on remedial action

(1) At the expiry of a time limit imposed under section 42, or sooner if requested by the Director, the safety assessor must provide the Director with a report on whether the remedial action required has been satisfactorily completed.

(2) If the required remedial action has not been completed to the Director's satisfaction, those rail activities of the rail participant that are specified by the Director for the purposes of this subsection may not lawfully continue unless the Director gives a further extension of time under section 44.

(3) The Director must make a decision under subsection (2) within 20 working days after receiving a report under subsection (1).

Compare: 1989 No 74 s 39L

Section 43(1): amended, on 1 April 2021, by section 157(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 43(2): amended, on 1 April 2021, by section 157(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 43(2): amended, on 1 April 2021, by section 157(3) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 43(3): amended, on 1 April 2021, by section 157(4) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

44 Extension of time to complete remedial action

(1) If the Director is satisfied that reasonable progress is being made towards completing the remedial action required under section 42, and that adequate interim action has been taken to prevent the death of, or serious injury to, individuals, or significant damage to property, the Director may, by written notice, grant an extension of time to enable that remedial action to be completed.

(2) An extension of time under this section may be granted subject to any conditions or restrictions that the Director considers reasonably necessary to prevent—

(a) the death of, or serious injury to, individuals; or

(b) significant damage to property.

Compare: 1989 No 74 s 39M

Section 44(1): amended, on 1 April 2021, by section 158(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 44(2): amended, on 1 April 2021, by section 158(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Safety assessors

45 Appointment of safety assessors

(1) The Director may appoint 1 or more persons as safety assessors.

(2) An appointment as a safety assessor may be—

(a) a general appointment that authorises the appointed person to carry out any safety assessment that may be required; or

(b) a specific appointment that applies to any 1 or more specified rail participants.

(3) An appointment as a safety assessor may state particular matters that the appointed person is to consider or assess.

(4) Before appointing a person as a safety assessor, the Director must be satisfied that the person has the training, knowledge, expertise, and experience to carry out any safety assessment to which that person's appointment relates.

Compare: 1989 No 74 s 39G

Section 45(1): amended, on 1 April 2021, by section 159(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 45(4): amended, on 1 April 2021, by section 159(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

46 Functions and duties of safety assessors

Unless the Director otherwise directs, the functions and duties of safety assessors are to—

(a) carry out safety assessments as required by the Director:

(b) prepare reports in accordance with sections 39 and 43:

(c) identify and report non-compliance with the duties specified in sections 7 and 10 to 13, or any rules or regulations:

(d) perform any other functions and duties that may be prescribed by regulations or rules made under this Act.

Compare: 1989 No 74 s 39H

Section 46: amended, on 1 April 2021, by section 160(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 46(a): amended, on 1 April 2021, by section 160(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

47 Powers of safety assessors to obtain information, etc

(1) For the purposes of carrying out a safety assessment, a safety assessor may, in writing,—

(a) require from a rail participant, or any rail personnel of a rail participant that has the relevant qualifications, knowledge, and experience, any documents and information that the safety assessor considers relevant to the safety assessment:

(b) require any such person to demonstrate to the safety assessor the rail personnel's familiarity with essential procedures for the safe operation of rail vehicles or railway infrastructure:

(c) require any such person to demonstrate to the safety assessor that any operational, maintenance, or servicing procedure in respect of a rail vehicle or railway infrastructure is capable of being carried out in a competent manner.

(2) For the purposes of carrying out a safety assessment, a safety assessor may take copies of—

(a) the documents or information; or

(b) extracts from those documents or that information.

(3) If, at any time, a safety assessor believes that a situation exists, or is about to exist, within the activities of a rail participant that constitutes a risk of the death of, or serious injury to, individuals, or of significant damage to property, the

safety assessor must, as soon as is reasonably practicable, advise the Director of that belief and the reasons for that belief.

(4) Nothing in this section limits or affects the privilege against self-incrimination.

Section 47(3): amended, on 1 April 2021, by section 161 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

48 Powers of entry of safety assessors

(1) For the purpose of carrying out a safety assessment, a safety assessor has the right of access at any reasonable time to the following:

(a) any vehicle, building, or place belonging to, or used by, a rail participant in that rail participant's rail activities:

(b) any document or record that is in the possession, or under the control, of a rail participant that is used for the purposes of that rail participant's rail activities:

(c) rail personnel for the purposes of subsection (7).

(2) Without limiting the power conferred by subsection (1), a safety assessor may, at any reasonable time, enter and inspect any vehicle, building, or place belonging to, or used by, a rail participant to determine whether a matter referred to in paragraphs (a) to (c) exists, if that safety assessor has reasonable grounds to believe that—

(a) a breach of any regulations or rules made under this Act is being, or is about to be, committed; or

(b) the conditions of a licence or an approved safety case are not being complied with; or

(c) a situation exists, or is about to exist, within the rail activities of a rail participant that constitutes a risk of—

(i) the death of, or serious injury to, individuals; or

(ii) significant damage to property.

(3) Nothing in subsection (1) or subsection (2) confers on a safety assessor the power to enter a dwellinghouse or marae or building associated with a marae, unless the entry is authorised by a warrant given by a judicial officer on written application on oath, which must not be granted unless the judicial officer believes, on reasonable grounds, that the entry is essential in the interests of the safety of the rail activities of a rail participant.

(4) A warrant issued under subsection (3)—

(a) must be directed to a named person; and

(b) is valid for a period of 1 month from the date of its issue or for a lesser period that the judicial officer considers appropriate; and

(c) must specify its period of validity; and

(d) must state the location of the dwellinghouse or marae or building associated with a marae.

(5) A safety assessor exercising the right of access under subsection (1) or the power of entry under subsection (2) must carry a warrant of authority issued by the Director specifying—

(a) the name of that safety assessor and the office or offices held by that safety assessor; and

(b) that the safety assessor is authorised by the Director to exercise the power under subsection (1) or subsection (2) to enter vehicles, buildings, and places belonging to, or used by, a rail participant to carry out a safety assessment.

(6) A safety assessor exercising the right of access under subsection (1) or the power of entry under subsection (2) must—

(a) give reasonable notice of the intended entry (unless the giving of that notice is likely to defeat the purpose of the entry); and

(b) produce the warrant of authority and evidence of identity—

(i) on first entering the vehicle, building, or place; and

(ii) whenever subsequently reasonably required to do so.

(7) Any rail personnel that has the relevant qualifications, knowledge, and experience must answer the questions asked by safety assessors.

(8) Nothing in this section limits or affects the privilege against self-incrimination.

Compare: 1989 No 74 s 39P

Section 48(5): amended, on 1 April 2021, by section 162(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 48(5)(b): amended, on 1 April 2021, by section 162(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Subpart 5—Rules and regulations

Rules

49 Minister's power to make ordinary rules

(1) In addition to the matters specified in section 152(a) to (g) of the Land Transport Act 1998, the Minister may make ordinary rules for the purposes of, or concerning,—

(a) safety and licensing, including, without limitation, the authorisation of rail participants and rail personnel, and technical requirements and standards for, or in relation to, all or any rail vehicles, railway premises, or railway infrastructure:

(b) the prevention of interference with all or any railways or railway premises:

(c) any other matter contemplated by a provision of this Act.

(2) Ordinary rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1998 No 110 s 152

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • notify it in the *Gazette* and specify a place where it is available for inspection free of charge and for purchase • make it available for inspection free of charge • make it available for purchase by members of the public at a reasonable price	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 49(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

50 Rules concerning behaviour on railways or railway premises

(1) Without limiting the power to make ordinary rules under section 49, ordinary rules may—

(a) set out standards and requirements relating to the behaviour of individuals on railways or railway premises, including, without limitation, standards and requirements concerning the conduct of rail personnel, passengers, or other individuals working on or using railways or railway premises:

(b) regulate all traffic and all classes of traffic, and prohibit traffic or a class of traffic, either absolutely or conditionally, on railways:

(c) set out standards and requirements concerning the use of safety equipment by rail personnel, passengers, or other individuals working on or using railways or railway premises.

(2) Ordinary rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1998 No 110 s 153

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • notify it in the *Gazette* and specify a place where it is available for inspection free of charge and for purchase • make it available for inspection free of charge • make it available for purchase by members of the public at a reasonable price	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 50(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

51 Rules concerning dangerous goods

The rules made under the Land Transport Act 1998 in relation to the packing, loading, consignment, and carriage of dangerous goods apply to dangerous goods carried by a rail vehicle.

Compare: 1998 No 110 s 156

52 Rules concerning rail vehicles, railway premises, and railway infrastructure

(1) Without limiting the power to make ordinary rules under section 49, ordinary rules may—

(a) regulate the use of railway lines, and empower access providers to control, restrict, and prohibit the use of a railway line, and to close railway lines in specified circumstances or on specified occasions:

(b) set out standards, specifications, or codes of practice for the safety performance, design, construction, inspection, alteration, maintenance, or use of railway infrastructure or railway premises:

(c) set out standards, specifications, or codes of practice for personal security and access:

(d) provide for the design, specifications, construction, maintenance, and operation of notices and warning devices erected at level crossings:

(e) set out the standards and requirements for forming, surfacing, and maintaining carriageways at level crossings:

(f) set out standards and requirements concerning rail vehicles, including, without limitation, their construction, mass and dimensions, emissions, environmental requirements, loading requirements, identification, and fuel systems, and their repair, maintenance, modification, and inspection:

(g) set out standards and requirements concerning systems, components, devices, fittings, or equipment to be incorporated in the construction of, fitted to, or carried in or on, rail vehicles, or to be used by the driver or any other person:

(h) set out procedures to verify compliance with standards and requirements of the rules:

(i) provide for the recording of, and making available of, information about rail vehicles (including, without limitation, their systems, components, devices, fittings, and equipment).

(2) Ordinary rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1998 No 110 ss 155, 157

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • notify it in the *Gazette* and specify a place where it is available for inspection free of charge and for purchase • make it available for inspection free of charge • make it available for purchase by members of the public at a reasonable price	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 52(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

53 Rules concerning authorisation, standard-setting, etc

(1) Without limiting the power to make ordinary rules under section 49, ordinary rules may—

(a) provide for the identification, classification, registration, authorisation (including, without limitation, licensing), examination, or testing of all or any of the following:

(i) any rail participants:

(ii) any agents or contractors of rail participants:

(iii) any rail personnel:

(iv) any person involved in the education, training, examination, testing, or authorisation of rail participants or their rail personnel:

(v) any person involved in the design or construction of any railway infrastructure or railway premises:

(b) put in place a system or provide for the licensing of rail personnel, including, without limitation, provisions for the issue, endorsement, alteration, replacement, surrender, suspension, expiry, and revocation of licences:

(c) specify different licensing requirements for persons of different experience, including, without limitation, requirements concerning the issue and expiry of licences:

(d) provide for different classes of licences, and for the endorsement of licences for different purposes, and specify their effect:

(e) specify the documentary evidence and other information to be submitted with applications for licences:

(f) provide for—

(i) the issue by the Agency of identification cards containing any or all of the following:

(A) photographic images:

(B) names and signatures:

(C) dates of birth:

(D) unique identifiers:

(E) any other features for the purpose of verifying or protecting the integrity of the cards; and

(ii) the cards to remain the property of the Agency:

(g) specify the medical standards that any or all rail personnel must meet:

(h) specify the requirements with respect to fitness for duty, including (but not limited to) the requirements designed to prohibit impairment or incapacity as a result of fatigue, illness, medication, drugs, alcohol, or any other factor:

(i) provide for—

(i) the theoretical, practical, and medical examination and testing of the persons referred to in paragraph (a), and the standards for the theoretical, practical, and medical examinations and tests:

(ii) the approval of persons who have functions under the rules, including persons who are to conduct the theoretical, practical, or medical examination and testing of the persons referred to in paragraph (a).

(2) The rules may provide for the setting of standards, specifications, restrictions, registration, and authorisation requirements in respect of all or any of the persons specified in subsection (1), including, without limitation, provisions that—

(a) set standards for training systems and techniques, including, without limitation, recurrent training requirements:

(b) specify the information to be given by persons applying for rail documents and specify the persons by and to whom the information must be given:

(c) set out the requirements of systems and procedures to be used in the exercise of a power given to a person under a rule:

(d) set out the responsibilities and required behaviour of rail participants and rail personnel, including, without limitation,—

(i) for the purposes of rail safety, the permissible work time of rail personnel; and

(ii) requirements concerning logbooks to be kept by rail participants or rail personnel.

(3) The rules may—

(a) provide for the appointment or approval of persons or organisations who are to carry out safety assessments or examinations or tests, certify things, issue rail documents, and provide other services under this Act:

(b) require a person who applies for or holds a rail document to satisfy the Director that the person (or individual) is a fit and proper person, and—

(i) specify which of the criteria set out in the rules made under section 159(3) of the Land Transport Act 1998, and any other criteria, are to be applied in determining whether a person is a fit and proper person:

(ii) set out different fit and proper person assessments for different classes of rail documents, applicants, or licence holders:

(c) provide for the issue, endorsement, alteration, replacement, surrender, expiry, suspension, and revocation of rail documents.

(4) Subject to the rules, a rail document may be issued, or a document may be recognised as a rail document, by the Director for a period, and subject to the conditions, that the Director considers appropriate in each particular case.

(5) Ordinary rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1998 No 110 ss 158, 159

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • notify it in the *Gazette* and specify a place where it is available for inspection free of charge and for purchase • make it available for inspection free of charge • make it available for purchase by members of the public at a reasonable price	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 53(1)(f)(i): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 53(1)(f)(ii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 53(3)(b): amended, on 1 April 2021, by section 163(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 53(4): amended, on 1 April 2021, by section 163(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 53(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

54 Other provisions concerning ordinary rules

(1) An ordinary rule may apply generally or to different classes of persons or things, or to the same class of person or things in different circumstances.

(2) An ordinary rule may apply generally throughout New Zealand or within a specified part or parts of New Zealand.

(3) The commencement of an ordinary rule may be wholly suspended until it is applied by the Minister by notice (*see* subsection (8)).

(4) An ordinary rule may—

(a) require or provide for a matter to be determined, undertaken, or approved by the Agency, the Director, or any other person, and empower the Agency, the Director, or any other person to impose requirements or conditions on the performance of activities:

(b) specify standards, procedures, and requirements for the purposes of the rules:

(c) impose conditions, restrictions, and prohibitions:

(d) specify the definitions, abbreviations, and units of measurement to apply within any or all railways or railway premises:

(e) prescribe, or provide for the approval of, forms, documents, and records for the purposes of the rules:

(f) make transitional and savings provisions for the purposes of implementing any rule.

(5) *[Repealed]*

(6) If a bylaw of a local authority is inconsistent with any ordinary rules in force in the same locality, the rules override the bylaws.

(7) Despite clause 5 of Schedule 6 of the Public Service Act 2020, the Minister may not delegate his or her power to make ordinary rules under this Act.

(8) A notice under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1998 No 110 s 160

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 54(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 54(4)(a): amended, on 1 April 2021, by section 164 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 54(5): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 54(7): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 54(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

55 Procedure concerning ordinary rules

The procedure for making ordinary rules in section 161 of the Land Transport Act 1998 applies with any necessary modifications to all ordinary rules made by the Minister under sections 49 to 53.

56 Agency may make emergency rules

(1) The Agency may, in accordance with section 163 of the Land Transport Act 1998 (which applies with any necessary modifications), make any emergency rules that the Agency considers necessary to alleviate or minimise the risk of the death of, or serious injury to, individuals, or significant damage to property, caused by the operation of a railway or the use of railway premises.

(2) The Agency may not make emergency rules unless it is impractical in the circumstances of the particular case for the Minister to make ordinary rules to effectively alleviate or minimise the risk concerned.

(3) The Minister may revoke any emergency rule made under subsection (1).

(4) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) emergency rules under subsection (1):

(b) a revocation under subsection (3).

(5) If, for reasons of safety, it is impracticable or inappropriate to publish immediately an emergency rule or revocation under that Act, the Agency must serve a copy of it on the persons (if any) whom the Agency considers appropriate.

(6) An emergency rule or revocation to which subsection (5) applies—

(a) has effect only in relation to a person on whom it is served under subsection (5); and

(b) comes into force in relation to that person immediately after it is served on the person (even if it is not yet published).

(7) Service under subsection (5) may be effected in any way the Agency considers appropriate.

Compare: 1998 No 110 s 162

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • notify it in the *Gazette* and specify a place where it is available for inspection free of charge and for purchase • make it available for inspection free of charge • make it available for purchase by members of the public at a reasonable price However, that requirement does not apply if, for reasons of safety, it is impracticable or inappropriate to comply with that requirement. In that case, subsections (5) to (7) apply	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 56 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 56(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 56(2): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 56(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 56(4): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 56(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 56(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 56(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

57 General provisions concerning making of rules

The provisions of sections 164 and 165 of the Land Transport Act 1998 apply with any necessary modifications to all ordinary rules and all emergency rules made under this Act.

Section 57: amended, on 1 April 2021, by section 49 of the Regulatory Systems (Transport) Amendment Act 2021 (2021 No 9).

57A Exemptions from requirements in rules

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

(a) exempt 1 or more named or specified persons, rail vehicles, rail vehicle components, railway premises, or other things, or any named or specified railway infrastructure, from 1 or more specified requirements in a rule made under this Act; or

(b) exempt any class of person, rail vehicle, rail vehicle component, railway premises, railway infrastructure, or other thing from 1 or more specified requirements in a rule made under this Act.

(2) The power under subsection (1) must not be used to provide an exemption from a requirement of a rule if the relevant rule specifically provides that no exemptions from the requirement may be granted.

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

(4) Sections 168D(3) and (5) and 168E, and subpart 2 of Part 3 of Schedule 1, of the Land Transport Act 1998 apply with any necessary modifications to exemptions granted under subsection (1), but, to avoid doubt, the definition of class exemption in section 2(1) of the Land Transport Act 1998 must be read as referring to a class exemption granted under subsection (1)(b) of this section.

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

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • notify it in the *Gazette* (and include the text of the exemption) • publish it on the Agency's Internet site	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 57A: inserted, on 1 April 2021, by section 50 of the Regulatory Systems (Transport) Amendment Act 2021 (2021 No 9).

58 Evidence of rules

Without limiting any other method of proof, the production in proceedings of a copy of the following rules is, in the absence of evidence to the contrary, sufficient evidence of the rules and of the fact that they have been made in accordance with this Act:

(a) an ordinary rule purporting to have been made by the Minister under sections 49 to 53; or

(b) an emergency rule purporting to have been made by the Agency under section 56.

Section 58(b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Regulations

59 Regulations

(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

(a) specifying breaches of the rules that constitute offences against this Act:

(b) specifying infringement offences for the purposes of this Act:

(c) setting out defences to offences referred to in paragraph (a) or paragraph (b):

(d) setting out the maximum penalty for each offence prescribed under paragraph (a), which may be a fine not exceeding $50,000:

(e) setting the infringement fee for each offence prescribed under paragraph (b), which,—

(i) in the case of an individual, may not exceed $2,000; or

(ii) in the case of a body corporate, may not exceed $10,000:

(f) specifying the matters for which fees or charges or costs must be paid under this Act or any other enactment concerning rail transport, and providing for the collection of those fees or charges or costs:

(g) prescribing forms for the purposes of this Act:

(h) providing for the exemption of certain rail participants from all or part of this Act on the conditions (if any) that are specified:

(ha) specifying for the purpose of section 60A(2) those requirements of the regulations to which section 60A applies:

(i) specifying rail participants who are required to hold a licence:

(j) specifying property that is railway infrastructure:

(k) prescribing vehicles as rail vehicles:

(l) designating a set of rails with a gauge of less than 550 mm between them as a railway line:

(m) specifying excluded railway lines:

(n) providing for any other matters that are contemplated by, or necessary for giving full effect to, the provisions of this Act or for its due administration.

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

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1998 No 110 s 167(1)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 59(1)(ha): inserted, on 1 April 2021, by section 51(1) of the Regulatory Systems (Transport) Amendment Act 2021 (2021 No 9).

Section 59(2): inserted, on 1 April 2021, by section 51(2) of the Regulatory Systems (Transport) Amendment Act 2021 (2021 No 9).

Section 59(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

60 Regulations relating to fees and charges for rail transport

(1) Without limiting section 59, regulations may be made under that section prescribing, or providing for the fixing of, fees and charges payable for the purposes of meeting, or assisting in meeting, the costs and expenses incurred by the Agency, the Director, or the Crown in the performance or exercise of functions or powers, or in the performance of duties, or in the provision of services, under this Act or any other enactment relating to rail transport, including, without limitation, costs and expenses relating to any of the following:

(a) safety assessments (whether or not undertaken by an employee, agent, or contractor of the Agency or a person authorised by the Director):

(b) the maintenance of records and registers:

(c) the issuing of licences.

(2) Different rates of fees or charges, or both, may be prescribed or fixed in respect of different classes of persons, rail vehicles, railway infrastructure, or railway premises, or on the basis of different times of use, or on any other differential basis.

(3) Regulations made under section 59(f) may authorise persons carrying out statutory functions, powers, or duties concerning rail transport to charge a reasonable fee or rate of fee for the service or work performed.

(4) Any regulation made under section 59(f) may—

(a) specify the persons by whom, and to whom, any fees or charges, or both, are payable:

(b) prescribe, or provide for the fixing of, additional fees or charges, or both, for services or work carried out outside normal working hours, at weekends, or on statutory holidays:

(c) prescribe, or provide for the fixing of, charges for reimbursement of travelling time, accommodation, and other expenses:

(d) provide for the refund, waiver, or rebate, or enable the refund, waiver, or rebate, of any fee or charge, or both:

(e) fix, or empower the fixing of, a date by which any fee or charge must be paid:

(f) fix, or enable the fixing of, discounts for early payment of any fee, charge, or penalties for late payment:

(g) prescribe any returns, and the conditions relating to those returns, to be made by persons by whom any fees, charges, or penalties are payable.

(5) Regulations under this section may fix or provide for the fixing of the costs referred to in section 41, but nothing in this section requires those charges to be fixed by or under regulations made under this section, and, in the absence of those regulations, those costs are payable under that section without further authority.

Compare: 1998 No 110 s 168

Section 60(1): amended, on 1 April 2021, by section 165(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 60(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 60(1)(a): amended, on 1 April 2021, by section 165(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 60(1)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

60A Exemptions from requirements in regulations

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

(a) exempt 1 or more named or specified persons, rail vehicles, railway premises, or other things, or any named or specified railway infrastructure, from 1 or more specified requirements in regulations made under section 59; or

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

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

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

(4) Sections 168D(3) and (5) and 168E, and subpart 2 of Part 3 of Schedule 1, of the Land Transport Act 1998 apply with any necessary modifications to exemptions granted under subsection (1), but, to avoid doubt, the definition of class exemption in section 2(1) of the Land Transport Act 1998 must be read as referring to a class exemption granted under subsection (1)(b) of this section.

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

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • notify it in the *Gazette* (and include the text of the exemption) • publish it on the Agency's Internet site	LA19 ss 73, 74(1)(a), Sch 1 cl 14

Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 60A: inserted, on 1 April 2021, by section 52 of the Regulatory Systems (Transport) Amendment Act 2021 (2021 No 9).

Subpart 6—Offences and remedies

61 Failure to comply with safety duties

(1) A person who contravenes or fails to comply with section 7 or section 11 or section 12 commits an offence and is liable on conviction to,—

(a) in the case of an individual,—

(i) imprisonment for a term not exceeding 6 months; or

(ii) a fine not exceeding $50,000; or

(iii) both:

(b) in the case of a body corporate, a fine not exceeding $500,000.

(2) A person who contravenes or fails to comply with section 9 commits an offence and is liable on conviction to—

(a) imprisonment for a term not exceeding 6 months; or

(b) a fine not exceeding $50,000; or

(c) both.

Section 61(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 61(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

62 Failure to hold licence

(1) A person who carries out any rail activities for which a licence is required by section 15 and who does not hold a licence to carry on those rail activities commits an offence and is liable on conviction to,—

(a) in the case of an individual, a fine not exceeding $50,000:

(b) in the case of a body corporate, a fine not exceeding $500,000.

(2) A person who contravenes or fails to comply with section 10 commits an offence and is liable on conviction to,—

(a) in the case of an individual, a fine not exceeding $50,000:

(b) in the case of a body corporate, a fine not exceeding $500,000.

Section 62(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 62(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

63 Failure to report accident or incident

(1) A rail operator, access provider, or railway premises owner who contravenes or fails to comply with section 13 commits an offence and is liable on conviction to,—

(a) in the case of an individual, a fine not exceeding $5,000:

(b) in the case of a body corporate, a fine not exceeding $30,000.

(2) Any rail personnel who contravenes or fails to comply with section 13(1) commits an offence and is liable on conviction to a fine not exceeding $5,000.

Section 63(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 63(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

64 Obstructing safety assessor

A person who obstructs a safety assessor or fails to comply with a lawful requirement of a safety assessor commits an offence and is liable on conviction to,—

(a) in the case of an individual, a fine not exceeding $25,000:

(b) in the case of a body corporate, a fine not exceeding $250,000.

Section 64: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

65 Liability of employers and principals

If an offence is committed against this Act by a person as the employee, agent, or contractor of another person, that offence must be treated as having been committed by both persons, whether or not it was done with the other person's knowledge or approval, if it is proved that—

(a) the other person—

(i) knew, or could reasonably be expected to have known, that the offence was to be, or was being, committed; and

(ii) failed to prevent, so far as was reasonably practicable, the commission of the offence; and

(b) the other person failed to remedy, so far as was reasonably practicable, the effects of the act or omission that gave rise to the offence.

Section 65(a)(ii): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 65(b): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

66 Liability of directors of bodies corporate

If a body corporate is convicted of an offence against this Act, every director of the body corporate also commits the offence and is liable to the same penalty if it is proved that—

(a) the act or omission that constituted the offence took place with his or her express or implied authority; and

(b) he or she failed, so far as was reasonably practicable, to prevent or stop that act or remedy that omission.

Section 66(b): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

67 Power to prohibit or restrict persons from being involved in rail activities

(1) A District Court Judge may, on the application of the Director or any other person, make an order prohibiting or restricting a person from acting as a rail participant, director of a rail participant, or rail personnel if that person—

(a) has been convicted of an offence against this Act or the rules or a major transport-related offence, particularly an offence relating to safety; or

(b) has failed more than once to comply with this Act or the rules or the conditions of a licence.

(2) An order under this section—

(a) may be for a specified period of time or without time limit, and may be made on the terms and conditions that the District Court thinks fit; and

(b) may be cancelled or varied at any time by the District Court on application by the Director or the affected party.

(3) In proceedings under this section, the District Court may make an order for the payment by a party to the proceedings of the whole or part of the full costs incurred by any other party to the proceedings (including, without limitation, reasonable costs incurred between solicitor and client, fees, and other expenses), and the costs awarded are recoverable as a debt by the party against whom they have been awarded to the party in whose favour they have been awarded.

Section 67(1): amended, on 1 April 2021, by section 166(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 67(2)(b): amended, on 1 April 2021, by section 166(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Subpart 7—Appeals

68 Appeal to District Court

(1) A person may appeal to the District Court against a decision relating to that person that is made by any of the following, if dissatisfied with that decision:

(a) the Agency:

(b) the Director:

(c) a person issuing a notice under section 72M or 72Q.

(2) For the purposes of subsection (1), the exercise of a power conferred on the Agency, the Director, or an inspector by a provision of this Act, or a regulation or rule made under this Act, is a decision.

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

Section 68(1): replaced, on 19 May 2026, by section 113(1) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 68(2): amended, on 19 May 2026, by section 113(2) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 68(3): inserted, on 1 April 2021, by section 53 of the Regulatory Systems (Transport) Amendment Act 2021 (2021 No 9).

69 Procedure

(1) An appeal under section 68 must be brought, by way of an originating application, no later than 28 days after the date on which the appellant was notified under this Act of the decision appealed against, or within any further period that the District Court may allow.

(2) When considering an appeal under section 68,—

(a) the District Court may hear all evidence tendered and representations made by, or on behalf of, any party to the appeal that the court considers relevant to the appeal, whether or not that evidence would be otherwise admissible in the court; and

(b) the court may—

(i) confirm, reverse, or modify the decision appealed against, make the orders, and give the directions to the Agency or the Director (as the case may be) that may be necessary to give effect to the court's decision; or

(ii) refer the matter back to the Agency or the Director (as the case may be) with directions to reconsider the whole or any part of the matter; and

(c) subject to this section, an appeal must be made and determined in accordance with the District Court Act 2016 and the rules of the District Court made under that Act.

(3) Subject to sections 71 and 72, the decision of the District Court on an appeal under section 68 is final.

Section 69(2)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 69(2)(b)(i): amended, on 1 April 2021, by section 168(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 69(2)(b)(i): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 69(2)(b)(ii): amended, on 1 April 2021, by section 168(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 69(2)(b)(ii): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 69(2)(c): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

70 Decision of Agency or Director to continue in force pending appeal, etc

A decision of the Agency or the Director appealed against under section 68 or section 71 or section 72 continues in force pending the determination of the appeal, and no person is excused from complying with a provision of this Act on the grounds that an appeal is pending.

Section 70 heading: amended, on 1 April 2021, by section 169(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 70 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 70: amended, on 1 April 2021, by section 169(2) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 70: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

71 Appeal to High Court on question of law

(1) A party to an appeal under section 68 who is dissatisfied with the decision of the District Court on the grounds that it is erroneous in law may appeal to the High Court on that question of law.

(2) The High Court Rules 2016 and sections 126 to 130 of the District Court Act 2016, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 124 of that Act.

Section 71(2): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

72 Further appeal to Court of Appeal

(1) A party to an appeal under section 71 who is dissatisfied with the decision of the High Court in respect of the appeal as being erroneous in law may, with the leave of the High Court or (if that leave is declined) with special leave of the Court of Appeal, appeal to the Court of Appeal on that question of law.

(2) The Court of Appeal may make any order or determination that it thinks fit in relation to the appeal.

(3) The decision of the Court of Appeal on an appeal or any application for leave to appeal is final.

(4) Except as provided in this section, the procedures in respect of an appeal under this section must be in accordance with the applicable provisions of the High Court Rules 2016 and the Court of Appeal Rules, as the case may be.

Section 72(4): amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

Part 2A
Investigating accidents and incidents

Part 2A: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Subpart 1—Powers to enter, inspect, and obtain information

Subpart 1: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72A Powers in this Part are subject to section 14(3) of Transport Accident Investigation Commission Act 1990

The powers specified in this Part are subject to the limitations set out in section 14(3) of the Transport Accident Investigation Commission Act 1990.

Section 72A: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72B Director and other persons investigating accident or incident must co-ordinate investigations

(1) This section applies if an accident or incident is being investigated by an inspector and 1 or more of the following investigators (**specified investigators**):

(a) the Commission:

(b) the New Zealand Police:

(c) the regulator, an inspector, or any other person authorised under the Health and Safety at Work Act 2015 (in accordance with the memorandum of understanding specified in section 8(2) of this Act).

(2) The Director and the specified investigator or specified investigators must take reasonable steps to co-ordinate their respective investigations.

Section 72B: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72C Powers to obtain information

(1) For the purpose of investigating an accident or incident, an inspector may, at any reasonable time, require a rail participant or rail personnel to do either or both of the following:

(a) answer questions that relate to the accident or incident or the investigation of it:

(b) provide all other information that the inspector may reasonably require for the purposes of the investigation.

(2) Nothing in this section affects the application of section 60 of the Evidence Act 2006.

Section 72C: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72D Powers of entry and inspection

(1) For the purpose of investigating an accident or incident, an inspector may, at any reasonable time, enter a vehicle, building, or place that—

(a) belongs to a rail participant or rail personnel; or

(b) is used by a rail participant or rail personnel in that participant's or personnel's rail activities.

(2) On entering the vehicle, building, or place, the inspector may, for the purposes of the investigation,—

(a) conduct examinations, tests, inquiries, and inspections:

(b) be accompanied and assisted by any other person, and bring into the vehicle, building, or place any equipment necessary to investigate the accident or incident:

(c) take photographs and measurements and make sketches and recordings:

(d) require the person who is or appears to be in charge of the vehicle, building, or place to ensure that the vehicle, building, or place, or anything inside it, is not disturbed for a reasonable period pending examination, testing, inquiry, or inspection:

(e) require the person who is or appears to be in charge of the vehicle, building, or place to—

(i) produce information relating to the vehicle, building, or place, the activities carried out there, or any person who carries out any or all of those activities; and

(ii) produce information relating to the rail participant's or rail personnel's compliance with this Act or with any rules or regulations; and

(iii) permit the inspector to examine and make copies of, or take extracts from, the information.

(3) An inspector may do any of the things referred to in subsection (2) whether or not—

(a) the inspector or the person the inspector is dealing with is in the vehicle, building, or place; or

(b) the information is—

(i) in the vehicle, building, or place; or

(ii) in the place where the inspector is; or

(iii) in another place.

(4) Nothing in this section affects the application of section 60 of the Evidence Act 2006.

(5) For the purposes of this section, if the inspector considers it necessary to enter any other building or land in order to get to the vehicle, building, or place, the inspector may do so after taking any steps that the inspector considers reasonable in the circumstances to obtain the consent of the occupier of the building or land.

(6) In this section, **information** includes any document.

Compare: 2015 No 70 s 168; 2023 No 10 s 284

Section 72D: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72E Power to enter homes or marae

(1) Despite section 72D, an inspector must not, except with the consent of an occupier or pursuant to a warrant issued under subsection (2), enter a vehicle, building, or place referred to in section 72D(1)—

(a) that is, or is within, a home, a marae, or a building associated with a marae; or

(b) by going through a home, a marae, or a building associated with a marae.

(2) An issuing officer may, on an application made by an inspector in the manner provided in subpart 3 of Part 4 of the Search and Surveillance Act 2012, issue a warrant to enter a home (or part of a home), a marae (or part of a marae), or a building associated with a marae (or part of a building associated with a marae) if the issuing officer is satisfied that there are reasonable grounds to believe that the home, marae, or building associated with a marae—

(a) is, or has inside it, a vehicle, building, or place referred to in section 72D(1); or

(b) is the only practicable means through which the inspector may enter a vehicle, building, or place referred to in section 72D(1).

(3) A warrant issued under subsection (2) authorises an inspector to enter the home, marae, or building associated with a marae only to exercise the powers specified in section 72D.

Compare: 2015 No 70 s 169; 2023 No 10 s 285

Section 72E: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72F Notice of entry

If an inspector enters a vehicle, building, or place under section 72D or 72E and is unable, despite reasonable efforts, to find any person in charge, the inspector must, before leaving the vehicle, building, or place, leave a written notice stating—

(a) the inspector's identity; and

(b) the inspector's electronic address and any other contact information the inspector wishes to provide; and

(c) the date and time of entry; and

(d) the inspector's reasons for entering.

Compare: 2015 No 70 s 171; 2023 No 10 s 286

Section 72F: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72G Power to take samples and other objects and things

(1) An inspector exercising a power under section 72D or 72E to enter a vehicle, building, or place referred to in section 72D(1) may, for the purpose of investigating the accident or incident, take or remove from that vehicle, building, or place a sample of any material, substance, or thing for analysis, or seize and retain any material, substance, or thing, in order to—

(a) monitor activities being carried out in that vehicle, building, or place; or

(b) determine the nature of any material or substance in that vehicle, building, or place; or

(c) determine whether this Act or any rules or regulations have been, or are being, contravened.

(2) This section does not allow an inspector to take a sample from a person's body unless the inspector has the person's informed consent to take the sample.

(3) If an inspector removes or retains any sample, material, substance, or thing under subsection (1), the inspector must,—

(a) when the inspector removes or retains the sample, material, substance, or thing or as soon as practicable after doing so, give the rail participant or rail personnel written notice of—

(i) what has been (or is being) removed or retained; and

(ii) why it has been (or is being) removed or retained; and

(iii) where it will be kept in the meantime; and

(b) subject to subsections (4) and (5), within 5 working days of removing or retaining any sample, material, substance, or thing, give the rail participant or rail personnel written notice of whether the inspector intends to return it or destroy it.

(4) If it is practicable to do so, the inspector must return the sample, material, substance, or thing to its owner—

(a) when it is no longer required for any purpose under this Act or any other legislation; or

(b) if a court orders its earlier return.

(5) The inspector may destroy any removed or retained sample, material, substance, or thing if—

(a) it is perishable and has become rotten or has otherwise deteriorated; or

(b) it is perishable and is likely to become rotten or perish before it can be dealt with under subsection (4); or

(c) it is likely to pose a risk to public health.

(6) In addition, sections 154, 155, and 159 of the Search and Surveillance Act 2012 apply in relation to any sample, material, substance, or thing removed or retained.

(7) The provisions of the Search and Surveillance Act 2012 referred to in subsection (6) apply as if—

(a) the reference in section 159(1) of that Act to a person described in section 156(2) were to—

(i) any person from whom the sample, material, substance, or thing was seized:

(ii) the owner:

(iii) any other person who, in the opinion of the inspector, may be affected by the forfeiture of the sample, material, substance, or thing; and

(b) references to a thing were to any sample, material, substance, or thing; and

(c) references to seized or produced were to removed or retained; and

(d) references to the person in whose custody the thing is were to the inspector; and

(e) all other necessary modifications were made.

(8) Any sample, material, substance, or thing forfeited to the Crown may be destroyed or otherwise disposed of as the inspector directs.

Compare: 2015 No 70 s 172; 2023 No 10 s 287

Section 72G: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72H Power of entry (by consent or under warrant) if Director suspects contravention

(1) The Director may authorise a specified person to enter and search a vehicle, building, or place for the purpose of ascertaining whether an accident or incident was caused by a person engaging in conduct that contravenes or may contravene a provision of this Act or any rules or regulations.

(2) Subsection (1) applies only if the Director is satisfied that there are reasonable grounds—

(a) to suspect that the person has engaged in or is engaging in conduct that constitutes or may constitute such a contravention; and

(b) to suspect that the contravention has caused the accident or incident; and

(c) to believe that the search will find evidential material in or on any part of the vehicle, building, or place.

(3) A specified person authorised under subsection (1) may enter and search the vehicle, building, or place if—

(a) the occupier or person in charge of the vehicle, building, or place consents; or

(b) the specified person obtains a warrant under subsection (4).

(4) An issuing officer may issue a search warrant in relation to a vehicle, building, or place on an application made in the manner provided by subpart 3 of Part 4 of the Search and Surveillance Act 2012 by a specified person authorised under subsection (1), if the issuing officer is satisfied that there are reasonable grounds—

(a) to suspect that a person has engaged in or is engaging in conduct that contravenes or may contravene a provision of this Act or any rules or regulations; and

(b) to suspect that the contravention has caused the accident or incident; and

(c) to believe that the search will find evidential material in or on any part of the vehicle, building, or place.

(5) In this section, **specified person** means—

(a) an inspector; or

(b) a constable; or

(c) an employee of the Agency; or

(d) any other person who the Director is satisfied is suitably qualified and trained, or belongs to a class of persons who are suitably qualified and trained, to act under this section.

(6) Despite subsection (5), a constable may apply for a warrant to be issued under subsection (4) without an authorisation from the Director under subsection (1).

(7) Subpart 2 of Part 3 and Part 4 of the Search and Surveillance Act 2012 apply, with any necessary modifications, to any search under this section.

(8) Despite subsection (7), sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.

Compare: 2015 No 70 s 173; 2023 No 10 s 288

Section 72H: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72I Continuation of powers of entry and inspection without search warrants

An inspector who, in the course of exercising a power under section 72D or 72E, finds evidence of a contravention of this Act (or any rules or regulations) that caused an accident or incident is not required to obtain a search warrant under section 72H to continue exercising powers under section 72D or 72E.

Compare: 2015 No 70 s 174; 2023 No 10 s 289

Section 72I: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72J Power to require name, address, and date of birth

(1) For the purpose of investigating an accident or incident, an inspector may require a rail participant or rail personnel to provide the rail participant's or rail personnel's name, residential address, and date of birth if the inspector finds the participant or personnel—

(a) committing an offence against this Act or any rules or regulations; or

(b) in circumstances that lead, or with information that leads, the inspector to reasonably suspect that the rail participant or rail personnel has committed an offence against this Act or against any rules or regulations.

(2) When requiring a rail participant or rail personnel to provide their name, residential address, and date of birth, the inspector must—

(a) tell the rail participant or rail personnel the reason for the requirement; and

(b) warn the rail participant or rail personnel that it is an offence to fail to provide their name, residential address, and date of birth unless the rail participant or rail personnel has a reasonable excuse.

(3) If the inspector reasonably believes that the name, residential address, or date of birth that a rail participant or rail personnel provides is false, the inspector may require the rail participant or rail personnel to give evidence of its correctness.

(4) A rail participant or rail personnel must not, without reasonable excuse, refuse or fail to comply with a requirement under subsection (1) or (3).

(5) A rail participant or rail personnel who breaches subsection (4) commits an offence and is liable on conviction to a fine not exceeding $10,000.

Section 72J: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72K Offence to fail to comply with or assist, or to intentionally obstruct, inspector

(1) A rail participant or rail personnel must give all reasonable assistance to enable an inspector to enter, inspect, examine, inquire, or exercise any other power under this Act.

(2) A person commits an offence if they—

(a) breach subsection (1); or

(b) refuse or fail to comply with a requirement of an inspector under this Act; or

(c) intentionally obstruct or intentionally impede an inspector exercising their powers under this Act.

(3) A person who commits an offence against this section is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $10,000:

(b) in any other case, to a fine not exceeding $50,000.

Section 72K: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72L Immunity of inspectors and persons assisting inspectors or Director

(1) An inspector is immune from civil and criminal liability for any act done in good faith in the exercise, or intended exercise, of any of the inspector's powers under this Act if—

(a) the inspector exercises the power in a reasonable manner; and

(b) the inspector believes on reasonable grounds that the preconditions for the exercise of that power have been satisfied.

(2) A person is immune from civil and criminal liability for any act done in good faith and in a reasonable manner when assisting an inspector or the Director to exercise the inspector's or the Director's powers under this Act.

(3) In any civil proceeding in which a person asserts that the person has an immunity under this section, the onus is on that person to prove the facts necessary to establish the basis of that claim.

Compare: 2015 No 70 s 177; 2023 No 10 s 294

Section 72L: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Subpart 2—Improvement notices and non-disturbance notices

Subpart 2: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Improvement notices

Heading: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72M Power to issue improvement notices

(1) This section applies if, in the course of investigating an accident or incident, an inspector reasonably believes that a rail participant or rail personnel—

(a) has contravened a provision of this Act or any rules or regulations; and

(b) that contravention has—

(i) caused the accident or incident; or

(ii) made the accident or incident more likely to happen.

(2) The inspector may issue an improvement notice requiring the rail participant or rail personnel to—

(a) remedy the contravention; or

(b) remedy the things or activities that caused, or are causing, the contravention; or

(c) protect against a future contravention.

(3) A decision to issue an improvement notice may be appealed under section 68.

Compare: 2015 No 70 s 101; 2023 No 10 s 298

Section 72M: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72N Content of improvement notices

(1) An improvement notice must state—

(a) that the inspector believes that—

(i) the rail participant or rail personnel has contravened this Act (or a rule or regulation); and

(ii) the contravention has, in relation to an accident or incident,—

(A) caused the accident or incident; or

(B) made the accident or incident more likely to happen; and

(b) the provision that the inspector believes has been contravened; and

(c) briefly, how that provision has been contravened; and

(d) a reasonable period within which the rail participant or rail personnel must—

(i) remedy the contravention; or

(ii) remedy the things or activities that caused, or are causing, the contravention; or

(iii) prevent a future contravention.

(2) An improvement notice may include recommendations concerning—

(a) the measures that the rail participant or rail personnel could take to remedy the contravention or prevent a future contravention to which the notice relates:

(b) the things or activities causing the contravention to which the notice relates.

Compare: 2015 No 70 s 102; 2023 No 10 s 299

Section 72N: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72O Compliance with improvement notice

(1) A rail participant or rail personnel who has been issued with an improvement notice must comply with the notice within the period specified in the notice.

(2) A rail participant or rail personnel who breaches subsection (1) commits an offence and is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $50,000:

(b) in any other case, to a fine not exceeding $250,000.

(3) To avoid doubt, a failure to comply with a recommendation under section 72N(2) is not, in itself, an offence.

Compare: 2015 No 70 s 103; 2023 No 10 s 300

Section 72O: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72P Extension of time for compliance with improvement notices

(1) This section applies if a rail participant or rail personnel has been issued with an improvement notice.

(2) An inspector may, by written notice given to the rail participant or rail personnel, extend the compliance period for the improvement notice.

(3) However, the inspector may extend the compliance period only if the period has not ended.

(4) In this section, **compliance period**—

(a) means the period stated in the improvement notice; and

(b) includes any extension of that period under this section.

Compare: 2015 No 70 s 104; 2023 No 10 s 301

Section 72P: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Non-disturbance notices

Heading: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72Q Power to issue non-disturbance notice

(1) An inspector may issue a non-disturbance notice to a rail participant or rail personnel in respect of a vehicle, building, or place that—

(a) belongs to the rail participant or rail personnel; or

(b) is used by the rail participant or rail personnel in that participant's or personnel's rail activities.

(2) An inspector may only issue a non-disturbance notice under subsection (1) if the inspector reasonably believes that it is necessary to do so to facilitate the inspector's investigation into an accident or incident under this Part.

(3) A decision to issue a non-disturbance notice may be appealed under section 68.

Compare: 2015 No 70 s 108; 2023 No 10 s 302

Section 72Q: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72R Content of non-disturbance notice

(1) A non-disturbance notice may require the person to whom the notice was issued to preserve, or prevent the disturbance of, a vehicle, building, or place specified in section 72Q(1) for a specified period.

(2) A non-disturbance notice must specify the period (not exceeding 7 days) for which it applies and set out—

(a) the obligations of the person to whom the notice is issued; and

(b) the measures to be taken to preserve a vehicle, building, or place or prevent the disturbance of a vehicle, building, or place; and

(c) the penalty for refusing or failing to comply with the notice.

(3) A non-disturbance notice does not prevent any action—

(a) to assist an injured person; or

(b) to remove a deceased person; or

(c) that is essential to make the vehicle, building, or place safe or to prevent an accident or incident; or

(d) that is done by, or under the direction of, a constable acting in the execution of the constable's duties; or

(e) for which an inspector or the Director has given permission.

(4) A non-disturbance notice does not apply to the site of any accident or incident being investigated by the Commission.

Compare: 2015 No 70 s 109; 2023 No 10 s 303

Section 72R: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72S Compliance with non-disturbance notice

(1) A rail participant or rail personnel must not, without reasonable excuse, refuse or fail to comply with a non-disturbance notice issued to them.

(2) A rail participant or rail personnel who breaches subsection (1) commits an offence and is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $50,000:

(b) in any other case, to a fine not exceeding $250,000.

Compare: 2015 No 70 s 110; 2023 No 10 s 304

Section 72S: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72T Issue of subsequent non-disturbance notices

(1) If an inspector considers it necessary to do so, the inspector may issue 1 or more subsequent non-disturbance notices to a rail participant or rail personnel, whether before or after the expiry of the previous notice.

(2) A subsequent non-disturbance notice issued under subsection (1) must comply with sections 72Q and 72R.

Compare: 2015 No 70 s 111; 2023 No 10 s 305

Section 72T: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

General provisions relating to improvement notices and non-disturbance notices

Heading: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72U Improvement notices and non-disturbance notices must be in writing and may be addressed in certain way

(1) An improvement notice or a non-disturbance notice must be in writing.

(2) The notice may be addressed to the rail participant or rail personnel under that participant's or personnel's legal name or usual business name or style.

Compare: 2015 No 70 s 112; 2023 No 10 s 306

Section 72U: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72V Inspector may vary or cancel improvement notice or non-disturbance notice

An inspector may vary or cancel an improvement notice or a non-disturbance notice.

Compare: 2015 No 70 s 114; 2023 No 10 s 308

Section 72V: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72W Formal irregularities or defects in improvement notice or non-disturbance notice

An improvement notice or a non-disturbance notice is not invalid merely because of—

(a) any defect, irregularity, omission, or want of form in the notice unless it causes or is likely to cause a miscarriage of justice; or

(b) a failure to use the correct name of the person to whom the notice is issued if the notice sufficiently identifies the person and is issued to the person in accordance with section 72U.

Compare: 2015 No 70 s 115; 2023 No 10 s 309

Section 72W: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72X Display of notice by person issued with improvement notice or non-disturbance notice

(1) Unless an inspector permits otherwise, a rail participant or rail personnel to whom an improvement notice or a non-disturbance notice is issued must, as soon as practicable, display a copy of the notice in a prominent position at or near the vehicle, building, or place, or part of a vehicle, building, or place, at which activity is being carried out that is affected by the notice.

(2) If a notice is displayed under subsection (1) and is in force, no person may intentionally—

(a) remove or destroy the notice; or

(b) damage or deface the notice.

(3) A person who breaches subsection (1) or (2) commits an offence and is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $5,000:

(b) in any other case, to a fine not exceeding $25,000.

Compare: 2015 No 70 s 117; 2023 No 10 s 311

Section 72X: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72Y Inspector may display improvement notice or non-disturbance notice

An inspector who issues an improvement notice or a non-disturbance notice may, before or after issuing the notice, display a copy of the notice in a prominent place at or near the vehicle, building, or place at which activity is being carried out that is affected by the notice.

Compare: 2015 No 70 s 118; 2023 No 10 s 312

Section 72Y: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Subpart 3—Inspectors

Subpart 3: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72Z Appointment of inspectors

(1) The Director may, by notice in writing, appoint any person as an inspector, including—

(a) an employee of the State services:

(b) a statutory officer (including a safety assessor and an enforcement officer):

(c) an employee or a contractor of the Agency.

(2) The Director must not appoint a person as an inspector unless the Director is satisfied that the person has appropriate experience, technical competence, and

qualifications relevant to the powers proposed to be exercised by an inspector under this Act.

(3) An inspector may exercise the powers of an inspector under this Act that the Director specifies in the notice of the inspector's appointment.

(4) An inspector's powers are subject to any conditions or limitations specified in the notice of the inspector's appointment.

(5) However, the exercise of the power by an inspector is not invalid merely because it did not comply with the conditions specified in the notice of the inspector's appointment.

Compare: 2015 No 70 s 163; 2023 No 10 s 331

Section 72Z: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72ZA Identity cards

(1) The Director must give each inspector an identity card that—

(a) states the person's name and appointment as an inspector; and

(b) includes any other matter prescribed by regulations or rules.

(2) An inspector must, when exercising their powers under this Act, produce their identity card for inspection on request.

(3) A person who ceases to be an inspector must as soon as practicable return their identity card to the Director.

Compare: 2015 No 70 s 164; 2023 No 10 s 333

Section 72ZA: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72ZB Suspension and ending of appointment of inspectors

(1) The Director may suspend or end the appointment of an inspector at any time.

(2) To avoid doubt, a person's appointment as an inspector ends when the person ceases to be eligible for appointment as an inspector.

Compare: 2015 No 70 s 165; 2023 No 10 s 334

Section 72ZB: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72ZC Inspectors subject to Director's directions

(1) An inspector (whether or not an employee) is subject to directions from the Director in the exercise of the inspector's powers.

(2) A direction under subsection (1) may be of a general nature or may relate to a specified matter or specified class of matter.

(3) A failure to comply with a direction under subsection (1) does not invalidate the exercise of an inspector's power.

Compare: 2015 No 70 s 166; 2023 No 10 s 335

Section 72ZC: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

72ZD Director has powers of inspector

The Director has all the powers that an inspector has under this Act.

Compare: 2015 No 70 s 167; 2023 No 10 s 336

Section 72ZD: inserted, on 19 May 2026, by section 114 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Part 3
Rail corridor

Subpart 1—Protection of rail corridor

73 Trespass relating to railway

(1) A person must not, without the express authority of the appropriate licensed access provider (in the case of railway infrastructure) or railway premises owner (in the case of railway premises),—

(a) encroach on any railway infrastructure or railway premises by constructing or placing a building, fence, ditch, drain, or other obstacle, or planting a tree or shrub, on the railway infrastructure or railway premises; or

(b) dig up, remove, alter, or undermine the soil or surface of any railway infrastructure or railway premises; or

(c) fill up, divert, alter, or obstruct any ditch, drain, or watercourse that directly carries water off any railway infrastructure or railway premises or is made to protect that railway infrastructure or those railway premises; or

(d) do any act in which—

(i) a ditch, drain, or watercourse that directly carries water off any railway infrastructure or railway premises or is made to protect railway infrastructure or railway premises is stopped; or

(ii) the natural flow of water in that ditch, drain, or watercourse is obstructed; or

(e) interfere with or divert a ditch, drain, or watercourse in a manner that damages any railway infrastructure or railway premises; or

(f) fell or remove a tree, shrub, or timber growing on any railway infrastructure or railway premises; or

(g) interfere with or damage a rail vehicle or container or other property carried on a railway; or

(h) interfere with, change, or move a building, structure, or property in a manner that causes damage to railway infrastructure or railway premises; or

(i) cause or procure to be done any of the acts specified in paragraphs (a) to (h).

(2) A person must not enter any railway infrastructure or railway premises,—

(a) in the case of railway infrastructure, without the express authority of the appropriate licensed access provider; and

(b) in the case of railway premises, without the express or implied authority of the appropriate railway premises manager.

(3) The owner of stock, or a person in charge of stock, must prevent the stock from trespassing on a railway or on any part of a railway.

(4) If stock is found trespassing on a railway,—

(a) rail personnel may impound that stock:

(b) the relevant rail participant, or its rail personnel, may, in respect of that stock, exercise any of the functions or powers conferred on an occupier of land by the Impounding Act 1955 (and the provisions of that Act, except section 26(1), apply accordingly).

(5) The provisions of this section are in addition to, and not in substitution for, the provisions of the Trespass Act 1980.

Compare: 1992 No 111 s 25

74 Railway drains

(1) If a drain on, above, or under any railway infrastructure or railway premises forms part of, or is used in connection with, a sewerage or stormwater drainage system that is under the control of a road controlling authority or a local authority,—

(a) the cost of maintaining the drain must be borne by that road controlling authority or local authority; and

(b) if the maintenance work is carried out by a licensed access provider, infrastructure owner, or railway premises owner, the cost is recoverable from the road controlling authority or local authority as a debt due to the licensed access provider, infrastructure owner, or railway premises owner.

(2) Nothing in this section confers on a road controlling authority or local authority the right to enter any railway infrastructure or railway premises for the purposes of maintaining a drain without the prior consent of the licensed access provider or railway premises owner, which may be granted on the terms and conditions that the licensed access provider or railway premises owner thinks fit.

(3) For the purposes of subsection (2), a licensed access provider or railway premises owner may not withhold consent in an emergency if doing so would be unreasonable.

Compare: 1992 No 111 s 11

75 Access to railway by easements or for works

(1) Despite anything in any other Act, no person may exercise a right under an easement, or construct or carry out work on, over, or under any railway infrastructure or railway premises, without having first sought and obtained the written permission of the licensed access provider or railway premises owner concerned.

(1A) The New Zealand Railways Corporation, and any other licensed access provider that the Minister, by notice in the *Gazette*, declares to be subject to this subsection, must publish, on a publicly available Internet site, the criteria that the Corporation or other body will apply when considering whether to grant permission under subsection (1), and must apply those criteria when considering whether to grant permission.

(1B) If a local authority or owner of any pipe, line, or other work associated with wastewater or the supply of water, electricity, gas, or telecommunications requests, in writing, permission for access to any railway infrastructure or railway premises for the purpose of carrying out work on any such pipe, line, or other works, the licensed access provider or railway premises owner must respond to the request, in writing, within 30 working days of receiving the request.

(2) The licensed access provider or railway premises owner may require the person to execute a deed or agreement setting out the conditions subject to which the permission is granted.

(3) Permission given under subsection (1) is not negated by a change in the licensed access provider or railway premises owner.

(4) If a condition in a deed or agreement executed under subsection (2) constitutes a charge, that charge must be reasonable.

(5) Before granting a permission, the licensed access provider or railway premises owner must consult with any other rail participants who may be affected by the easement or work.

(6) A licensed access provider or railway premises owner—

(a) may refuse to grant a permission sought under subsection (1) only if the licensed access provider or railway premises owner has reasonable grounds to do so that relate to the carrying out or safety of rail activities; and

(b) may not charge any amount for considering or deciding on a permission sought under subsection (1).

(7) The rental (if any) from an easement granted to a public body on, over, or under a railway at a level crossing may be no more than nominal.

Compare: 1992 No 111 s 12

Section 75(1A): inserted, on 6 August 2010, by section 26(2) of the Infrastructure (Amendments Relating to Utilities Access) Act 2010 (2010 No 99).

Section 75(1B): inserted, on 6 August 2010, by section 26(2) of the Infrastructure (Amendments Relating to Utilities Access) Act 2010 (2010 No 99).

76 Lights, etc, liable to be confused with railway signals

(1) This section applies if—

(a) a fire, light, sign, hoarding, or similar structure may—

(i) be mistaken for, or obscure, a railway signal; or

(ii) make it difficult for a person engaged in the operation of a rail vehicle to distinguish a railway signal; or

(b) an electrical or radio or telecommunication signal or radiation may interfere with, or be mistaken for, a railway signal or communication.

(2) If this section applies, a licensed access provider, or a person authorised by a licensed access provider for this purpose, may give written notice (in accordance with section 78) to the occupier or, if there is no occupier, the owner of the place where the fire, light, or structure is located, or from which the signal or radiation emanates, or to the person in charge of the fire, light, structure, signal, or radiation, directing that owner or person to, within 10 working days,—

(a) take effective measures to extinguish, remove, or screen the fire, light, structure, signal, or radiation; and

(b) prevent from appearing in that place any similar fire, light, structure, signal, or radiation in the future.

(3) Despite subsection (2), notice is not required to be given in the case of an emergency.

(4) For the purposes of this section, **emergency** means—

(a) an actual or imminent danger to human health or safety; or

(b) a danger to the environment or chattels so significant that immediate action is required to remove the danger.

Compare: 1992 No 111 s 13; 1996 No 30 s 135

77 Power to prevent damage to railway

(1) Subject to the provisions of the Resource Management Act 1991, for the purposes of protecting a railway, or preventing or lessening the risk of damage to any railway infrastructure or railway premises, a licensed access provider or railway premises owner may—

(a) construct, maintain, alter, or reconstruct an embankment, groyne, or other protective work on any land or on the bank of a river or stream; or

(b) divert, dam, or take away any part of the whole of the water of a river or stream, or alter the course of a river or stream; or

(c) discontinue or abandon the work when the licensed access provider or railway premises owner thinks fit.

(2) If a person enters a place on behalf of a licensed access provider or railway premises owner under subsection (1), the person must, as soon as practicable after entering the place,—

(a) identify himself or herself; and

(b) inform the occupier of the place of the entry; and

(c) specify the reasons for the entry.

(3) A licensed access provider or railway premises owner may give written notice (in accordance with section 78) to the occupier or, if there is no occupier, to the owner of land abutting any railway infrastructure or railway premises that requires that person to do any of the following acts:

(a) to remove, lower, or trim, to the satisfaction of the licensed access provider or railway premises owner, any tree or hedge if, in the opinion of the licensed access provider or railway premises owner, the removal, lowering, or trimming is necessary to prevent damage to the railway infrastructure or railway premises or obstruction to the traffic on the railway concerned or to a channel, ditch, or drain associated with that railway:

(b) if, in the opinion of the licensed access provider or railway premises owner, a tree, hedge, fence, or wall is likely, by reason of its obstructing the view, to cause danger to traffic on the railway concerned,—

(i) to remove, lower, or trim, to the satisfaction of the licensed access provider or railway premises owner, that tree or hedge; or

(ii) to lower that fence or wall:

(c) to take effective measures to prevent damage to land on which the railway infrastructure or railway premises is situated, whether caused by grazing animals or otherwise.

Compare: 1992 No 111 s 14

Section 77(1): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

78 Notice requirements

(1) A notice given under section 76(2) or section 77(3)—

(a) must inform the person concerned of the right to apply to the District Court for an order under subsection (2); and

(b) may be given to that person in accordance with section 94(1), or by affixing it in some conspicuous place near the fire, light, structure, source of the signal or radiation, or land to which the notice relates.

(2) Within 10 working days after a notice is given to a person under section 76(2) or section 77(3), the person may apply to the District Court for an order setting the notice aside.

(3) On the hearing of the application, the District Court, whose decision is final, must determine whether the notice should be set aside.

(4) If the District Court sets a notice aside, the notice is void.

(5) If a notice given under section 76(2) is not set aside and the person concerned neglects, for a period of 10 working days, to extinguish, remove, or screen effectively the fire, light, structure, signal, or radiation specified in the notice, the licensed access provider may, after giving reasonable notice to that person,—

(a) enter the place where the fire, light, structure, or source of the signal or radiation is located and extinguish, remove, or screen it in a manner that does not cause unnecessary damage; and

(b) recover the expenses incurred in doing this as a debt due to the licensed access provider from that person.

(6) If a notice given under section 77(3) is not set aside, and the person concerned neglects, for a period of 20 working days after the notice is given or, if an application has been made under subsection (2), within 20 working days after the District Court makes its decision, to comply with the notice, the licensed access provider or railway premises owner or person entering on their behalf may, if reasonable notice is given to that person,—

(a) enter on the land and, without causing any unnecessary damage, carry out those acts necessary to comply with the notice; and

(b) recover the cost of doing so as a charge upon the land.

(7) A person entering on land on behalf of a licensed access provider or railway premises owner under this section must carry authorisation and produce it on initial entry and, if requested, at any subsequent time.

Section 78(1)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 78(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 78(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

79 Compensation for damage

(1) An owner of land is entitled to full compensation from a licensed access provider or railway premises owner who exercises a power under section 76 or section 77 (whether the exercise of the power is proper or improper, or normal or excessive) if—

(a) no other provision for compensation is made under this Act or any other Act; and

(b) the land suffers damage as a result of the exercise of that power.

(2) All claims for compensation under subsection (1) must, unless settled by agreement, be determined in the manner provided by the Public Works Act 1981, and the provisions of that Act relating to compensation apply accordingly.

Subpart 2—Interaction of rail and road

80 Rail vehicles have right of way

(1) Except as provided in subsection (2),—

(a) any rail operator (and any person responsible for the driving or control of a rail vehicle) is entitled to assume, for the purposes of determining the speed at which it is reasonable for a rail vehicle to travel past a station, level crossing, or elsewhere on a railway line, that all persons, animals, and vehicles not using the railway line will keep clear of the railway line; and

(b) neither a rail operator nor any other person is to be regarded as negligent merely because that rail operator or person acts on that assumption for that purpose.

(2) If a rail operator (or a person responsible for the driving or control of a rail vehicle) has reason to believe, or by the exercise of reasonable care would have reason to believe, that a collision is likely to occur between a rail vehicle and a person, animal, or vehicle not using the railway line, the rail operator (or person responsible) must take all reasonable steps to prevent the collision.

(3) For the purposes of this section,—

rail vehicle does not include a light rail vehicle

railway line does not include a railway line operated solely for the use of light rail vehicles.

81 Notices and warning devices at level crossings

(1) The licensed access provider for a railway line may cause to be erected at each level crossing of the railway line the notices and warning devices that the licensed access provider considers necessary for the protection of persons using the level crossing.

(2) When considering what is necessary for the protection of persons using the level crossing, the licensed access provider must consult with any other persons directly involved with the operation or management of the level crossing, including (but not limited to) a road controlling authority or adjacent landowner, with the objective of agreeing on the notices and warning devices to be erected.

(3) Any agreement reached under subsection (2) must be recorded in writing and specify—

(a) the notices and warning devices required; and

(b) the parties who are to fund the installation and maintenance of the notices and warning devices; and

(c) the amount of each party's contribution.

(4) For the purposes of subsection (1), a warning device must be located within 5 m of the centre of the railway line unless the access provider and other persons directly involved with the operation or management of the level crossing agree otherwise.

(5) Despite any rule of law to the contrary, no access provider may be deemed negligent if that access provider fails to provide a warning device or notice at a level crossing for the purposes of—

(a) protecting rail vehicles using the railway line when they are passing over the level crossing; or

(b) warning road users of the approach of those rail vehicles.

(6) No rail operator is liable in respect of any accident that may occur by reason of any failure of a warning device.

(7) Nothing in subsection (1) limits the general safety duties set out in section 7.

Compare: 1992 No 111 s 5

82 Gates and cattle stops

(1) Despite anything in the Local Government Act 1974, the Public Works Act 1981, this Act, or any other Act relating to the erection of gates across roads, the following provisions apply with respect to a railway line:

(a) except as provided in paragraph (b), no person may erect or maintain a gate across the road at a level crossing within 100 m of the centre line of the railway line:

(b) if there is no cattle stop at a level crossing, the licensed access provider for the railway line may, if the licensed access provider considers it appropriate, agree with the road controlling authority that has control of the road to allow a gate to be erected or maintained under the conditions that the licensed access provider thinks fit to impose in the interests of public safety:

(c) if there is a cattle stop at a level crossing,—

(i) no person may erect gates that enclose the railway line; and

(ii) that cattle stop may not be between the gate and the railway line if there are gates connected with the fencing that encloses the railway line:

(d) if a gate is erected in contravention of this Act, the licensed access provider for the railway line, or a person authorised for this purpose by the licensed access provider,—

(i) may remove the gate; and

(ii) may, by giving notice in accordance with section 78, recover the cost of removing the gate from the person who erected it.

(2) Despite section 4(1), for the purposes of subsection (1)(c), **level crossing** includes private roads.

Compare: 1992 No 111 s 6

83 Maintenance of crossings

(1) At a level crossing, the licensed access provider for the railway line concerned must form, surface, and maintain the carriageway at the level crossing on the railway line, and the road controlling authority for the road concerned must form, surface, and maintain the approaches to the level crossing.

(2) If a road crosses over a railway by means of a bridge, the road controlling authority for the road must maintain the bridge.

(3) If a railway line crosses over a road by means of a bridge, the licensed access provider for the railway line must maintain the bridge.

(4) If a road and railway line both use the same bridge, the relevant road controlling authority and the relevant licensed access provider must jointly maintain the bridge.

(5) The duties imposed by this section are subject to any agreement between the road controlling authority and the licensed access provider.

Compare: 1992 No 111 s 8

84 Use of road for railway

(1) If a part of a road is used or occupied for a railway line (other than at a level crossing), that part of the road ceases to be a highway.

(2) If a railway line is constructed on or across a road at a level crossing, it is lawful for the licensed access provider for the railway line to allow, and for a licensed rail operator to carry on and conduct, the working and management of the railway concerned in every respect on or across that road, but not in a manner that unreasonably impedes the flow of road traffic across the railway line.

(3) If a licensed access provider proposes to install or relocate a signal or sign used for rail traffic control that may confuse road users, the licensed access provider must consult the relevant road controlling authority before installing or relocating the signal or sign.

(4) Nothing in subsection (1) or subsection (2) applies to a railway line operated solely for the use of light rail vehicles.

Compare: 1992 No 111 s 9

Subpart 3—Construction and maintenance of railways

85 Landowner has no interest in railway lines

Except to the extent that a deed or agreement provides otherwise, no person has an interest in a railway line by reason only of having an interest in the land on which the railway line is installed.

Compare: 1992 No 111 s 15

86 Right of entry to existing railway infrastructure

(1) In the case of existing railway infrastructure that was constructed under the authority of an Act before 1 April 1993, a licensed access provider for that railway infrastructure—

(a) may enter any land or premises (excluding any dwellinghouse or marae) at,—

(i) in the case of an emergency, any time; or

(ii) in any other case, any time during the ordinary hours of business for the purpose of gaining access to that railway infrastructure; and

(b) may perform any act or operation necessary for the purposes of—

(i) inspecting, maintaining, or operating the railway line:

(ii) in the case of a railway line the construction of which had not been completed before 1 April 1993, completing that railway line.

(2) A person who exercises, or purports to exercise, the right of entry must carry and be able to produce, if required to do so, evidence of—

(a) his or her identity; and

(b) his or her authorisation to act on behalf of the licensed access provider.

(3) In this section, **ordinary hours of business**means the hours of 8 am to 6 pm from Monday to Friday.

Compare: 1992 No 111 s 16

87 Maintenance of railway infrastructure on roads

(1) A licensed access provider may maintain railway infrastructure in, on, along, over, across, or under a road, and, for this purpose, may—

(a) open or break up that road:

(b) alter the position of—

(i) a pipe (not being a main) for the supply of water or gas or the conveyance of waste or sewage; or

(ii) a telecommunications line; or

(iii) an electric line:

(c) alter, repair, or remove any works, or any part of those works, that are constructed or maintained.

(2) A licensed access provider must exercise the power to maintain railway infrastructure in accordance with any reasonable conditions that may be prescribed by—

(a) the local authority or other body or person that has jurisdiction over the road; and

(b) the owner of the pipe, telecommunications line, or electric line.

(3) When prescribing any reasonable conditions under subsection (2), the local authority or other body or person that has jurisdiction over the road, or the owner of the pipe, telecommunications line, or electric line must have regard to the following matters:

(a) the safe and efficient flow of traffic (whether pedestrian or vehicular):

(b) the health and safety of any person who is, or class of persons who are, likely to be directly affected by the work on the road:

(c) the need to lessen the damage that is likely to be caused to property (including to the structural integrity of the road) as a result of work on the road:

(d) the compensation that may be payable under any enactment for property that is likely to be damaged as a result of work on the road:

(e) the need to lessen disruption to the local community (including businesses):

(f) the co-ordination of installation of other networks:

(g) the co-ordination with road construction work by the local authority or other person who has jurisdiction over that road.

Compare: 1992 No 111 s 17; 2001 No 103 s 119

88 Notice of alteration to railway lines or works on roads

(1) Except as provided in subsection (5), before a licensed access provider undertakes any work under the powers contained in section 87(1), the licensed access provider must give written notice of its intention to undertake the work to—

(a) the local authority or other body or person that has jurisdiction over the road to which the work relates; and

(b) the owner of a pipe, telecommunications line, or electric line that is constructed in, on, along, over, across, or under that road and that is affected, or is likely to be affected, by the work.

(2) A notice under subsection (1) must specify—

(a) the location of the proposed work; and

(b) the nature of the work to be undertaken; and

(c) the reasons for the work; and

(d) the timing and duration of the work.

(3) Within 10 working days after the receipt of a notice given under subsection (1), the person who is given the notice must give written notice to the licensed access provider of any conditions imposed under section 87(2).

(4) If a person who is given a notice under subsection (1) fails to give written notice to the licensed access provider of any conditions imposed under section 87(2) within the period referred to in subsection (3),—

(a) no conditions may be imposed; and

(b) the licensed access provider may commence work.

(5) If work is rendered urgent and necessary by defective equipment, or other emergency, an infrastructure owner or licensed access provider is excused from complying with the requirements of subsection (1) before the commencement of the work, but must give the notice required by that subsection as soon as practicable after the commencement of the work.

Compare: 1992 No 111 s 18

89 Appeals in relation to conditions imposed

(1) An infrastructure owner or licensed access provider has a right to appeal to the District Court against all or any of the conditions imposed under section 87(2).

(2) An appeal must be made by giving notice of an appeal within 40 working days after the date of notification of the conditions imposed.

(3) In its determination of an appeal under this section, the District Court may confirm or modify or cancel all or any of the conditions imposed.

(4) Subject to section 90, the decision of the District Court on an appeal under this section is final.

Compare: 1992 No 111 ss 20, 21

Section 89(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 89(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 89(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

90 Appeals on questions of law

(1) If a party to an appeal under section 89 is dissatisfied with the decision of the District Court as being erroneous in point of law, that party may appeal to the High Court on the question of law only.

(2) The High Court Rules 2016 and sections 126 to 130 of the District Court Act 2016, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 124 of that Act.

(3) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

Compare: 1992 No 111 s 22

Section 90(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 90(2): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 90(3): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

91 No charging for access to road reserve

(1) Despite anything in this Act or in any other enactment, no local authority or other body or person that has jurisdiction over a road may require the payment by, or on behalf of, an infrastructure owner or licensed access provider or rail premises owner of any amount of, or in the nature of, rent in respect of any railway infrastructure or railway premises constructed or placed in, on, along, over, across, or under that road.

(2) Nothing in subsection (1) applies in respect of—

(a) a rate or charge levied under the Local Government (Rating) Act 2002; or

(b) any shops in, on, over, or under any railway premises.

(3) In this section, **road** includes a motorway within the meaning of section 2(1) of the Government Roading Powers Act 1989.

Compare: 1992 No 111 s 23

Section 91(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subpart 4—Offences and certificates

92 Offences

(1) A person who—

(a) fails to comply with section 73 commits an offence and is liable on conviction to a fine not exceeding $10,000:

(b) fails to comply with any of sections 82, 83, 84, 87, or 88 commits an offence and is liable on conviction to a fine not exceeding $100,000.

(2) In addition to a fine imposed under subsection (1), the court may make any order relating to compensation that it thinks fit.

Section 92(1)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 92(1)(b): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

93 Certificates by infrastructure owners or licensed access providers

(1) In the absence of evidence to the contrary, a certificate signed by an infrastructure owner or licensed access provider is sufficient proof of the fact that it certifies, if the certificate is to the effect that specified land is used for the purposes of a railway.

(2) The land to which a certificate relates may be specified in the certificate by words of general or particular description as the infrastructure owner or licensed access provider considers appropriate.

(3) A certificate signed by the infrastructure owner of an existing railway line containing a statement that a specified part of the railway line was constructed, erected, or laid (in whole or in part) before 1 April 1993 under an Act is admissible in evidence in any proceedings and, in the absence of proof to the contrary, constitutes proof of that statement.

Compare: 1992 No 111 s 26

Part 4
Miscellaneous

94 Notices

(1) Except as otherwise specified in this Act or in regulations, if a notice or other document is to be given, served on, or provided to a person under this Act, that notice or document may be—

(a) given to that person personally; or

(b) sent by post to that person at that person's usual or last known place of business or abode; or

(ba) sent to the person's usual or last known electronic address; or

(bb) given by sending an electronic notification to that person that states where they can access the notice electronically (if the person has agreed to that method of electronic notification and access); or

(c) given personally to any other person authorised to act on behalf of that person; or

(d) sent by post to that other person at that other person's usual or last known place of business or abode; or

(e) except in the case of a notice or other document to be given or served in the course of, or for the purpose of, any court proceedings for an offence against this Act or an appeal under this Act, sent by post to that person, or any other person authorised to act on that person's behalf, at that person's or other person's usual or last known place of business or abode.

(1A) In addition to the methods specified in subsection (1), an improvement notice or non-disturbance notice issued under section 72M or 72Q may be issued to a rail participant or rail personnel—

(a) by leaving it for the rail participant or rail personnel at the vehicle, building, or place to which the notice relates with a person who is or appears to be in charge of that vehicle, building, or place; or

(b) by leaving it for the rail participant or rail personnel at their usual or last known place of residence or business with a person who appears to be 16 years of age or over and who appears to reside or work there; or

(c) if the rail participant holds a licence, by delivering the notice to the rail participant's address shown in the register under section 20.

(2) A notice (including an improvement notice or a non-disturbance notice) or other document sent—

(a) by post is, unless the contrary is shown, treated as being given, served, or received 7 days after the date on which it was posted:

(b) to a person's electronic address is, unless the contrary is shown, treated as being given, served, or received at the time the electronic communication containing the notice first enters an information system that is outside the control of the person giving or serving the notice or document:

(c) in the way described in subsection (1)(bb) is, unless the contrary is shown, treated as being given, served, or received at the time the electronic communication containing the notification of the notice is listed as sent in the information system used to send the electronic communication.

(3) For the purposes of subsection (2)(b) and (c), in proving the sending of an electronic communication, it is sufficient to prove that the electronic communication was properly addressed and sent.

Compare: 1989 No 74 s 61

Section 94(1)(b): amended, on 30 November 2022, by section 105(1) of the Statutes Amendment Act 2022 (2022 No 75).

Section 94(1)(ba): inserted, on 19 May 2026, by section 115(1) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 94(1)(bb): inserted, on 19 May 2026, by section 115(1) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 94(1)(d): amended, on 30 November 2022, by section 105(1) of the Statutes Amendment Act 2022 (2022 No 75).

Section 94(1A): inserted, on 19 May 2026, by section 115(2) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 94(2): replaced, on 19 May 2026, by section 115(3) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 94(3): replaced, on 19 May 2026, by section 115(3) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

95 Who may file charging document for offence

A charging document for an offence against this Act may be filed only by the Director or an enforcement officer.

Section 95: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 95: amended, on 1 April 2021, by section 170 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

96 Evidence and proof

In any proceedings for an offence against this Act,—

(a) any licence or other rail document issued under this Act or rules may be proved by the production of a copy of the licence or rail document certified to be correct and signed by a person authorised in that capacity by the Agency or the Director:

(b) evidence of the contents of the register maintained under section 20 may be given by a certificate signed by a person authorised in that capacity by the Agency or the Director, and every certificate is sufficient evidence of the matters stated in it unless the contrary is proved:

(c) the production of a certificate signed by a person authorised in that capacity by the Agency or the Director to the effect that on a specified date a person was or was not the holder of a licence or other rail document is sufficient evidence of the matter certified unless the contrary is proved:

(d) until the contrary is proved, it is presumed that a document purporting to have been certified or a certificate purporting to have been given under this section has been certified or given by a person authorised in that capacity by the Agency or the Director to certify documents or give certificates under this section.

Compare: 1989 No 74 s 63

Section 96(a): amended, on 1 April 2021, by section 171 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 96(b): amended, on 1 April 2021, by section 171 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 96(c): amended, on 1 April 2021, by section 171 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 96(d): amended, on 1 April 2021, by section 171 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

97 Application of fees

All fees and other money (not being fines, infringement fees, or other penalties) received or recovered for the purposes of this Act must be paid or credited to the Agency.

Compare: 1989 No 74 s 65

Section 97: amended, on 1 April 2021, by section 172 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Infringement offences

98 Infringement offences

(1) If a person is alleged to have committed an infringement offence, the person may either—

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) be served with an infringement notice as provided in section 99.

(2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if the enforcement authority commences proceedings for an infringement offence by filing a charging document under the Criminal Procedure Act 2011.

Section 98: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

99 Issue of infringement notice

(1) If an enforcement officer has reasonable cause to believe an infringement offence is being, or has been, committed by a person, an infringement notice in respect of that offence may be issued to that person by that enforcement officer.

(2) An infringement notice may be served—

(a) by delivering it, or a copy of it, personally to that person; or

(b) by sending it, or a copy of it, by post addressed to that person at that person's last known place of residence or business or postal address; or

(ba) by sending it, or a copy of it, to that person's usual or last known electronic address; or

(bb) by sending an electronic notification to that person that states where they can access the notice, or a copy of it, electronically (if the person has agreed to that method of electronic notification and access); or

(c) if that person is a holder of a rail document, by serving it, or a copy of it, by post on that person at that person's last address for service provided with respect to that rail document.

(3) An infringement notice sent—

(a) to a person by post under subsection (2)(b) or (c) is, unless the contrary is shown, treated as having been served on the person 7 days after the date on which it was posted:

(b) to a person's electronic address under subsection (2)(ba) is, unless the contrary is shown, treated as having been served on the person at the time the electronic communication containing the infringement notice first enters an information system that is outside the control of the person serving the notice:

(c) in the way described in subsection (2)(bb) is, unless the contrary is shown, treated as having been served on the person at the time the electronic communication containing the notification of the infringement notice is listed as sent in the information system used to send the electronic communication.

(4) For the purposes of subsection (3)(b) and (c), in proving the sending of an electronic communication, it is sufficient to prove that the electronic communication was properly addressed and sent.

Service of reminder notice

(5) Despite section 24(1)(e) of the Summary Proceedings Act 1957, a reminder notice may be served on a person for the purposes of section 21(2) of that Act by serving the notice in accordance with subsection (2)(ba) or (bb) in addition to the other modes of service set out in section 24(1) of that Act and without otherwise limiting or affecting the operation of section 24 of that Act.

Compare: 1998 No 110 s 139

Section 99(2)(ba): inserted, on 19 May 2026, by section 116(1) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 99(2)(bb): inserted, on 19 May 2026, by section 116(1) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 99(3): replaced, on 19 May 2026, by section 116(2) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 99(4): inserted, on 19 May 2026, by section 116(2) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 99(5) heading: inserted, on 19 May 2026, by section 116(2) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Section 99(5): inserted, on 19 May 2026, by section 116(2) of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

100 Contents of infringement notices and reminder notices

(1) An infringement notice must contain—

(a) details of the alleged infringement offence that are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and

(b) in the case of an infringement offence in respect of which a scale of infringement fees is prescribed having regard to the extent of the alleged offence, the extent of the infringement offence alleged; and

(c) the amount of the infringement fee specified in respect of that offence; and

(d) the address of the place at which the infringement fee may be paid; and

(e) the time within which the infringement fee may be paid; and

(f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and

(g) a statement of the right of the person served with the notice to request a hearing; and

(h) a statement of the consequences if the person served with the notice does not pay the infringement fee and does not make a request for a hearing; and

(i) any other particulars that are prescribed.

(2) A reminder notice must include the same particulars, or substantially the same particulars, as the infringement notice.

(3) If regulations made under this Act prescribe the form of an infringement notice or a reminder notice, the infringement notice or reminder notice must be in that form.

(4) Different forms of infringement notices and reminder notices may be prescribed for different kinds of infringement offences.

Section 100: substituted, on 23 July 2011, by section 5 of the Railways Amendment Act 2011 (2011 No 45).

101 Infringement fees

(1) The infringement fee payable in respect of an infringement offence is the appropriate infringement fee prescribed in respect of that infringement offence under this Act.

(2) If an infringement fee is paid to an enforcement authority other than the Police, the enforcement authority must give the Commissioner of Police the particulars of the payment and the relevant infringement offence as the Commissioner of Police requires.

(3) All infringement fees received under this Act by an enforcement authority, or recovered under the Summary Proceedings Act 1957 in respect of an infringement offence under this Act, must be paid into the Crown Bank Account.

(4) Despite subsection (3), the enforcement authority may retain the portion of the infringement fees so received that the Minister of Finance approves as being the expenses incidental to their collection.

(5) For the purposes of subsection (4), the Minister of Finance may approve the retention of different portions of different infringement fees.

Compare: 1998 No 110 s 141

102 Appointment of enforcement officers

For the purposes of sections 98 to 101, the Director may, by warrant, appoint an employee of the Agency to be an enforcement officer.

Section 102: amended, on 1 April 2021, by section 173 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 102: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Repeals and transitional provisions

103 Repeals, revocations, and consequential amendments

(1) The Railway Safety and Corridor Management Act 1992 is repealed.

(2) The Railway Safety and Corridor Management Act Commencement Order 1996 is revoked.

(3) The Acts specified in Schedule 1 are consequentially amended in the manner specified in that schedule.

(4) The regulations specified in Schedule 2 are consequentially amended in the manner indicated in that schedule.

104 Repeals by Order in Council

(1) The following enactments are hereby repealed:

(a) Part 14 (comprising sections 175 to 183) of the Public Works Act 1981:

(b) sections 44 and 45 of the Public Works Amendment Act 1988, and the heading above section 44 of that Act.

(2) Subsection (1) comes into force on a date to be appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different paragraphs of that subsection into force on different dates.

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1992 No 111 s 28

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 104(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

105 Issue of licences to persons holding rail service licences under Transport Services Licensing Act 1989

(1) This section applies to a person who, immediately before the commencement of this Act,—

(a) is the holder of a rail service licence granted under the Transport Services Licensing Act 1989; and

(b) carries out rail activities as a rail operator or as an access provider.

(2) A person to whom this section applies must,—

(a) not later than 1 month after the commencement of this Act, provide the Agency with a written statement of that person's rail activities, including (but not limited to)—

(i) that person's name; and

(ii) if the person is an access provider, the location, length, and gauge of the track used by that person, and the location and extent of that person's train control activities; and

(b) not later than 11 months after the commencement of this Act, apply for a licence under this Act.

(3) However, if section 109(2) applies, that person must comply with the requirements of subsection (2) no later than 1 month after a licence is granted under section 6 of the Transport Services Licensing Act 1989.

(4) The Agency must issue an interim licence to a person who has provided a written statement specified in subsection (2)(a) not later than 10 working days after receipt of that statement.

(5) The interim licence specified in subsection (4)—

(a) may apply to a rail participant's activities as—

(i) a rail operator; or

(ii) an access provider; or

(iii) both; and

(b) must include the same conditions as the person's rail service licence granted under the Transport Services Licensing Act 1989; and

(c) expires 24 months after the commencement of this Act or when an application for a licence under this Act is granted (whichever is the sooner); and

(d) may be revoked, suspended, or otherwise dealt with under this Act as if it were a licence granted under section 17.

(6) Despite subsection (5)(c), the Agency may extend the expiration date of an interim licence if the Agency considers it appropriate.

(7) If a person has been issued an interim licence under subsection (4), the person's approved safety system under the Transport Services Licensing Act 1989 is deemed to be that person's approved safety case for the purposes of this Act until the expiry of the interim licence under subsection (5)(c).

(8) A rail service licence granted under the Transport Services Licensing Act 1989—

(a) continues in effect for a period of 2 months after the commencement of this Act or until the Agency issues an interim licence under subsection (4) (whichever is the sooner); and

(b) may be revoked, suspended, or otherwise dealt with under this Act as if it were a licence granted under section 17.

Section 105(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 105(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 105(6): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 105(8)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

106 Provisions relating to persons requiring licences who do not hold rail service licences under Transport Services Licensing Act 1989

(1) This section applies to a person who, at the date of commencement of this Act,—

(a) carries out rail activities; and

(b) is required to be licensed under this Act; and

(c) is not the holder of a rail service licence granted under the Transport Services Licensing Act 1989.

(2) A person to whom this section applies must,—

(a) not later than 1 month after the commencement of this Act, provide the Agency with a written statement of that person's rail activities, including (but not limited to)—

(i) that person's name; and

(ii) if the person is an access provider, the location, length, and gauge of the track controlled by that person, and the location and extent of that person's train control activities; and

(iii) any details that may be required by the regulations by which that person was prescribed to be a rail participant; and

(b) not later than 8 months after the commencement of this Act, apply for a licence under this Act.

(3) The Agency must issue an interim licence to a person who has provided the written statement specified in subsection (2)(a) not later than 10 working days after receipt of that statement.

(4) An interim licence issued under subsection (3)—

(a) expires 18 months after the commencement of this Act or when an application for a licence under this Act is granted (whichever is the sooner); and

(b) may be revoked, suspended, or otherwise dealt with under this Act as if it were a licence granted under section 17.

Section 106(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 106(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

107 Safety audits under Transport Services Licensing Act 1989

A safety audit report must be completed as if the relevant provisions of the Transport Services Licensing Act 1989 had not been repealed if, on the date of commencement of this Act, a safety auditor has commenced, but not completed,—

(a) a regular safety audit report under section 39F of the Transport Services Licensing Act 1989; or

(b) a special safety audit under section 39N of the Transport Services Licensing Act 1989.

108 Decisions of Agency under Transport Services Licensing Act 1989

(1) If the Agency made a decision in respect of a rail participant under a provision of the Transport Services Licensing Act 1989 that has been repealed by this Act, that decision continues to have effect as if the provisions under which it was made had not been repealed.

(2) A decision-making process commenced under the provisions of the Transport Services Licensing Act 1989 must continue under that Act if—

(a) the Agency has notified a rail participant of a proposed decision to—

(i) require a variation of an approved safety system under section 6F of the Transport Services Licensing Act 1989; or

(ii) revoke a rail service licence under section 11 of the Transport Services Licensing Act 1989; or

(iii) impose conditions on or suspend a rail service licence under section 39D of the Transport Services Licensing Act 1989; and

(b) the final determination of that decision is still pending at the date of commencement of this Act.

Section 108 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 108(1): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 108(2)(a): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

109 Applications under Transport Services Licensing Act 1989

(1) If a person has made an application for a rail service licence under section 6 of the Transport Services Licensing Act 1989 that is pending at the date of commencement of this Act, that application must be treated as an application under that Act.

(2) A licence granted under section 6 of the Transport Services Licensing Act 1989 in accordance with this provision must, for the purpose of section 105, be treated as a licence that was held immediately before the commencement of this Act.

(3) If subsection (2) applies, despite anything in section 105(2), the person must comply with the requirements of section 105(2) not later than 1 month after a licence is granted under section 6 of the Transport Services Licensing Act 1989.

110 Court proceedings under Transport Services Licensing Act 1989

A proceeding commenced under a provision of the Transport Services Licensing Act 1989 that is pending or in progress immediately before the repeal of that provision by this Act may be continued, completed, or enforced (as the case may require) as if that provision had not been repealed.

111 Application of Transport Services Licensing Act 1989 to licences issued under this Act

(1) The Transport Services Licensing Regulations 1989 apply, with all necessary modifications, to licences issued under this Act, except that—

(a) regulations 4 and 5 must be read as if every reference to a transport service licence issued under the Transport Services Licensing Act 1989 were a reference to a licence to carry out rail activities issued under this Act:

(b) regulation 7A must be read as if the reference to a rail service licence were a reference to a licence to carry out activities as an access provider or rail operator under this Act:

(c) item 2 in column 2 of Schedule 1 must be read as if the reference to a rail service licence were a reference to a licence to carry out rail service activities under this Act:

(d) in Schedule 2, every reference to—

(i) a rail service licence must be read as if it were a reference to a licence to carry out activities as a rail operator under this Act:

(ii) a rail service vehicle or rail service vehicles must be read as if it were a reference to a rail vehicle or rail vehicles, as the case may be.

(2) Regulation 9(l) of the Transport Services Licensing Regulations 1989 has effect as if it were a regulation made under section 59 exempting the rail participant referred to in that regulation from complying with Parts 1 and 2.

(3) This section expires on a date specified by Order in Council.

(4) An order under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 111(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1AA
Transitional, savings, and related provisions

s 5A

Schedule 1AA: inserted, on 1 April 2021, by section 174 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Part 1
Provisions relating to Land Transport (NZTA) Legislation Amendment Act 2020

Schedule 1AA Part 1: inserted, on 1 April 2021, by section 174 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

1 Interpretation

In this Part,—

amendment Act means the Land Transport (NZTA) Legislation Amendment Act 2020

Director function means any function, duty, or power of the Agency under this Act (or any secondary legislation made under this Act) that becomes a function, duty, or power of the Director—

(a) on and from the transfer date; and

(b) by operation of the amendment Act

transfer date means the date determined under section 2(2) of the amendment Act.

Schedule 1AA clause 1: inserted, on 1 April 2021, by section 174 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Schedule 1AA clause 1 **secondary legislation**: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

2 Matters, documents, decisions, etc, not affected by transfer of Director functions

(1) If the Agency commences a matter or process relating to a Director function, but does not complete it before the transfer date, the Director must complete the matter or process after the transfer date in place of the Agency.

(2) Any land transport document, notice, or similar document given by the Agency is deemed to be a document given by the Director if—

(a) it relates to a Director function; and

(b) it is in force immediately before the transfer date.

(3) The transfer of a Director function to the Director does not, of itself, affect—

(a) any decision made, or anything done or omitted to be done, by the Agency in relation to the Director function before the transfer date; or

(b) any other matter or thing arising out of the Agency performing the Director function before the transfer date.

Schedule 1AA clause 2: inserted, on 1 April 2021, by section 174 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

3 Personal information

If the Agency collected personal information when performing a Director function before the transfer date, the Director's use of the information on and from the transfer date is not an interference with the privacy of an individual under section 69 of the Privacy Act 2020.

Schedule 1AA clause 3: inserted, on 1 April 2021, by section 174 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Schedule 1AA clause 3: amended, on 1 April 2021, by section 54 of the Regulatory Systems (Transport) Amendment Act 2021 (2021 No 9).

4 References to Agency in documents

On and from the transfer date, a reference to the Agency in a land transport document, rail document, notice, or similar document written or prepared by or on behalf of the Agency must be read as a reference to the Director if—

(a) the reference relates to a Director function; and

(b) the document was written or prepared before the transfer date; and

(c) such a reading is consistent with this Act.

Schedule 1AA clause 4: inserted, on 1 April 2021, by section 174 of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Schedule 1
Acts consequentially amended

s 103(3)

Electricity Act 1992 (1992 No 122)
Amendment(s) incorporated in the Act(s).

Gas Act 1992 (1992 No 124)
Amendment(s) incorporated in the Act(s).

Hazardous Substances and New Organisms Act 1996 (1996 No 30)
Amendment(s) incorporated in the Act(s).

Land Transport Act 1998 (1998 No 110)
Amendment(s) incorporated in the Act(s).

Land Transport Management Act 2003 (2003 No 118)
Amendment(s) incorporated in the Act(s).

Local Government Act 1974 (1974 No 66)
Amendment(s) incorporated in the Act(s).

Local Government (Rating) Act 2002 (2002 No 6)
Amendment(s) incorporated in the Act(s).

New Zealand Railways Corporation Act 1981 (1981 No 119)
Amendment(s) incorporated in the Act(s).

Privacy Act 1993 (1993 No 28)
Amendment(s) incorporated in the Act(s).

Te Ture Whenua Maori Act 1993 (1993 No 4)
Amendment(s) incorporated in the Act(s).

Transport Accident Investigation Commission Act 1990 (1990 No 99)
Amendment(s) incorporated in the Act(s).

Transport Act 1962 (1962 No 135)
Amendment(s) incorporated in the Act(s).

Transport Services Licensing Act 1989 (1989 No 74)
Amendment(s) incorporated in the Act(s).

Schedule 2
Regulations consequentially amended

s 103(4)

Explosives Regulations 1959 (SR 1959/126)

Amendment(s) incorporated in the regulations.

Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001 (SR 2001/116)

Amendment(s) incorporated in the regulations.

Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)

Amendment(s) incorporated in the regulations.

Land Transport (Road User) Rule 2004 (SR 2004/427)

Amendment(s) incorporated in the rule(s).

Traffic Regulations 1976 (SR 1976/227)

Amendment(s) incorporated in the regulations.

Infrastructure (Amendments Relating to Utilities Access) Act 2010

Public Act	2010 No 99
Date of assent	5 August 2010
Commencement	see section 2

1 Title

This Act is the Infrastructure (Amendments Relating to Utilities Access) Act 2010.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Transitional provision

28 Transitional provision

To avoid doubt, the amendments made by this Act are intended to apply prospectively only and do not apply to or affect any notice given, request made, condition proposed or agreed to, or any other thing done before this Act comes into force.

Notes

1 General

This is a consolidation of the Railways Act 2005 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21): Part 5

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Statutes Amendment Act 2022 (2022 No 75): Part 33

Regulatory Systems (Transport) Amendment Act 2021 (2021 No 9): Part 4

Secondary Legislation Act 2021 (2021 No 7): section 3

Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48): Part 3

Public Service Act 2020 (2020 No 40): section 135

District Court Act 2016 (2016 No 49): section 261

Senior Courts Act 2016 (2016 No 48): section 183(c)

Health and Safety at Work Act 2015 (2015 No 70): section 232

WorkSafe New Zealand Act 2013 (2013 No 94): section 22

Criminal Procedure Act 2011 (2011 No 81): section 413

Infrastructure (Amendments Relating to Utilities Access) Act 2010 (2010 No 99): section 26

Policing Act 2008 (2008 No 72): section 116(a)(vii), (d)

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