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29 MAY 2012

Office Hon. Simon Bridges

BRIEFING

LAND TRANSPORT (INFRINGEMENT AND REMINDER NOTICES) REGULATIONS 2012 AND LAND TRANSPORT AMENDMENT ACT 2011 COMMENCEMENT ORDER 2012

Reason for this briefing	To enable sections 12 to 16 of the Land Transport Amendment Act 2011, and the Land Transport (Infringement and Reminder Notices) Regulations 2012 to be brought into force on 1 August 2012.
Action required	Sign the attached paper to the Cabinet Business Committee requesting that the Committee authorise the submission of the Land Transport (Infringement and Reminder Notices) Regulations 2012 (the Regulations) and the Land Transport Amendment Act 2011 Commencement Order 2012 (the Order) to the Executive Council.
Deadline	The Cabinet Business Committee paper needs to be lodged with the Cabinet Office by 10am on Thursday 31 May 2012.
Reason for Deadline	The Regulations and the Order need to be considered by the Cabinet Business Committee on Tuesday 5 June 2012 in order for them to be submitted to the Executive Council on 11 June 2012. The Regulations and Order then need to be gazetted on 14 June 2012 in order to give sufficient time to issuing agencies to train staff, make technology changes and print notices before the Regulations and Order come into force on 1 August 2012.

Contact for telephone discussion (if required)

Name	Position	Telephone	First Contact
Brooke Martin	Solicitor	[REDACTED]	✓
Judy Voyce	Senior Solicitor	[REDACTED]	

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MINISTER'S COMMENTS:

Date:	29 May 2012	Briefing Number:	OC00699
Attention:	Hon Simon Bridges	Security level:	In-Confidence

Minister of Transport's office actions

- Noted
- Seen
- Approved
- Needs change
- Referred to
- Withdrawn
- Not seen by Minister
- Overtaken by events

Purpose of report

1. This report seeks your agreement to:
 - 1.1 sign the attached paper to the Cabinet Business Committee requesting that the Committee authorise the submission of the Regulations and the Order to the Executive Council
 - 1.2 sign the advice sheets recommending that His Excellency the Governor-General sign the Regulations and the Order
2. A copy of the current draft of the Regulations and the final version of the Order is attached.

Background

3. The Courts and Criminal Matters Bill was an omnibus Bill that provided for the enhancement of the courts' powers and processes for the collection of fines, reparation and other monetary penalties, and civil debts.
4. The Bill was divided into twenty Amendment Bills by the Committee of the Whole House and these Bills were passed in July 2011. One of these Bills became the Land Transport Amendment Act 2011.
5. The Order brings into force sections 12 to 16 of the Land Transport Amendment Act 2011 which deal with powers of parking wardens, information that needs to be provided in statutory declarations, and particulars that need to be set out in traffic infringement and reminder notices.
6. Therefore, new regulations are required to replace the Land Transport (Infringement and Reminder Notices) Regulations 1998 to reflect these changes.

Comment

7. Currently, a person can apply under section 78B of the Summary Proceedings Act 1957 to have proceedings to enforce payment of an infringement fine set aside on the grounds that he or she did not receive the reminder notice for the infringement. This provision is exploited by people who fail to comply with their legal obligation to keep their personal information up to date on the Motor Vehicle Register, therefore almost guaranteeing they will not receive a reminder notice.
8. In 2004, Cabinet agreed that the grounds of appeal under section 78B of the Summary Proceedings Act 1957 should not be available to people who failed to comply with their legal obligations in relation to the Motor Vehicle Register, unless they could prove that they had made reasonable attempts to comply. The Summary Proceedings Amendment Act 2011, another Amendment Act created by the Courts and Criminal Matters Bill, amends the Summary Proceedings Act 1957 to give effect to this decision.

9. Sections 15 and 16 of the Land Transport Amendment Act 2011 amend the Land Transport Act 1998 to ensure people receive full information in infringement notices as, after 1 August 2012, they may not be eligible to challenge an infringement after it has been filed in court on the grounds of non-receipt of the reminder notice. The actual information required to be provided is set down in the Regulations which revoke and replace the Land Transport (Infringement and Reminder Notices) Regulations 1998.

Consultation

10. The Parking Association (representing the parking enforcement functions of local authorities) has recently raised concerns about the cost of the changes the Regulations make to the traffic infringement and reminder notices. Although the Parking Association was consulted at the time the Courts and Criminal Matters Bill was developed and the Parking Association was aware that changes were coming, it is unhappy with the timeframe to make the changes and the cost involved. Because the Regulations alter infringement notices to include more wording, changes will need to be made to the various computer systems that local authorities use, and the Parking Association doubts that this can be done in time to meet the in force date of 1 August 2012.
11. The Parking Association has also indicated that it may raise these concerns with the Minister of Local Government.
12. All of the relevant changes made by Courts and Criminal Matters Bill come into force on 1 August 2012. The traffic infringement and reminder notices are required to support these law changes. In addition, issuing agencies require as much time as possible to prepare for these changes.

Attached Regulations

13. The Regulations attached to this paper are not the final version. Due to time constraints we are still working with the Parliamentary Counsel Office on the specific wording of the Regulations. This will mean that small changes in the wording will be made before it is submitted to the Cabinet Business Committee.

Timing

14. The Regulations and the Order need to come into force on 1 August 2012, to align with the commencement date of the Summary Proceedings Amendment Act 2011 and the Road User Charges Act 2012.
15. The Regulations and the Order need to be considered by the Cabinet Business Committee on 5 June 2012 to ensure that issuing agencies have sufficient time to train staff, print notices and make technology changes before the Order and Regulations come into force on 1 August 2012.

Related paper

16. This paper is related to a paper that will be submitted to the Cabinet Business Committee, on 5 June 2012, by the Minister for Courts titled "*Courts and Criminal Matters Bill: Regulations and Orders*". That paper deals with other commencement orders and amendment regulations arising out of the implementation of the Courts and Criminal Matters Bill. The Summary Proceedings Amendment Act 2011 is one of the Acts brought into force by that paper. It is proposed that the amendment regulations and commencement orders outlined in that paper also come into force on 1 August 2012.

Recommendations

17. The recommendations are that you:

- (a) **sign** the attached paper to the Cabinet Business Committee Yes/No
- (b) **sign** the attached advice sheets Yes/No
- (c) **lodge** the attached paper with the Cabinet Business Committee by 10.00am on Thursday 31 May 2012 Yes/No

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Brooke Martin
Solicitor



David Bowden
Legal Manager

MINISTER'S SIGNATURE:

DATE: 29 May 2012

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