

## MINISTERIAL BRIEFING NOTE

<b>Subject</b>	Motor Vehicle Register Reporting Requirements
<b>Date</b>	1 October 2024
<b>Briefing number</b>	BRI-3176

Contact(s) for telephone discussion (if required)				
Name	Position	Direct line	Cell phone	1 <sup>st</sup> contact
Brent Alderton	Director of Land Transport		s 9(2)(a)	✓

### Action taken by Office of the Minister

- Noted
- Seen by Minister
- Agreed
- Feedback provided
- Forwarded to
- Needs change [please specify]
- Withdrawn
- Overtaken by events

PROACTIVELY RELEASED

1 October 2024

**Hon Simeon Brown – Minister of Transport**

## MOTOR VEHICLE REGISTER REPORTING REQUIREMENTS

### Purpose

1. This briefing provides you with an overview of how NZ Transport Agency Waka Kotahi (NZTA) manages access to the personal information stored in the Motor Vehicle Register (MVR). It further touches on recent changes to the Terms & Conditions associated with this access and the concerns that some industry bodies have raised around the changes.
2. The briefing responds to your request for further information on the issues being raised around MVR reporting requirements and NZTA's view on what the sector is requesting.

### Background and context section

3. The MVR is a significant repository of vehicle information as well as associated personal information about who is legally responsible (the "registered person") for a particular motor vehicle. The "Registrar" for the MVR is the Director of Land Transport.
4. Prior to 2011, access to the MVR was freely available, with the names and addresses of registered persons accessible to anyone who requested it. As a result of privacy concerns, the Land Transport Act 1998 (LTA) was amended to restrict access to the personal information held in the MVR.
5. There are essentially two ways in which MVR information may be accessed: section 236 of the LTA, which provides for 'one off' applications, and section 241. The concerns raised by the industry bodies are in relation to access under section 241 of the LTA.

### **NZTA allows authorised users access to the MVR that contains personal information in line with section 241 of the LTA**

6. Under section 241 of the LTA, parties may, upon application, be given authorised access to MVR information. Typically, this is sought when the party requires access to MVR information on a frequent and ongoing basis. Organisations typically granted access under section 241 include:
  - Fuel suppliers (petrol stations)
  - Financial service providers (Insurers and lenders)
  - Motor vehicle traders
  - Private parking companies / towing companies
  - Debt collection agencies
  - Private service portal providers.
7. Before authorising any person to access information under section 241, the Registrar is required to consult with the Ombudsman, Privacy Commissioner and Police Commissioner. If granted, the authorisation must specify the purposes and conditions upon which it is granted. These authorisations are granted via notices that are published in the New Zealand Gazette. Each

notice outlines the specified purpose for which that user has access, and the conditions that apply to that access can be viewed publicly.

8. There are currently 1,109 companies listed with authorised access under section 241, including the following industry bodies:
  - Financial Services Federation (FSF), including Motor Trade Finance (MTF)
  - Insurance Council of New Zealand (ICNZ)
  - Motor Industry Association (MIA)
  - Motor Trade Association (MTA)
  - National Automotive Industry Technology Association (NAITA)
  - NZ Institute of Private Investigators (NZIPI).
9. Members of an industry body that has made an application on behalf of its members do not need to make a separate application unless they want access for reasons outside of the application made by the industry body.

**NZTA changed access conditions for section 241 authorised users in November 2022 to uphold its responsibilities under the Privacy Act 2020**

10. NZTA's existing digital platform limits the extent to which the Registrar can monitor the access and use of personal information contained in the MVR. As a result, monitoring activities have been mostly detective rather than proactive.
11. In November 2022, the standard Terms and Conditions for access to the MVR were amended to help address this issue in accordance with recommendations from external privacy reviews. NZTA consulted with the Office of the Privacy Commissioner, the NZ Police, and the Ombudsman on the proposed changes.
12. There were five main changes to access conditions:
  - A physical sign or online statement is required that advises people that their personal information can be obtained from the motor vehicle register, what it can be used for and that they can opt-out of having this information available.
  - Authorised businesses / companies must have systems and policies in place to prevent unauthorised access. This includes ensuring that each staff member that will access the personal information must have their own individual log in.
  - Staff training must be undertaken which covers topics including appropriate access, record keeping, and knowledge of the Privacy Act 2020. Refresher training must be completed every 6-12 months.
  - Records must be kept by persons authorised under section 241 for 18 months following the date of each instance of access. It must cover the date of access, vehicle registration plate numbers, the person who accessed the information, and the reason for access (including any supporting evidence).
  - An annual report must be submitted to NZTA which includes training records and evidence of record keeping processes for persons authorised under section 241.

13. These condition changes were critical for breach investigations and to form the basis for future auditing and monitoring programmes – in particular, with a view to upholding NZTA's responsibilities under the Privacy Act 2020 to prevent misuse or disclosure of personal information (Information Privacy Principle 5).

**Industry bodies have requested that NZTA revoke current reporting requirements and replace with alternatives**

14. In their letter to the NZTA Chief Executive on 5 August 2024, five industry bodies (the FSF, ICNZ, MIA, MTA and NAITA) strongly recommended that the Gazette Notices requiring the provision of access data be revoked. Their concern is that the provision of this information is highly resource intensive for them, and that the information sought cannot realistically be analysed by NZTA.
15. The industry bodies suggested the following alternatives:
- A requirement for immediate reporting by any organisation covered by an industry body of any misuse or inappropriate access by any of their staff.
  - Annual attestation from each member of the industry bodies to NZTA that the MVR has only been accessed for legitimate business purposes during the previous year; including providing detail of staff training provided to staff accessing the MVR as to its appropriate use.
16. NZTA's assessment is that these suggestions for self-reporting, on their own, would be insufficient to ensure that it was meeting its obligations under the Privacy Act 2020, though could form a part of a broader set of reporting requirements.
17. Regarding the suggestion that NZTA cannot analyse the information provided, NZTA has successfully carried out sample checks on annual reports that have been received and has, in several cases, identified causes for concern.

**Record keeping and reporting has been difficult for a number of authorised section 241 users and NZTA is working with industry to develop solutions**

18. We are aware that record keeping and reporting has initially proven difficult for a number of authorised section 241 users. First yearly reports were due in October 2023, however, only a small number of reports have been received, with varying levels of quality.
19. NZTA has been working with authorised parties to alleviate the problem on an individual and industry level. Examples of NZTA's engagement so far include:
- provision of a reporting template which sets out the information to be submitted;
  - engagement with portals and representative bodies (including the MTA and FSF) through meetings / workshops to understand more about how they use their access;
  - a review of access authorisations sitting with industry bodies to remove authorisation from members which don't actively use or need it;
  - practical advice and guidance to industry bodies and portals to raise compliance levels.
20. In addition, NZTA has signalled to industry bodies its willingness to explore solutions to these reporting challenges. These include a suggestion from NZTA in June 2024 that annual reporting

might be replaced with a random audit regime, and our response to the five industry bodies on 29 August 2024 seeking to explore a solution.

- 21. It should be noted however that any changes to the gazetted conditions of access would need to be approved by the Privacy Commissioner, the Ombudsman and the Commissioner of Police (in addition to NZTA).

**Next steps**

- 22. As recent privacy incidents involving the MVR and Driver Licence Register confirm, there is a need for NZTA and the Registrar to continue to ensure that personal information contained in its registers is appropriately managed. A number of privacy improvement initiatives have been commenced to strengthen the integrity of our registers and to protect private information.
- 23. As indicated in our letter to the five industry bodies, NZTA remains open to exploring solutions that strike an appropriate balance between the necessary privacy protections in relation to our registers and ease of compliance with reporting obligations for authorised users. We will keep you informed of progress in our discussions with industry bodies.

**It is recommended that you:**

- 1. **Note** that NZTA is continuing to work with industry bodies and their members to develop workable solutions for this matter which strike a balance between protecting private information and reducing compliance costs for section 241 users.
- 2. **Forward** this briefing to the Minister of Regulation, the Hon David Seymour who received a copy of the industry letter sent on 5 August 2024.

**Yes / No**

*Brent Alderton*

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Director of Land Transport

**Hon Simeon Brown, Minister of Transport**

Date: 2024