



ANALYSIS

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1968, No. 39

An Act to establish the Ministry of Transport to provide for the development and administration of an efficient and economical transport policy for New Zealand, and to provide for matters incidental thereto

[25 November 1968]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title**—This Act may be cited as the Ministry of Transport Act 1968.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Council” means the Transport Advisory Council established by this Act:

“Deputy Secretary” means the Deputy Secretary for Transport appointed under this Act:

“Minister” means the Minister of Transport:

“Ministry” means the Ministry of Transport established by this Act:

“Secretary” means the Secretary for Transport appointed under this Act.

Ministry of Transport

3. Ministry of Transport—There is hereby established a Department of State, to be called the Ministry of Transport, which, under the control of the Minister, shall be charged with the administration of this Act and of the enactments specified in the First Schedule to this Act and with such other functions as may be lawfully conferred on it.

4. Functions of Ministry—(1) The Ministry shall have and undertake such functions as are necessary for the due and proper administration of this Act and the other Acts administered by the Ministry and for the development of an efficient and economical transport policy for New Zealand.

(2) Without limiting the general functions specified in subsection (1) of this section, the Ministry shall have the following functions:

- (a) It shall be responsible for advising the Minister on the development of an efficient transport policy for New Zealand:
- (b) It shall undertake research into all aspects of transportation, including the economics of the various forms of transport, whether by road, rail, sea, or air:
- (c) It shall be responsible for advising the Minister on investment in transport, whether by road, rail, sea, or air, with particular reference to priorities for Government or other expenditure:
- (d) It shall maintain close liaison with the New Zealand Government Railways Department, the Marine Department, the New Zealand National Airways Corporation, Air New Zealand Limited, and other Departments of State and public corporations which are concerned with transport.

(3) The Ministry shall be responsible for providing administrative services to the Transport Advisory Council, and such other Boards, Councils, or agencies as may be directed by the Minister.

(4) For the purpose of enabling the Ministry to carry out its functions, the Minister may—

- (a) Give such directions to the Secretary as he thinks fit in connection with the administration of this Act or any other Act administered by the Ministry:
- (b) Exercise such powers as are conferred on him by this Act or any other enactment:
- (c) Exercise such other powers as are reasonably necessary for the effective performance of the functions of the Ministry.

5. Secretary for Transport—There shall from time to time be appointed under the State Services Act 1962 a Secretary for Transport, who shall be the administrative head of the Ministry.

6. Deputy Secretary for Transport—(1) There shall from time to time be appointed under the State Services Act 1962 a Deputy Secretary for Transport who, subject to the control of the Secretary, shall have and may exercise all of the powers, duties, and functions of the Secretary.

(2) On the occurrence from any cause of a vacancy in the office of Secretary (whether by reason of death, resignation, or otherwise), and in the case of absence from duty of the Secretary (from whatever cause arising), and so long as any such vacancy or absence continues, the Deputy Secretary shall have and may exercise all the powers, duties, and functions of the Secretary.

7. Appointment of Divisional Directors and other officers and employees—(1) There shall from time to time be appointed under the State Services Act 1962 a Director of the Civil Aviation Division of the Ministry, a Director of the Road Transport Division of the Ministry, and such other officers and employees of the Ministry as may be necessary for the efficient administration of this Act and of the other Acts administered by the Ministry.

(2) Subject to sections 16, 18, and 20 of the Civil Aviation Act 1964, all officers and employees of the Ministry shall act under the direction of the Secretary in the exercise and performance of the powers, duties, and functions conferred or

imposed on them by this Act or any other enactment, and shall have all such powers, duties, and functions as may be conferred upon them by that enactment or may be delegated or assigned to them by the Secretary.

8. Delegation of powers by Minister—(1) The Minister may from time to time, either generally or particularly, delegate to the Secretary all or any of the powers which are conferred on him as Minister of Transport by any enactment, including powers delegated to him under any enactment, but not including the power to delegate under this section or the power to consent to a delegation under section 9 of this Act.

(2) Subject to any general or special directions given or conditions attached by the Minister, the Secretary may exercise any powers delegated to him as aforesaid in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Unless and until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister.

(4) In the event of the Secretary to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Secretary or, if there is no Secretary in office or if the Secretary is absent from duty, to the Deputy Secretary in office, or, if there is no Deputy Secretary in office or the Deputy Secretary is absent from duty, to the person for the time being directed under the State Services Act 1962 to act in the place of the Secretary.

(5) Where the Secretary or any other person purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(6) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

9. Delegation of powers by Secretary—(1) The Secretary may from time to time, either generally or particularly, delegate to such officer or officers or employee or employees of the Ministry as he thinks fit all or any of the powers exercisable by him under any enactment, including any powers

delegated to him under any enactment but not including this present power of delegation:

Provided that the Secretary shall not delegate any powers delegated to him by the Minister without the written consent of the Minister, or any power delegated to him under the State Services Act 1962 without the written consent of the State Services Commission.

(2) Subject to any general or special directions given or conditions attached by the Secretary, the officer or employee to whom any powers are delegated under this section may exercise these powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specified officer or employee or to officers or employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) Any delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Secretary.

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Secretary by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Secretary.

Transport Advisory Council

10. Transport Advisory Council—(1) There is hereby established a Council, to be called the Transport Advisory Council.

(2) The Council shall consist of—

(a) The Minister of Transport, who shall be Chairman of the Council:

(b) The Minister of Marine, who shall be Deputy Chairman of the Council:

(c) The Secretary for Transport:

(d) One member, to represent the National Roads Board:

(e) One member, to represent the road transport industry:

(f) One member, to represent the aviation industry:

(g) One member, to represent the shipping industry:

(h) One member, to represent the Transport Commission:

- (i) One member, to represent the farming industry:
- (j) One member, to represent commerce and industry other than farming:
- (k) One member, to represent the New Zealand Federation of Labour:
- (l) One member, to represent local government:
- (m) One officer of the New Zealand Government Railways Department, to be nominated by the General Manager of that Department:
- (n) One officer of the Treasury, to be nominated by the Secretary to the Treasury.

(3) The Commissioner of Works and the Secretary for Marine shall each from time to time appoint an officer of his Department to be an associate member of the Council. The associate members shall be entitled to attend all meetings of the Council and take part in the discussion of any matters before the Council, but shall not be entitled to vote. Each associate member shall hold office at the pleasure of the Commissioner of Works or the Secretary for Marine, as the case may be.

(4) The following provisions shall apply with respect to every member of the Council under paragraphs (d) to (n) of subsection (2) of this section, namely:

- (a) He shall be appointed by the Governor-General on the recommendation of the Minister:
- (b) He shall hold office for a term of three years, but may from time to time be reappointed, and may at any time be removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct, and may at any time resign his office by writing addressed to the Minister:
- (c) If he dies, is removed from office, or resigns, the vacancy so created may be filled in the manner in which the appointment to the vacant office was originally made. Every person appointed to fill the vacancy shall be appointed for the residue of the term for which his predecessor was appointed:
- (d) Unless he sooner vacates his office as provided in paragraph (b) of this subsection, he shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

(5) The Governor-General may, on the recommendation of the Minister, appoint any person to be the deputy of any member of the Council, other than an associate member,

to act, pursuant to the terms of his appointment, in the event of the absence from any meeting of the Council of the member whose deputy he is.

(6) The fact that any person appointed as the deputy of any member of the Council attends and acts at any meeting thereof shall be conclusive evidence of his authority so to do.

(7) Eight members (excluding any associate member) shall form a quorum at any meeting of the Council.

(8) The procedure of the Council shall be prescribed by regulations made under this Act, and, until so prescribed or so far as any such regulations do not extend, shall be as determined by the Council.

11. Functions of Council—The Council shall examine and inquire into all matters referred to it from time to time by the Minister or any other matter relating to transport that may be brought before the Council by any member or associate member of the Council, and shall report direct to the Minister on such matters.

12. Subcommittees of Council—(1) The Council may from time to time appoint a civil aviation subcommittee, a road transport subcommittee, and such other subcommittees as it thinks fit.

(2) It shall not be necessary that any person appointed as a member of a subcommittee under this section shall be a member of the Council.

(3) Every subcommittee shall investigate and report to the Council upon such matters as are from time to time referred to it by the Council.

(4) The Council may at any time, and from time to time, discharge or reconstitute any subcommittee or discharge any member of a subcommittee, and, if it thinks fit, appoint another member in his stead.

(5) Every subcommittee shall determine its own procedure.

13. Remuneration and travelling expenses—(1) The Council and every subcommittee of the Council are hereby declared to be statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There shall be paid to the members of the Council, or of any subcommittee of the Council, out of money appropriated by Parliament, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act

1951, and the provisions of that Act shall apply accordingly.

(3) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason of his being a member of the Council or of any subcommittee of the Council.

General Provisions

14. Director of Civil Aviation Division—The powers, duties, functions, and discretions of the Director of Operations and Technical Services under the Civil Aviation Act 1964 shall after the commencement of this Act be exercised and performed by the Director of the Civil Aviation Division of the Ministry.

15. Regulations—The Governor-General may from time to time, by Order in Council, make regulations providing for such matters as are contemplated by or necessary for giving full effect to this Act and for the due administration thereof.

16. Consequential amendments—(1) The enactments specified in the Second Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(2) All references to the Commissioner of Transport or to the Commissioner in the provisions of the Transport Act 1962 specified in the Third Schedule to this Act shall after the commencement of this Act be read as references to the Secretary for Transport.

(3) Unless the context otherwise requires, every reference in any enactment not specified in the second column of the Second Schedule or in the Third Schedule to this Act, or in any regulation, rule, order, agreement, deed, instrument, application, notice, licence, or other document whatsoever in force at the commencement of this Act,—

(a) To the Minister of Civil Aviation shall, after the commencement of this Act, be read as a reference to the Minister of Transport:

(b) To the Transport Department or the Department of Civil Aviation shall, after the commencement of this Act, be read as a reference to the Ministry of Transport:

(c) To the Commissioner of Transport or the Secretary for Civil Aviation shall, after the commencement of this Act, be read as a reference to the Secretary for Transport:

- (d) To the Director of Operations and Technical Services appointed under the Civil Aviation Act 1964 shall, after the commencement of this Act, be read as a reference to the Director of the Civil Aviation Division of the Ministry of Transport.

17. Repeals—The enactments specified in the Fourth Schedule to this Act are hereby repealed.

SCHEDULES

Section 3

FIRST SCHEDULE

ACTS ADMINISTERED BY MINISTRY OF TRANSPORT

- 1940, No. 15—The Carriage by Air Act 1940.
1945, No. 28—The New Zealand National Airways Act 1945.
1947, No. 17—The International Air Services Licensing Act 1947.
1951, No. 25—The Air Services Licensing Act 1951.
1962, No. 19—The Carriage by Air Act 1962.
1962, No. 135—The Transport Act 1962.
1964, No. 68—The Civil Aviation Act 1964.
1966, No. 51—The Airport Authorities Act 1966.
1967, No. 151—The Carriage by Air Act 1967.
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SECOND SCHEDULE

Section 16 (1)

ENACTMENTS AMENDED

Enactment	Amendment
1945, No. 28—The New Zealand National Airways Act 1945 (1957 Reprint, Vol. 11, p. 228)	By repealing the definition of the term "Minister" in section 2 (as substituted by section 2 of the New Zealand National Airways Amendment Act 1957), and substituting the following definition: "Minister" means the Minister of Transport:."
1947, No. 17—The International Air Services Licensing Act 1947 (1957 Reprint, Vol. 6, p. 655)	By repealing the definition of the term "Minister" in section 2 (as substituted by section 2 (2) of the International Air Services Licensing Amendment Act 1951), and substituting the following definition: "Minister" means the Minister of Transport:." By repealing the definition of the term "Secretary" in section 2 (as inserted by section 2 (4) of the International Air Services Licensing Amendment Act 1965), and substituting the following definition: "Secretary" means the Secretary for Transport:."
1951, No. 25—The Air Services Licensing Act 1951 (Reprinted 1967, Vol. 3, p. 1613)	By omitting from subsection (2) of section 24A (as inserted by section 7 (1) of the International Air Services Licensing Amendment Act 1965) the words "Minister of Civil Aviation", and substituting the words "Minister of Transport". By repealing the definition of the term "Minister" in section 2, and substituting the following definition: "Minister" means the Minister of Transport:." By omitting from sections 16, 24, 26A (as inserted by section 5 of the Air Services Licensing Amendment Act 1958), 27 (as substituted by section 6 of that Act), 41, 45, 47, and 48 (all of which sections were amended by section 32 (2) of the Civil Aviation Act 1964) the words "Secretary for Civil Aviation" wherever they occur, and substituting in each case the words "Secretary for Transport". By omitting from section 28 (2) (as amended by section 32 (3) of the Civil Aviation Act 1964) the words "Director of Operations and Technical Services", and substituting the words "Director of the Civil Aviation Division of the Ministry of Transport".

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1951, No. 25—The Air Services Licensing Act 1951 (Reprinted 1967, Vol. 3, p. 1613)— <i>continued</i>	By repealing paragraph (c) of section 40 (2) (as substituted by section 2 of the Air Services Licensing Amendment Act 1952), and substituting the following paragraph: “(c) The Minister of Transport:”.
1962, No. 10—The Parliamentary Commissioner (Ombudsman) Act 1962	By omitting from Part I of the Schedule (as amended by section 33 (3) of the Civil Aviation Act 1964) the words “The Department of Civil Aviation”. By omitting from the same Part the words “The Transport Department”. By inserting in the same Part (as amended by section 26 (1) of the Defence Act 1964), after the words “Ministry of Defence”, the words “Ministry of Transport”.
1962, No. 132—The State Services Act 1962	By omitting from the Second Schedule (as amended by section 33 (1) of the Civil Aviation Act 1964) the words “Department of Civil Aviation”. By omitting from the Second Schedule the words “Transport Department”, and substituting the words “Ministry of Transport”. By omitting from the Third Schedule (as amended by section 33 (2) of the Civil Aviation Act 1964) the references to the Department of Civil Aviation, the Transport Department, and the officers of those Departments referred to in that Schedule. By inserting in the Third Schedule, after the reference to the Tourist and Publicity Department, the words— “Transport Secretary. Deputy Secretary. Director, Civil Aviation Division. Director, Road Transport Division.”

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
<p>1962, No. 135—The Transport Act 1962 (Reprinted 1967, Vol. 3, p. 2309)</p>	<p>By repealing the definition of the term “Department” in section 2 (1), and substituting the following definition: “‘Department’ means the Ministry of Transport established by the Ministry of Transport Act 1968:”.</p> <p>By repealing the definition of the term “Commissioner” in section 2 (1).</p> <p>By inserting in section 2 (1), after the definition of the term “sale” (as inserted by section 2 of the Transport Amendment Act 1964), the following definition: “‘Secretary’ means the Secretary for Transport appointed under the Ministry of Transport Act 1968; and includes any officer of the Department for the time being authorised by the Secretary, pursuant to a delegation under that Act, to exercise or perform any of the powers, duties, or functions of the Secretary:”.</p> <p>By omitting from the definition of the term “traffic officer” in section 2 (1) the word “Transport”.</p> <p>By omitting from section 75 (1) (as substituted by section 6 of the Transport Amendment Act 1965) the word “Transport”.</p>
<p>1964, No. 68—The Civil Aviation Act 1964</p>	<p>By repealing the definitions of the terms “Department”, “Director of Operations”, “Minister”, and “Secretary” in section 2, and substituting the following definitions: “‘Department’ means the Ministry of Transport established under the Ministry of Transport Act 1968: “‘Director of the Civil Aviation Division’ means the Director of the Civil Aviation Division of the Department appointed under the Ministry of Transport Act 1968: “‘Minister’ means the Minister of Transport: “‘Secretary’ means the Secretary for Transport appointed under the Ministry of Transport Act 1968:”.</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
<p>1964, No. 68—The Civil Aviation Act 1964 —<i>continued</i></p>	<p>By inserting in section 5 (1), after the word “Department”, the words “under this Act”.</p> <p>By inserting in section 5 (2), after the words “its functions”, the words “under this Act”.</p> <p>By inserting in section 15 (1), after the word “Department”, the words “under this Act”.</p> <p>By repealing section 16 (1), and substituting the following subsection: “(1) The Director of the Civil Aviation Division shall have such special duties and functions as may be imposed or conferred on him by regulations under this Act or by the Minister.”</p> <p>By omitting from section 16 (2) the words “Director of Operations”, and substituting the words “Director of the Civil Aviation Division”.</p> <p>By omitting from section 17 the words “Director of Operations” wherever they occur, and substituting in each case the words “Director of the Civil Aviation Division”.</p> <p>By omitting from section 29 (4) the words “Director of Operations”, and substituting the words “Director of the Civil Aviation Division”.</p> <p>By omitting from section 32 (1) the words “Minister of Civil Aviation”, and substituting the words “Minister of Transport”.</p> <p>By omitting from section 32 (2) the words “Department of Civil Aviation or to the Secretary for Civil Aviation”, and substituting the words “Ministry of Transport or to the Secretary for Transport”.</p> <p>By omitting from section 32 (3) the words “Director of Operations and Technical Services”, and substituting the words “Director of the Civil Aviation Division”.</p> <p>By omitting from section 32 (4) the words “Secretary for Civil Aviation”, and substituting the words “Secretary for Transport”.</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1966, No. 51—The Airport Authorities Act 1966	<p>By repealing the definition of the term “Minister” in section 2, and substituting the following definition: “Minister” means the Minister of Transport.”</p> <p>By omitting from section 6 (7) the words “Department of Civil Aviation”, and substituting the words “Ministry of Transport”.</p>

THIRD SCHEDULE

Section 16 (2)

PROVISIONS OF TRANSPORT ACT 1962 WHERE REFERENCES TO COMMISSIONER OF TRANSPORT OR COMMISSIONER TO BE READ AS REFERENCES TO SECRETARY FOR TRANSPORT

SECTIONS 2 (2), 26, 26A, 28, 28A, 28B, 29, 34, 43, 49, 50 (5), 51A, 51B, 51E to 51H, 63, 68A, 70, 71A, 75, 77, 113, 115, 116, 133, 136, 142 to 153, 155, 162, 166, 167, 169 to 174, 177 to 183, 185A, 188A, 191A, 197, 199, clause 7 of Part I of the First Schedule, and clause 3 of the Second Schedule.

FOURTH SCHEDULE

Section 17

ENACTMENTS REPEALED

- 1951, No. 26—The International Air Services Licensing Amendment Act 1951: Subsection (2) of section 2. (1957 Reprint, Vol. 6, p. 665.)
- 1957, No. 97—The New Zealand National Airways Amendment Act 1957: Section 2. (1957 Reprint, Vol. 11, p. 241.)
- 1962, No. 135—The Transport Act 1962: Sections 3 and 4. (Reprinted 1967, Vol. 3, p. 2323.)
- 1964, No. 68—The Civil Aviation Act 1964: Sections 3, 4, 6 to 10, and 33.
- 1965, No. 119—The International Air Services Licensing Amendment Act 1965: Subsection (4) of section 2.

This Act is administered in the Ministry of Transport.