

New Zealand.



ANALYSIS.

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1926, No. 67.

AN ACT to regulate Motor-omnibus Traffic.

Title.

[11th September, 1926.]

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

Short Title.

1. This Act may be cited as the Motor-omnibus Traffic Act, 1926.

Interpretation.

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

“District” means a motor-omnibus district constituted under this Act:

“Inspecting Engineer” means an engineer appointed or nominated by the Minister to inspect motor-omnibuses for the purposes of this Act:

“Local authority” means a local authority within the meaning of the Tramways Act, 1908:

“Minister” means the Minister of Public Works:

“Motor-omnibus” means a vehicle propelled by mechanical power, and designed solely or principally for the carriage of persons exceeding seven in number, inclusive of the driver;

but does not include a vehicle running on rails, or a vehicle which, though not running on rails, derives motive power from an overhead wire :

“Motor-omnibus service” means the carriage by motor-omnibus of passengers for hire at fares, however computed, not exceeding for each person the sum of two shillings for any journey counted one way only :

“Owner” includes a person for the time being entitled to the use of a motor-omnibus pursuant to an agreement to hire, whether with or without an agreement to purchase :

“Public authority” includes any person having the delegated powers of a local authority for constructing a tramway under the Tramways Act, 1908.

Motor-omnibus Districts.

3. (1.) For the purposes of this Act the several areas defined in the Schedule hereto are hereby constituted special districts, to be known as motor-omnibus districts. Constitution of motor-omnibus districts.

(2.) Each district, the boundaries of which are defined in the second column of the said Schedule, shall be known by the number set opposite thereto in the first column of that Schedule.

(3.) The Governor-General may at any time, by Order in Council, abolish any district hereby constituted, and may from time to time in like manner constitute new districts or alter the boundaries of any district.

(4.) Every new district hereafter constituted as aforesaid shall have attached thereto such distinctive name or number as the Governor-General in the constituting Order in Council may determine.

4. (1.) For every motor-omnibus district there shall be a licensing authority to be appointed in that behalf by the Minister by notice published in the *Gazette*. Licensing authorities.

(2.) The licensing authority shall in every case be the Council or Board of a borough, county, or town district situated in whole or in part within the boundaries of the motor-omnibus district.

(3.) The appointment of a local authority as the licensing authority of any motor-omnibus district may be at any time revoked by the Minister by notice in the *Gazette*.

Motor-omnibus Licenses.

5. (1.) It shall not be lawful, after the first day of November, nineteen hundred and twenty-six, for any person to carry on within a motor-omnibus district any motor-omnibus service otherwise than pursuant to the authority and in conformity with the terms of a license granted by a licensing authority under this Act. Motor-omnibus services to be carried on only pursuant to license issued under this Act.

(2.) Every person who, contrary to the provisions of this section, carries on any motor-omnibus service commits an offence, and is liable to a fine of one hundred pounds, and to a further fine of ten pounds for every day on which such offence is committed.

(3.) If any company carries on any motor-omnibus service contrary to the provisions of this section, every director or other person acting in the management of the business shall, in addition to any penalty to which the company may be liable, be liable to a fine of ten pounds for every day on which such service is so carried on.

Conditions as to
grant of licenses

6. (1.) Application for authority to establish a motor-omnibus service or for a license to use any motor-omnibus in connection with a motor-omnibus service shall be made in the prescribed form to the licensing authority.

(2.) In determining whether or not any such application should be granted the licensing authority shall take into consideration any existing or proposed facilities for the transport of passengers within the area proposed to be served, the condition of the roads or streets proposed to be traversed and the normal traffic thereon, and all other relevant considerations.

(3.) No license shall be granted in respect of any motor-omnibus unless the licensing authority is satisfied on the report of an Inspecting Engineer that the vehicle conforms to the requirements of any regulations for the time being in force as to the design and construction of motor-omnibuses, and is in a fit condition, all proper regard being had to the safety and comfort of passengers, to be licensed as a motor-omnibus.

Notice of
application for
license, and
rights of appeal.

7. Before disposing of any application under the last preceding section the licensing authority shall give public notice thereof in one or more newspapers, and shall give to every other local authority in the motor-omnibus district and to every public authority or person engaged in carrying on a tramway or motor-omnibus service in that district an opportunity to be heard; and every such local or public authority or person shall have a right of appeal under section sixteen hereof from the determination of the licensing authority.

Term of license.

8. (1.) Every license issued pursuant to this Act in respect of a motor-omnibus, on or before the thirty-first day of May in any year, shall, unless sooner revoked or surrendered, continue in force until the thirty-first day of May in the next succeeding year, and shall then expire.

(2.) Every license issued as aforesaid after the thirty-first day of May in any year shall, unless sooner revoked or surrendered, continue in force until the next succeeding thirty-first day of May, and shall then expire.

(3.) Notwithstanding anything in the foregoing provisions of this section, a licensee, having made application for the renewal of his license in respect of any motor-omnibus before the thirty-first day of May in any year, may for a period of one month thereafter continue to use such motor-omnibus in accordance with the terms of the license unless the licensing authority, by notice in writing served on the licensee or his agent, has expressly prohibited the further use of the motor-vehicle pending its determination with respect to the application for renewal.

(4.) Application for the renewal of a license may be made at any time not earlier than one month before the date fixed for the expiry of the license, and a renewal of the license may be granted in advance, to take effect as from the date of such expiry.

(5.) The renewal of a license shall be for a period of twelve months ending on the thirty-first day of May in any year.

(6.) Notwithstanding anything in the foregoing provisions, the licensing authority may revoke the license issued in respect of any motor-omnibus at any time during the currency of the license if from a state of disrepair or other cause its continued use would be a source of danger to the passengers.

9. A license granted to any person under this Act in respect of any motor-omnibus shall not be transferred by the licensee except with the consent of the licensing authority endorsed on the license.

Conditions as to transfer of licenses.

10. (1.) With respect to every motor-omnibus service authorized to be carried on pursuant to this Act the licensing authority shall prescribe the routes to be traversed, the time-tables to be observed, the fares to be charged, and such other conditions and matters as may be prescribed by regulations under this Act, or as the licensing authority thinks proper.

Licensing authority to fix routes, fares, and time-tables.

(2.) For the purpose of fixing the fares as aforesaid in respect of any route the licensing authority may divide the route into two or more sections, and in any case where a motor-omnibus service is provided for an area that may conveniently be served in whole or in part by an existing tramway or motor-omnibus service, carried on by any local or public authority, it shall be the duty of the licensing authority so to fix the fares that the fares charged in respect of the carriage of an adult passenger by the motor-omnibus over any route or section thereof (however such fares may be computed) shall be at least twopence more than the corresponding fare charged in respect of the existing service.

(3.) The obligation to fix an additional charge under this section shall not apply in respect of the fare to be fixed for passengers whose journey begins or ends at a point not less than a quarter of a mile beyond the terminus of any existing tramway or other service, or in respect of a motor-omnibus service carried on by any local or public authority.

Drivers' Licenses.

11. (1.) No person shall, after the first day of November, nineteen hundred and twenty-six, drive a motor-omnibus unless he is the holder of a motor-omnibus driver's license issued by the licensing authority in accordance with regulations under this Act.

Special licenses for motor-omnibus drivers

(2.) A motor-omnibus driver's license shall not be granted to any person who is under the age of twenty-one years, or who is over sixty years of age.

(3.) Every application for the grant or renewal of a motor-omnibus driver's license shall be accompanied by a certificate in the prescribed form, signed by a registered medical practitioner approved for the purpose by the licensing authority, to the effect that he has on the date of the certificate personally examined the applicant, knowing him to be an applicant for the grant or renewal of a motor-omnibus driver's license, and that in his opinion, having all proper regard to the safety of passengers and of the public generally, the applicant is a fit and proper person to be employed as the driver of a motor-omnibus.

12. (1.) Every license to drive a motor-omnibus issued under this Act on or before the thirty-first day of May in any year shall, unless sooner cancelled, continue in force until the thirty-first day of May in the next succeeding year, and shall then expire.

Term of drivers licenses.

(2.) Every such license issued after the thirty-first day of May in any year shall, unless sooner cancelled, continue in force until the next succeeding thirty-first day of May, and shall then expire.

(3.) Application for the renewal of a motor-omnibus driver's license may be made at any time within one month prior to the date fixed

for the expiry of the license, and a renewal of the license may be granted in advance to take effect as from the date of such expiry.

(4.) The renewal of a motor-omnibus driver's license shall be for a period of twelve months ending on the thirty-first day of May in any year.

(5.) Notwithstanding anything in the foregoing provisions, the licensing authority may cancel any motor-omnibus driver's license at any time during the currency thereof if for any reason it is satisfied that, having regard to the safety of the passengers, the licensee has ceased to be a proper person to be the holder of a motor-omnibus driver's license.

Insurance.

Owner of motor-omnibus to maintain insurance against liability arising from accidents.

13. (1.) The owner of a motor-omnibus licensed under this Act shall not use the same for the carriage of passengers unless and until he has obtained and deposited with the licensing authority a policy or policies of insurance indemnifying him, to such extent as may be prescribed by regulations under this Act, against liability for compensation or damages in respect of the death of any person or of injury to any person or property arising out of any accident affecting that motor-omnibus. Any policy of insurance effected under this section may relate particularly to one or more specified motor-omnibuses the property of the owner, or may indemnify the owner generally against liability in respect of accidents that may occur in the course of the motor-omnibus service.

(2.) The licensee shall at all times during the continuance of his license keep in force a policy or policies of insurance as required by this section, and on the renewal of any such policy shall deposit the renewal receipt with the licensing authority.

(3.) Every such policy as aforesaid shall be effected with an insurance company carrying on business in New Zealand and approved by the Minister for the purposes of this Act, and shall contain only such provisions as may be approved by the Governor-General in Council.

(4.) For the purposes of this section the Government Accident Insurance Office shall be deemed to be a company carrying on business in New Zealand.

(5.) If any person uses any motor-omnibus without having complied with the requirements of this section as to insurance, he shall be liable to the same penalties as if he had carried on a motor-omnibus service without a license.

(6.) Nothing in this section shall apply with respect to any motor-omnibus service carried on by a local authority.

Accidents.

Notice of accidents to be given to Minister.

14. (1.) The owner of every motor-omnibus shall, within forty-eight hours after the occurrence in connection therewith of any accident attended by serious personal injury to any person, or by serious damage to the property of any person, give notice thereof by telegraph to the Minister.

(2.) Every such notice shall be transmitted free of charge by the telegraph-office.

Acquisition by Local Authorities of Existing Undertakings.

15. (1.) Any person who on the seventh day of May, nineteen hundred and twenty-six (being the date of the coming into force of the Motor-omnibus Regulations, 1926), was engaged in carrying on within a district hereby constituted a motor-omnibus service in substantial competition with any tramway service or motor-omnibus service carried on by any local or public authority may, at any time before the first day of January, nineteen hundred and twenty-seven, by notice served on that local or public authority, require the local or public authority to purchase all motor-omnibuses and other property used by him exclusively for the purposes of the service, at a price to be agreed on between the parties, or, in the event of their being unable to agree, at a price to be fixed by a Compensation Court under the Public Works Act, 1908, in the same manner, as nearly as may be, as the amount of compensation is ascertained in claims for compensation under that Act. Nothing in this subsection shall apply to any person who before the passing of this Act has ceased to carry on business as aforesaid unless such person has ceased to carry on business by reason of the coming into force of the regulations previously referred to.

Owner of existing undertaking carried on in competition with public tramway or other service may require local authority to purchase same.

(2.) In any proceedings before a Compensation Court under this section the person engaged in carrying on a motor-omnibus service shall be the claimant, and the local or public authority shall be the respondent :

Provided that any person other than the claimant as aforesaid who has any interest in any motor-omnibus or other property the subject-matter of the claim may be joined as a claimant, and in giving any notice under the last preceding subsection it shall be the duty of the claimant to disclose every such interest and the names of the persons entitled thereto.

(3.) Where any claim under this section does not exceed the sum of two thousand pounds, a Stipendiary Magistrate may, with the consent of the parties, be appointed by the Governor-General as President of the Court.

(4.) In any proceedings before a Compensation Court under this section the Court shall, if so required by either of the parties, determine as a matter of fact whether or not the motor service connected with the undertaking to which the proceedings relate is or was carried on in substantial competition with any other service.

(5.) In computing the price to be paid under this section in respect of any undertaking, whether such price is arrived at by agreement between the parties or is fixed by a Compensation Court, no amount shall be allowed in respect of goodwill, but the price shall be the fair value (as for the purposes of a motor-omnibus service) of the motor-omnibuses and other property used exclusively for the purposes of the undertaking as at the date of acquisition by the local or public authority.

(6.) Any local or public authority required to purchase any undertaking under this section may pay for the same out of its General Fund or Account, or (in the case of a local authority within the meaning of the Local Bodies' Loans Act, 1913) may, by special order, and without taking the steps prescribed by sections eight to twelve of that Act

or the corresponding provisions of any Act passed in substitution therefor, borrow such amount as may be required for the purpose.

(7.) If at any time after the passing of this Act the licensing authority refuses to renew any license granted in respect of any motor-omnibus on the ground that such omnibus if licensed would be used in competition with a tramway or other service established or proposed to be established by a local or public authority, the owner of the motor-omnibus shall have the right, at any time within three months after the date of the refusal of his application for a renewal of his license, to require such last-mentioned local or public authority to purchase his interest in the undertaking, and in any such case the foregoing provisions of this section as to the computation and payment of the price shall apply.

Transport Appeal Boards.

Constitution of
Transport Appeal
Board, and rights
of appeal.

16. (1.) There shall for each district under this Act be a Transport Appeal Board of five members, to be appointed by the Governor-General as follows:—

- (a.) Two members to be appointed to represent the Government, of whom one shall be appointed as the Chairman:
- (b.) One member to be appointed to represent all those local authorities and public bodies (including persons having the delegated powers of a local authority under the Tramways Act, 1908) which have established any motor-omnibus service or tramway service for the conveyance of passengers within the district:
- (c.) One member to be appointed to represent those local authorities in the district that are not represented under the last preceding paragraph:
- (d.) One member to be appointed to represent private owners of motor-omnibuses engaged in the conduct of any motor-omnibus service within the district.

(2.) There shall be a right of appeal in the prescribed form, and within the prescribed time, to the Transport Appeal Board of the district from any determination of the licensing authority with respect to the issue, renewal, cancellation, or revocation of any license under this Act; and also from any terms or conditions attached to any such license, or attached to the authority to establish a motor-omnibus service, except so far as such terms and conditions have been imposed in conformity with the express requirements of this Act, or of any regulation thereunder.

(3.) The determination of the Transport Appeal Board in any such appeal shall be final, and in cases where the appeal is allowed it shall be the duty of the licensing authority to give effect to the determination of the Board.

Requisition for Establishment of Transport Service.

Special provisions
applicable in cases
where transport
provision has not
been made with
respect to any area.

17. (1.) On a petition signed by not less than fifty adult residents in any area within a tramway district, and presented to any local or public authority which has established a tramway service within that district, praying for the establishment of a motor-omnibus service for the conveyance of passengers within the said area to or from the tramway, the local or public authority shall either undertake to establish a service

in satisfaction of the petition, or shall refer the petition through the licensing authority to the Transport Appeal Board for inquiry and recommendation.

(2.) If in the opinion of the Transport Appeal Board a motor-omnibus service should be established, it shall be the duty of the local authority or public authority, as the case may be, to establish and maintain a service in accordance with the recommendations of the Board.

(3.) For the purposes of this section the term "tramway district" means the district of a local authority which has established a tramway service or which has delegated the powers conferred on it by an authorizing order under the Tramways Act, 1908, to construct a tramway.

Regulations.

18. The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following matters, namely:— Regulations.

- (a.) Prescribing forms of application for authority to establish a motor-omnibus service, and for the issue of licenses under this Act :
- (b.) Prescribing forms of licenses under this Act, and the conditions to be inserted therein :
- (c.) Prescribing conditions subject to which a duplicate of any license may be issued in cases where the license has been lost or destroyed :
- (d.) Prescribing the grounds upon which any license may be cancelled or revoked :
- (e.) Prescribing any matters deemed necessary in respect of the constitution or proceedings of a Compensation Court for the purposes of this Act :
- (f.) Prescribing matters in relation to the design, construction, and condition of motor-omnibuses used or proposed to be used in connection with a motor-omnibus service :
- (g.) Prescribing any matters that may be considered necessary in relation to the amounts of insurance or otherwise in relation to policies of insurance to be taken out for the purposes of this Act :
- (h.) Prescribing whatever may be necessary in respect of the constitution and procedure of Transport Appeal Boards under this Act :
- (i.) Prescribing fines, not exceeding ten pounds in any case, for the breach of any regulation under this Act, or for failure to comply with any conditions of a license granted under this Act :
- (j.) Prescribing fees to be paid to licensing authorities in respect of the exercise of functions under this Act, and also fees to be paid in respect of the inspection of motor-omnibuses for the purposes of this Act :
- (k.) Prescribing all such other matters as may be necessary or expedient for the purpose of giving full effect to this Act.

Schedule.

SCHEDULE.

MOTOR-OMNIBUS DISTRICTS.

Number of District.	Description of District.
No. 1 ..	All that portion of the North Island situated between the northern boundary of the Waitemata County and the southern boundary of the Franklin County, except the Borough of Takapuna.
No. 2 ..	The Borough of Takapuna.
No. 3 ..	All that area comprising the Borough of Gisborne, the Cook County, and all town districts within the boundaries of or adjoining the said county.
No. 4 ..	The Borough of Hamilton.
No. 5 ..	All that area comprising the boroughs of New Plymouth, Waitara, and Inglewood, the counties of Taranaki and Inglewood, and all town districts within the boundaries of or adjoining the said counties.
No. 6 ..	All that area comprising the City of Wanganui, the counties of Waitotara and Wanganui, and all town districts within the boundaries of or adjoining the said counties.
No. 7 ..	All that area comprising the Borough of Palmerston North, the County of Kairanga, and the Borough of Feilding.
No. 8 ..	The boroughs of Napier and Hastings, the Hawke's Bay County, and all town districts within the boundaries of or adjoining the said county.
No. 9 ..	All that area comprising the City of Wellington, the boroughs of Eastbourne, Petone, Lower Hutt, and Upper Hutt, the counties of Makara and Hutt, and all town districts within the boundaries of or adjoining the said counties.
No. 10 ..	All that portion of the South Island bounded towards the south by the southern boundary of the Selwyn County, towards the west by the eastern boundary of the Westland County, towards the north by the southern boundary of the Waipara County, and towards the east by the sea-coast.
No. 11 ..	The boroughs of Timaru and Temuka, the Levels County, and the Pleasant Point Town District.
No. 12 ..	All that area comprising the City of Dunedin, the boroughs of St. Kilda, West Harbour, Port Chalmers, Green Island, Mosgiel, and Waikouaiti, the counties of Taieri, Peninsula, and Waikouaiti, and all town districts within the boundaries of or adjoining the said counties.
No. 13 ..	All that area comprising the boroughs of Invercargill, South Invercargill, Bluff, Winton, Mataura, and Gore, the Southland County, and all town districts within the boundaries of or adjoining the said county.