



ANALYSIS

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1953, No. 24

Title.

AN ACT to amend the Transport Act 1949.

[17 September 1953

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 Transport Amendment Act 1953, and shall be read together with and deemed part of the Transport Act 1949 (hereinafter referred to as the principal Act).

1949, No. 7

2. Section fifteen of the principal Act is hereby amended by adding to paragraph (b) of subsection one the following proviso:

“ Provided that, where any person is charged with an offence against this paragraph alleged to have been committed during the first seven days of any licensing year, it shall be a good defence if the defendant satisfies the Court that at the time of the alleged offence registration plates for the motor vehicle and a licence to use the motor vehicle for the immediately preceding licensing year were affixed to the motor vehicle in the prescribed manner and that before that time an application for a licence to use the motor vehicle for the current licensing year together with the prescribed form of nomination of an insurance company for the purposes of Part V of this Act and the appropriate fees and insurance premiums had been forwarded to a Deputy Registrar of Motor Vehicles.”

Extending time for affixing registration plates and annual licences to motor vehicles in certain cases.

3. (1) Section thirty of the principal Act is hereby amended as follows:

(a) By inserting in subsection one, after the words “ five shillings ”, the words “ for each licensing year for which the licence is issued ”:

(b) By inserting in subsection three, after the words “ it takes effect ”, the words “ or, at the option of the licensee, the end of the first or second or third or fourth licensing year after the licensing year in which the licence takes effect ”.

Drivers' licences may be issued having a currency of up to five years.

(2) Section thirty of the principal Act is hereby further amended by adding to subsection three the following proviso:

“ Provided that nothing in this subsection shall be deemed to authorize the issue of a licence to any person having effect in any licensing year after the year in which it was issued, if pursuant to regulations under this Act an application by that person for a licence for that year would require to be accompanied by a medical certificate:

“ Provided also that, where during the currency of a licence the holder is granted an extension thereof authorizing him to drive any motor vehicle other than a motor vehicle of the kind specified in the licence and the application for that extension is pursuant to regulations under this Act required to be accompanied by a

medical certificate, the licence shall, unless it is sooner cancelled, expire at the end of the licensing year in which the extension was granted.”

Disqualification of persons convicted of reckless driving, etc.

4. Section thirty-one of the principal Act is hereby amended by inserting, after subsection one, the following subsection:

“(1A) Upon the conviction of any person for an offence against section forty of this Act (not being an offence to which section forty-one of this Act applies), or against any regulations under this Act to which this subsection is made to apply by the Governor-General by Order in Council (being regulations that relate to the duties of the defendant as the driver in his safe control of the movements of a motor vehicle at corners, bends, turnings, intersections, or rises, or in passing or overtaking other vehicles), then, unless the Court in its discretion thinks fit to order otherwise, and without prejudice to the power of the Court to order a longer period of suspension or disqualification, the Court shall make an order under subsection one of this section—

“(a) Suspending his motor driver’s licence (if any) for a period of twenty-eight days from the date of the conviction; or

“(b) If at the date of the conviction the remaining term of the defendant’s licence is less than twenty-eight days, cancelling the licence and disqualifying him from obtaining any motor driver’s licence or any specified class of motor driver’s licence for a period of twenty-eight days from the date of the conviction; or

“(c) If the person convicted does not hold a motor driver’s licence, declaring him to be disqualified from obtaining any motor driver’s licence or any specified class of motor driver’s licence for a period of twenty-eight days from the date of the conviction.”

Calculation of period of suspension or disqualification where appeal made to Supreme Court.

5. Section thirty-one of the principal Act is hereby further amended by inserting, after subsection four, the following subsection:

“(4A) Where pursuant to subsection four of this section the operation of any order of suspension or disqualification is deferred, the period between the date

on which the operation of the order is so deferred and the date of the determination of the appeal shall not, subject to any directions to the contrary that the Supreme Court may give on the appeal, count as part of the term of suspension or disqualification; and the term of suspension or disqualification shall, subject to any directions that may be given by the Supreme Court as aforesaid, be deemed to be resumed or to begin to run, as the case may be, as from the date of the determination of the appeal."

6. (1) Section thirty-nine of the principal Act (as enacted by section seventeen of the Transport Amendment Act 1950) is hereby amended by omitting from subsection two the words "while in a state of intoxication", and substituting the words "while under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle".

Amending provisions as to offences committed while under the influence of drink.
1950, No. 51

(2) Section forty-one of the principal Act is hereby amended by omitting from subsection one the words "while in a state of intoxication", and substituting the words "while under the influence of drink or a drug to such an extent as to be incapable of having proper control of a motor vehicle".

(3) Section forty-two of the principal Act is hereby amended by omitting the words "while in a state of intoxication", and substituting the words "while under the influence of drink or a drug to such an extent as to be incapable of having proper control of a motor vehicle".

(4) Section forty-four of the principal Act is hereby amended by omitting the words "while in a state of intoxication", and substituting the words "while under the influence of drink or a drug to such an extent as to be incapable of having proper control of a motor vehicle".

7. Section forty of the principal Act is hereby amended by omitting the words "while in a state of intoxication is in charge of a motor vehicle on any road", and substituting the words "while under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, drives or attempts to drive any motor vehicle on any road".

Penalties for reckless or negligent driving or driving while under the influence of drink.

Penalty for being in charge of a motor vehicle while under the influence of drink.

8. (1) The principal Act is hereby amended by inserting, after section forty, the following new section:

“ 40A. Every person commits an offence against this Act who, while under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, is in charge of a motor vehicle on any road, but not so as to be liable for conviction for an offence under section thirty-nine or section forty of this Act.”

(2) Section forty-four of the principal Act is hereby amended by inserting, after the words “ section forty ”, the words “ or section forty A ”.

Suspension or disqualification of drivers where drink a contributing factor in traffic offence.

9. The principal Act is hereby further amended by inserting, after section forty-one, the following new section:

“ 41A. (1) Where—

“(a) The driver of a motor vehicle is charged with two offences alleged to have been committed at the same time, one being an offence under section thirty-nine or section forty of this Act alleged to have been committed while under the influence of drink or a drug to such an extent as to render him incapable of having proper control of the vehicle and the other being any other offence against this Act or any regulations under this Act and relating to the defendant’s duties as a driver in the safe control of the motor vehicle; and

“(b) The defendant is acquitted of the first mentioned offence but is convicted of the other offence; and

“(c) The Court is satisfied that, although the evidence was insufficient to prove that at the time of the commission of that other offence the defendant was under the influence of drink or a drug to such an extent as to be incapable of having proper control of the motor vehicle, the taking of drink or a drug by the defendant contributed towards the commission of the offence,—

then, unless the Court in its discretion thinks fit to order otherwise, and without prejudice to the power of the Court to order a longer period of suspension or

disqualification, the Court shall make an order under section thirty-one of this Act in accordance with the provisions of subsection two of this section, notwithstanding that the offence may be a first or second offence consisting solely of exceeding any limit of speed and notwithstanding anything in subsection two of section forty-six of this Act.

“(2) In every such case as aforesaid the Court shall make an order—

“(a) Suspending the defendant’s motor driver’s licence (if any) for a period of three months from the date of the conviction; or

“(b) If at the date of the conviction the remaining term of the defendant’s licence is less than three months, cancelling the licence and disqualifying him from obtaining any motor driver’s licence or any specified class of motor driver’s licence for a period of three months from the date of the conviction; or

“(c) If the person convicted does not hold a motor driver’s licence, declaring him to be disqualified from obtaining any motor driver’s licence or any specified class of motor driver’s licence for a period of three months from the date of the conviction.”

10. The principal Act is hereby further amended by inserting, after section forty-four, the following new section:

“44A. (1) Where any constable or Traffic Officer is of opinion that any person who is for the time being in charge of any motor vehicle is, by reason of physical or mental condition, however arising, incapable of having proper control of the motor vehicle, he may—

“(a) Forbid that person to drive the motor vehicle:

“(b) Require that person to deliver up forthwith all ignition or other keys of the motor vehicle in his possession:

“(c) Take such steps as may be necessary to render the motor vehicle immobile or to remove it to a place of safety.

“(2) Every person commits an offence against this Act who fails to comply with any direction given to him under subsection one of this section or does any act that is for the time being forbidden under that subsection:

Constable or
Traffic Officer
may forbid
incapable
person to
drive, etc.

“ Provided that no person shall be deemed to have committed an offence under this section unless the Court is satisfied that the constable or Traffic Officer had reasonable grounds for believing that in all the circumstances of the case the direction or prohibition was necessary in the interests of the defendant or of any other person or of the public.”

Compulsory stopping of certain vehicles at railway crossings.

11. The principal Act is hereby further amended by inserting, after section forty-six, the following new section:

“ 46A. (1) The driver of any motor vehicle that is for the time being used for—

“(a) The carriage of passengers for hire or reward (whether with or without goods); or

“(b) The carriage of explosives; or

“(c) The carriage of inflammable liquid in bulk or in containers any of which has a capacity of forty gallons or more or, where the greater part of the load consists of inflammable liquid, in smaller containers—

on any road that crosses a railway line on the level shall, before crossing the line, stop clear of it for such time as may be necessary to make adequate observations to ascertain whether or not the line is clear.

“(2) In this section—

“ ‘ Explosives ’ has the same meaning as in the Explosive and Dangerous Goods Act 1908:

“ ‘ Inflammable liquid ’ includes motor spirits; and also includes any other liquid the container or outer package of which is required pursuant to regulations made under the Explosive and Dangerous Goods Act 1908 to be labelled with a label indicating that the liquid is highly inflammable:

“ ‘ Railway line ’ means a Government railway line, whether open for traffic or not, or a railway line to which the District Railways Act 1908 or the Local Railways Act 1914 applies; but does not include a tramway to which the Tramways Act 1908 applies.

“(3) Nothing in this section shall derogate from the provisions of section sixty-four of the Government Railways Act 1949.”

See Reprint of Statutes, Vol. III, p. 176

Ibid., Vol. VII, p. 899

Ibid., p. 935

Ibid., Vol. VIII, p. 754

1949, No. 40

12. (1) Section forty-seven of the principal Act is hereby amended by adding to subsection three the following proviso:

“ Provided that any such offence may be dealt with by a Magistrate under and subject to the Summary Jurisdiction Act 1952 as if it were an offence in respect of which a Magistrate has summary jurisdiction under that Act.”

Amending provisions as to duties of motor drivers in cases of accidents.
1952, No. 41

(2) Section forty-seven of the principal Act is hereby further amended by adding the following subsection:

“(6) In this section the term ‘injury’ includes death; and ‘injured’ has a corresponding meaning.”

13. The principal Act is hereby amended by inserting after section fifty-eight, the following section:

“**58A.** (1) Any person duly authorized in that behalf by a local authority may take possession of and remove any motor vehicle which is on any road in the district of the local authority, if it appears to that person that the motor vehicle has been abandoned by the owner and either—

Removal of abandoned vehicles from roads.

“(a) That it is unregistered; or

“(b) That no licence to use the vehicle has been issued for the current licensing year.

“(2) If any motor vehicle so removed is not claimed and the expenses of removal and storage thereof paid by the owner or some other person having an interest therein within two months after the date of the removal, the local authority may give fourteen days’ notice by advertisement in some newspaper circulating in the district of its intention to sell the vehicle, and at any time thereafter the vehicle may be sold and disposed of to any person, and that person shall thereupon become the lawful owner of the vehicle.

“(3) The proceeds of any such sale shall be applied in payment of the costs and charges attending the sale, including the advertisement aforesaid, and of the expenses of the removal and storage of the motor vehicle, and the residue, if any, shall be payable to the former owner of the vehicle.”

14. (1) Subsection six of section sixty-two of the principal Act is hereby amended as follows:

(a) By omitting the words “in the month following the close of the period in respect of which it is made, or may be made within four months

Amending provisions as to refunds of duty on motor spirits.

following the close of any such period", and substituting the words "within three months following the close of the period in respect of which it is made":

(b) By omitting the words "one month", and substituting the words "two months".

(2) This section shall come into force on the first day of January, nineteen hundred and fifty-four.

15. (1) Section sixty-six of the principal Act is hereby amended as follows:

(a) By omitting from subsection three the word "month" wherever it appears, and substituting in each case the word "quarter":

(b) By omitting from subsection four the word "seven" wherever it appears, and substituting in each case the word "twenty-one".

(2) This section shall come into force on the first day of January, nineteen hundred and fifty-four.

16. Section sixty-nine of the principal Act is hereby amended by inserting, after subsection two, the following subsection:

"(2A) Where the owner or any person on his behalf has nominated an insurance company with which the contract of insurance is to be made and the Deputy Registrar is satisfied that by reason of the nomination form being incomplete or otherwise defective the name of the insurance company intended cannot be ascertained, then, for the purposes of this Part of this Act, if the motor vehicle had previously been licensed under this Act, and the company with which the contract of insurance was last made is still undertaking insurance business in terms of this Part of this Act, he shall be deemed to have duly nominated that company, but otherwise he shall be deemed to have duly nominated the State Fire Insurance Office."

Mileage tax to be paid quarterly instead of monthly.

Faulty third party insurance nominations.