

REPEALED: See Act, 1957 No. .



ANALYSIS

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1958, No. 34

An Act to amend the Transport Act 1949

[25 September 1958

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 Transport Amendment Act 1958, and shall be read together with and deemed part of the Transport Act 1949 (hereinafter referred to as the principal Act).

2. Customs duties on motor spirits—(1) The principal Act is hereby amended by repealing section sixty (as substituted by section eight of the Transport Amendment Act (No. 2) 1953), and substituting the following section:

“60. (1) Of the money received under item numbered 394 (7) of the Customs Tariff (being the First Schedule to the Customs Acts Amendment Act 1934 as from time to time amended) as Customs duties on motor spirits imported into New Zealand, or entered therein for home consumption, after the commencement of this section the following amount shall

be deemed to be received as a tax in respect of the use of motor vehicles (hereinafter referred to as motor-spirits tax)—namely, one shilling and threepence three farthings per gallon.

“(2) Subject to the provisions of subsection four of section twenty-two of the National Roads Act 1953, all money received as motor-spirits tax, after deducting a proportionate amount of any refunds or drawbacks of duty made under the Customs Act 1913, shall be paid into the Public Account to the credit of the National Roads Fund.

“(3) All refunds or drawbacks of Customs duties in respect of motor spirits made under the Customs Act 1913 shall be apportioned rateably between the amount of those duties payable into the Consolidated Fund and the amount thereof deemed by this section to be received as motor-spirits tax in the proportion that each such amount bears to the total of those amounts.”

(2) Section eight of the Transport Amendment Act (No. 2) 1953 is hereby repealed.

(3) This section shall be deemed to have come into force on the twenty-seventh day of June, nineteen hundred and fifty-eight.

3. Additional refund of Customs duties on motor spirits—

(1) The principal Act is hereby further amended by inserting, after section sixty-two, the following section:

“62A. (1) Subject to the provisions of sections sixty-three and sixty-three A of this Act, this section applies with respect to all motor spirits purchased by the consumer after the commencement of this section and used—

“(a) Otherwise than as fuel for—

“(i) Any motor vehicle (not being an agricultural tractor or a passenger-service motor vehicle) for which an annual licence fee is payable under section twenty of this Act; or

“(ii) Any motor vehicle that may be used with dealers' plates pursuant to subsection six of section twenty-eight of this Act; or

“(iii) Any ship as defined in section two of the Customs Act 1913, not being a vessel engaged exclusively in the fishing industry for commercial purposes; or

“(b) For any other purpose from time to time specified by the Governor-General, by Order in Council.

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“(2) Persons using any motor spirits with respect to which this section applies shall, on application in the prescribed form to a Deputy Registrar, be entitled, in addition to any refund to which they are entitled under section sixty-two of this Act, to a refund of one shilling a gallon in respect of the Customs duties thereon, or, in the case of motor spirits manufactured in New Zealand, in respect of any duty imposed thereon pursuant to section eleven of the Customs Acts Amendment Act 1931.

“(3) All refunds under this section shall be paid out of the Consolidated Fund without further appropriation than this section.

“(4) The provisions of subsections four to nine of section sixty-two of this Act shall apply with respect to every refund under this section as if it were a refund under the said section sixty-two.

“(5) In this section the term ‘passenger-service motor vehicle’ means a motor vehicle designed principally or exclusively for carrying passengers and used exclusively in one or more of the following ways:

“(a) Under a passenger-service licence issued under Part VI of this Act:

“(b) As a contract vehicle:

“(c) For the carriage to or from school of school children and their teachers;—

but does not include a taxicab or a motor vehicle let for hire or reward (otherwise than under a hire-purchase agreement) to a person who himself drives the motor vehicle or provides a driver therefor.”

(2) Section sixty-two of the principal Act is hereby amended by omitting from subsection one the words “the next succeeding section”, and substituting the words “sections sixty-three and sixty-three A of this Act”.

(3) Section sixty-three of the principal Act is hereby amended by omitting the words “the last preceding section”, and substituting the words “section sixty-two or section sixty-two A of this Act”.

(4) Notwithstanding anything in subsection six of section sixty-two of the principal Act, applications for refunds under section sixty-two A of this Act (as enacted by subsection one of this section) in respect of motor spirits used during the quarter that ended with the thirtieth day of June, nineteen hundred and fifty-eight, may be made at any time within the period of one month after the date of the passing of this Act,

and the periods of two months and three months referred to in the said subsection six shall, in relation to any application for any such refund, each run from the date of the passing of this Act.

(5) This section shall be deemed to have come into force on the twenty-seventh day of June, nineteen hundred and fifty-eight.

4. Refund of duty payable only in respect of specially coloured motor spirits—(1) The principal Act is hereby amended by inserting, after section sixty-three, the following section:

“63A. (1) No person shall be entitled to any refund of duty under section sixty-two or section sixty-two A of this Act in respect of motor spirits purchased by him after the commencement of this section, except in respect of—

“(a) Motor spirits used in aircraft; or

“(b) Motor spirits used as a solvent; or

“(c) Motor spirits to which a prescribed colouring substance has been added in the prescribed manner before the motor spirits were delivered to the purchaser; or

“(d) Any other description of motor spirits from time to time prescribed by the Governor-General, by Order in Council.

“(2) Without limiting the general power to make regulations conferred by section one hundred and sixty-seven of this Act, regulations may be made under that section—

“(a) Prescribing the method of colouring motor spirits for the purposes of this section:

“(b) Prescribing forms of certificates to be completed by persons selling motor spirits to which any colouring substance has been added for the purposes of this section.

“(3) Any constable in uniform or any Traffic Officer wearing a distinctive cap with a badge of authority affixed thereto shall be entitled to inspect and take samples from any part of the fuel system of any motor vehicle on any road for the purpose of ascertaining whether the fuel system contains any motor spirits to which any of the prescribed colouring substance has been added, and for that purpose the person for the time being in charge of the motor vehicle shall, at the request of any such constable or Traffic Officer, make any specified part of the fuel system available to the

constable or Traffic Officer and supply to the constable or Traffic Officer a sample of the contents of the fuel system of the motor vehicle.

“(4) Every person commits an offence, and is liable on summary conviction to a fine not exceeding one hundred pounds, who—

“(a) Signs any certificate that any specified quantity of motor spirits has been coloured in the prescribed manner knowing the same to be false in any material particular; or

“(b) Being in charge of a motor vehicle on any road, refuses or fails to comply with any request of a constable or Traffic Officer made under subsection three of this section; or

“(c) Operates a licensed motor vehicle (including a motor vehicle used with dealers’ plates pursuant to subsection six of section twenty-eight of this Act) the fuel system of which contains any motor spirits to which any of the prescribed colouring substance has at any time been added:

“Provided that it shall be a good defence in proceedings for an offence against this paragraph if the defendant satisfies the Court that he had no knowledge that the fuel system of the motor vehicle contained any such motor spirits:

“Provided also that nothing in this paragraph shall apply with respect to the use of any such motor spirits as fuel for any motor vehicle exempt from the payment of annual licence fees under section twenty-one of this Act, or for any agricultural tractor, or for any passenger-service motor vehicle as defined in section sixty-two A of this Act, or for any other motor vehicle in any case where, pursuant to an Order in Council made under paragraph (b) of subsection one of section sixty-two A of this Act, the use of the motor spirits as fuel for that vehicle entitles the user to a refund of duty under that section.

“(5) In any proceedings for an offence against paragraph (c) of subsection four of this section—

“(a) Every person shall be deemed to have operated a motor vehicle who uses or drives or rides the motor vehicle, or causes or permits it to be used or driven or ridden, or permits it to be on any road, whether the person operating is present in person or not:

“(b) Proof that any part of the fuel system of a motor vehicle contained motor spirits of the same or substantially the same colour as motor spirits to which the prescribed colouring substance has been added shall, in the absence of proof to the contrary, be sufficient evidence that the fuel system contained motor spirits to which the prescribed colouring substance had been added:

“(c) A certificate purporting to be signed by an officer of the Dominion Laboratory stating that any specified motor spirits submitted to him for analysis contained any of the prescribed colouring substance shall, in the absence of proof to the contrary, be sufficient evidence that those motor spirits were motor spirits to which the prescribed colouring substance had been added.

“(6) Where any person is convicted of an offence against this section, the Court, in addition to any penalty imposed in respect of that offence, may make an order disqualifying the defendant from obtaining a refund of duty under section sixty-two or section sixty-two A of this Act in respect of motor spirits purchased by him during such period as the Court specifies.

“(7) Any person who is by virtue of an order of a Magistrate’s Court under subsection six of this section disqualified from obtaining a refund of duty may appeal against the order to the Supreme Court, and in any such case the provisions of Part IV of the Summary Proceedings Act 1957 shall, with the necessary modifications, apply.”

(2) This section shall come into force on a date to be appointed for the commencement thereof by the Governor-General, by Order in Council.

5. Amending provisions as to payment of milage tax into National Roads Fund—(1) Section sixty-six of the principal Act is hereby amended by repealing subsection six (as substituted by section ten of the Transport Amendment Act (No. 2) 1953), and substituting the following subsection:

“(6) Subject to the provisions of subsection four of section twenty-two of the National Roads Act 1953, all money paid or recovered under the foregoing provisions of this section shall be paid into the Public Account, and shall be credited—

“(a) In the case of money paid or recovered in respect of any period before the twenty-seventh day of June, nineteen hundred and fifty-eight, to the National Roads Fund:

“(b) In the case of money paid or recovered in respect of any period after the twenty-sixth day of June, nineteen hundred and fifty-eight,—

“(i) As to so much thereof as represents an increase, pursuant to paragraph (b) of clause five of the Second Schedule to this Act, in the rates of milage tax set out in clause one or clause two of that Schedule, to the Consolidated Fund:

“(ii) As to the balance thereof, to the National Roads Fund.”

(2) Section ten of the Transport Amendment Act (No. 2) 1953 is hereby consequentially repealed.

(3) This section shall be deemed to have come into force on the twenty-seventh day of June, nineteen hundred and fifty-eight.

6. Milage tax on vehicles carrying dealers' plates—Section sixty-six of the principal Act is hereby further amended as from the commencement of that Act by inserting in paragraph (a) of subsection one, after the words “under this Act”, the words “(including a motor vehicle lawfully used on any road under the authority of subsection six of section twenty-eight of this Act)”.

7. Amending provisions as to fixing of charges by Commissioner—(1) Section one hundred and twenty-five of the principal Act (as substituted by section six of the Transport Amendment Act 1950) is hereby amended as follows:

(a) By repealing subsections five and six:

(b) By omitting from subsection seven the words “Subject to the provisions of the last two preceding subsections”.

(2) This section shall be deemed to have come into force on the twenty-seventh day of June, nineteen hundred and fifty-eight.
