



ANALYSIS

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1968, No. 148

An Act to amend the Transport Act 1962

[18 December 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 and commencement—(1) This Act may be cited as the Transport Amendment Act 1968, and shall be read together with and deemed part of the Transport Act 1962 (hereinafter referred to as the principal Act).

(2) Sections 4, 5, 7 to 10, 22, 23, and 27 of this Act shall come into force on the first day of April, nineteen hundred and sixty-nine.

(3) Sections 13, 14, 21, and 29 of this Act shall come into force on such date or dates as are fixed by the Governor-General, by Order in Council.

(4) Except as provided in subsections (2) and (3) of this section, this Act shall come into force on the first day of January, nineteen hundred and sixty-nine.

2. Invalid carriages—Section 2 of the principal Act is hereby amended by inserting in the definition of the term “invalid carriage” in subsection (1), after the words “disability and”, the words “except when being used for the purposes of servicing or repair”.

3. Pedestrian-controlled machines—(1) Section 2 of the principal Act is hereby further amended by inserting in subsection (1), after the definition of the term “passenger-service vehicle”, the following definition:

“‘Pedestrian-controlled machine’ means a vehicle (not designed for the carriage of persons or goods) controlled by a pedestrian and designed exclusively to perform some mechanical operation by means of machinery either forming an integral part of, or permanently attached to, the vehicle:”.

(2) Section 2 of the principal Act is hereby further amended by repealing paragraphs (f) and (g) (as added by section 3 (2) of the Transport Amendment Act (No. 2) 1965) of the definition of the term “motor-vehicle” in subsection (1), and substituting the following paragraph:

“(f) A pedestrian-controlled machine:”.

(3) Section 3 of the Transport Amendment Act (No. 2) 1965 is hereby consequentially amended by repealing subsection (2).

4. Meaning of “use”—Section 2 of the principal Act is hereby further amended by omitting from the definition of the term “use” in subsection (1) the words “and ‘to use’ has a corresponding meaning”, and substituting the words “and ‘to use’ and ‘user’ have corresponding meanings”.

5. Meaning of “gross weight” and “weight”—(1) Section 2 of the principal Act is hereby further amended by inserting in subsection (1), after the definition of the expression “goods-service vehicle”, the following definition:

“‘Gross weight’, in relation to any vehicle or combination of vehicles, means the weight of the vehicle or of the vehicles comprising the combination, together with the load that the vehicle or, as the case may be, the vehicles are for the time being carrying, including any equipment and accessories:”.

(2) Section 2 of the principal Act is hereby further amended by repealing the definition of the term “weight” in subsection (1) (as substituted by section 2 of the Transport Amendment Act 1966), and substituting the following definition:

“‘Weight’, in relation to a wheel, an axle, a group of axles, or a vehicle, means the weight, or, as the case may be, the sum of the weights, recorded on a weighing device of a type approved for the purpose by the Minister by notice in the *Gazette* and used in a manner prescribed by the Minister, by notice in the *Gazette*:”.

(3) Section 2 of the principal Act is hereby further amended by inserting, after subsection (3A) (as inserted by section 3 of the Transport Amendment Act 1966), the following subsections:

“(3B) For the purposes of this Act and of any regulations under this Act, where the longitudinal centre line of any axle of a motor vehicle is less than three feet four inches distant from the longitudinal centre line of another axle, the two axles shall be deemed to be one (in this subsection referred to as a dual axle). For the purposes of measuring the distance of any dual axle from any other axle, the measurement shall be taken from the longitudinal centre line of that one of the two axles comprising the dual axle which is nearer to the axle from which the distance is to be measured.

“(3C) For the purposes of this Act and of any regulations under this Act, and without limiting the methods by which the gross weight of a vehicle may be determined, the gross weight of a vehicle may be determined by adding the weights on its axles or groups of axles.”

(4) Section 69 of the principal Act is hereby amended by repealing subsection (2).

(5) Section 2 of the Transport Amendment Act 1966 is hereby consequentially repealed.

6. Change of ownership—(1) Section 18 of the principal Act is hereby amended by adding to subsection (7) the words “The person selling or otherwise disposing of the motor vehicle shall be primarily liable for the payment of that fee.”

(2) Section 18 of the principal Act is hereby further amended by repealing subsection (10).

7. Endorsement of drivers' licences on partial exemption from disqualification—(1) Section 35B of the principal Act (as inserted by section 9 of the Transport Amendment Act 1966) is hereby amended by repealing subsections (2) and (3) (as added by section 3 (2) of the Transport Amendment Act (No. 2) 1967), and substituting the following subsections:

“(2) Where a licence is required to be endorsed pursuant to this section, then—

“(a) Notwithstanding anything in section 50 of this Act, particulars of any order made under this section may be endorsed on the licence by the Registrar or a Deputy Registrar of the Court by which the order was made; and

“(b) Notwithstanding anything in section 41 of this Act, the licence so endorsed shall be returned to the holder of the licence, unless he is a person to whom subsection (2) of section 37 of this Act applies, in which case the Registrar shall forward the licence to the local authority by which the licence was issued or, in the case of a licence issued by the Secretary, to the Secretary.

“(3) Notwithstanding anything in section 50 of this Act, where a licence is required to be endorsed pursuant to this section, then, unless the licence has been returned to the holder under subsection (2) of this section,—

“(a) In the case of a licence issued by a local authority, the Registrar of the Court, when notifying the

local authority of particulars of the order of the Court, may authorise the local authority to endorse those particulars on the licence, and the local authority shall endorse those particulars on the licence accordingly, and, notwithstanding anything in section 41 of this Act, shall return the licence to the holder:

“(b) In the case of a licence issued by the Secretary, he shall endorse those particulars on the licence, and, notwithstanding anything in section 41 of this Act, shall return the licence to the holder:

“Provided that where the holder is a person to whom subsection (2) of section 37 of this Act applies, the local authority or the Secretary, as the case may be, shall not return the licence to him until he has passed the tests prescribed by that section.”

(2) Section 3 of the Transport Amendment Act (No. 2) 1967 is hereby consequentially repealed.

8. Retention and custody of licence of disqualified driver—

(1) The principal Act is hereby further amended by repealing section 41, and substituting the following section:

“41. (1) Where by an order of a Court the holder of a driver’s licence is disqualified from holding or obtaining a licence, the Secretary shall, on production of the licence for endorsement,—

“(a) In the case of a licence issued by a local authority, endorse the licence and forward it to the local authority:

“(b) In the case of a licence issued by the Secretary, endorse the licence and retain it.

“(2) The local authority or the Secretary, as the case may be, shall keep the licence until the disqualification has expired or been removed and the person entitled to the licence has made a demand in writing for its return to him.

“(3) Where the person entitled to the licence is a person to whom subsection (2) of section 37 of this Act applies, the licence shall not be returned to him until he has passed the tests prescribed by that section.”

(2) Section 4 of the Transport Amendment Act (No. 2) 1967 is hereby consequentially amended by repealing subsection (2).

9. Making of endorsements—Section 50 of the principal Act is hereby amended by repealing subsections (1) to (4), and substituting the following subsections:

“(1) Every person whose driver’s licence is required by any provision of this Act or by order of any Court to be endorsed with any particulars shall, where he is the holder of a licence on the date on which that provision becomes applicable or, as the case may be, the date of the making of the order, produce his licence to the Court or to the Secretary, for the purposes of endorsement, not later than seven days after that date. Any licence produced to a Court under this subsection shall be forwarded by the Registrar to the Secretary as soon as is practicable.

“(2) Where any particulars are required to be endorsed on any driver’s licence issued to any person who, on the date specified in subsection (1) of this section, was not the holder of a licence, and subsequently, during the period when any licence issued to him is required to be endorsed, that person applies to a local authority for a driver’s licence, the local authority shall send the licence to the Secretary for those particulars to be endorsed thereon, and shall not issue the licence until those particulars have been so endorsed.

“(2A) Where any particulars are required to be endorsed on any driver’s licence issued to any person who, on the date specified in subsection (1) of this section, was not the holder of a licence, and subsequently, during the period when any licence issued to him is required to be endorsed, that person applies to the Secretary for a driver’s licence, the Secretary shall endorse those particulars on the licence, and shall not issue the licence until those particulars have been so endorsed.

“(3) Any endorsement required by any provision of this Act or by order of any Court shall be made by the Secretary.

“(4) If the licence on which particulars are required to be endorsed by the Court is in the custody of a local authority, the Clerk of the local authority shall make the licence available for production to the Secretary for endorsement.”

10. Particulars of endorsements to be sent to Secretary and local authority—The principal Act is hereby further amended by repealing section 51, and substituting the following section:

“51. Where any particulars are required to be endorsed by order of any Court on a licence, a copy of those particulars shall be sent to the Secretary and, in any case where the licence was issued by a local authority, a copy of those particulars shall also be sent by the Court to the local authority.”

11. Disqualification of unlicensed person under demerit points system—The principal Act is hereby further amended by inserting, after section 51G (as inserted by section 11 of the Transport Amendment Act 1966), the following section:

“51GG. (1) In any case where a person to whom the Secretary has given notice in writing of the suspension of his driver’s licence under subsection (4) of section 51F or section 51G of this Act is not, on the date of actual receipt of the notice, the holder of a driver’s licence, that person shall be deemed to be disqualified from holding or obtaining a driver’s licence until the expiration of the period of suspension specified in the notice.

“(2) Every person commits an offence who applies for or obtains a driver’s licence while he is deemed by subsection (1) of this section to be disqualified from holding or obtaining a licence, and any licence so obtained shall be of no effect.”

12. Partial exemption from suspension or disqualification under demerit points system—The principal Act is hereby further amended by repealing section 51I (as inserted by section 11 of the Transport Amendment Act 1966), and substituting the following section:

“51I. The provisions of sections 35 and 35A of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to the suspension of a driver’s licence under section 51G of this Act and to the disqualification of any person from holding or obtaining a driver’s licence under section 51GG of this Act, as if the notice of suspension of the licence were an order of disqualification made by a Magistrate exercising jurisdiction in the Magistrate’s Court nearest to the place of residence of the holder of the licence.”

13. New sections (as to breath tests and blood tests) inserted—The principal Act is hereby further amended by inserting, after section 59, the following new sections:

“59A. **Driving or attempting to drive with excessive blood-alcohol concentration**—Every person commits an offence, and is liable to imprisonment for a term not exceeding one month or to a fine not exceeding two hundred dollars, who drives or attempts to drive a motor vehicle on any road while the proportion of alcohol in his blood, as ascertained from an analysis for which he subsequently permits a specimen of blood to be taken under section 59c of this Act, exceeds one hundred milligrammes of alcohol per one hundred millilitres of blood.

“59B. Breath tests—(1) Where a constable or traffic officer has good cause to suspect that any person has committed an offence against subsection (2) of section 55 or section 58 of this Act, being an offence committed while under the influence of drink, or an offence against section 59A of this Act, he may require that person to provide forthwith a specimen of his breath for a breath test by means of a device approved for the purpose by the Minister by notice in the *Gazette*, and conducted in a manner prescribed by the Minister, by notice in the *Gazette*.

“(2) If—

“(a) It appears to a constable or traffic officer as a result of a breath test carried out by him under subsection (1) of this section that the device by means of which the test was carried out indicates that the proportion of alcohol in any person’s blood exceeds eighty milligrammes of alcohol per one hundred millilitres of blood; or

“(b) Any person, having been required to provide a specimen of breath by a constable or traffic officer under subsection (1) of this section, fails or refuses to do so; or

“(c) A constable or traffic officer has good cause to suspect that any person has committed any offence specified in subsection (1) of this section but a breath-testing device so approved is not readily available or for any reason a breath test cannot then be carried out,—

then, unless that person is already in any place hereinafter specified, the constable or traffic officer may require that person to accompany him to a police station, a registered medical practitioner’s surgery, a hospital or any other place where a specimen of blood may be taken.

“(3) Every person commits an offence who fails or refuses to accompany a constable or traffic officer to a police station, a registered medical practitioner’s surgery, a hospital or any other place when required so to do under subsection (2) of this section, and the constable or traffic officer may arrest him without warrant.

“(4) Where any person—

“(a) Has, pursuant to a requirement under subsection (2) of this section, accompanied a constable or traffic officer to a police station, a registered medical practitioner’s surgery, a hospital, or any other place where a specimen of blood may be taken; or

“(b) Has been arrested under subsection (3) of this section and taken to any such place,—
he shall at that place, and not less than twenty minutes after the time when he was required under subsection (2) of this section to accompany a constable or traffic officer to that place or, as the case may be, was arrested, provide forthwith on being so required by a constable or traffic officer a specimen of his breath for a breath test, whether or not he has provided a specimen of his breath pursuant to a requirement under subsection (1) of this section.

“(5) Subsection (4) of this section shall apply with respect to every person—

“(a) Whom a constable or traffic officer has good cause to suspect of having committed an offence against subsection (2) of section 55 or section 58 of this Act, being an offence committed while under the influence of drink, or an offence against section 59A of this Act; and

“(b) Who is for the time being in any place specified in paragraph (a) of the said subsection (4) but did not accompany a constable or traffic officer to that place and was not taken to that place under arrest—
as if he had been required under subsection (2) of this section to accompany a constable or traffic officer to that place at the time when he arrived at that place.

“(6) Every person to whom paragraph (a) of subsection (4) of this section applies shall remain in the place to which he accompanied a constable or traffic officer, and every person to whom subsection (5) of this section applies shall remain in the place in which he was, until after he has been required under the said subsection (4) to supply a specimen of his breath, and, if he leaves or attempts to leave that place in breach of this subsection, he commits an offence and may be arrested without warrant.

“(7) If it appears to a constable or traffic officer, as a result of a breath test carried out under subsection (1) or subsection (4) of this section, that the device by means of which the test was carried out indicates that the proportion of alcohol in a person's blood does not exceed eighty milligrammes of alcohol per one hundred millilitres of blood,—

“(a) No proceedings shall be taken against that person for an offence against section 59A of this Act arising out of the circumstances in respect of which that breath test was made; and

“(b) No proceedings shall be taken against that person for an offence against subsection (2) of section 55, section 58, or section 59 of this Act arising out of the circumstances in respect of which that breath test was made, being an offence relating to his being incapable of having proper control of a motor vehicle by reason of being under the influence of drink.

“(8) Nothing in subsection (7) of this section shall be construed so as to limit in any way the powers of a constable or traffic officer under section 63 of this Act.

“59c. Blood tests—(1) If—

“(a) Any person fails or refuses to provide a specimen of breath when required so to do under subsection (4) of section 59B of this Act; or

“(b) It appears to a constable or traffic officer, as a result of a breath test carried out under that subsection, that the device by means of which the test was carried out indicates that the proportion of alcohol in a person’s blood exceeds eighty milligrammes per one hundred millilitres of blood; or

“(c) An approved breath-testing device is not readily available at the place to which any person has accompanied a constable or traffic officer or has been taken under arrest, or, in any case to which subsection (5) of section 59B of this Act applies, at the place where he is, or for any reason a breath test cannot then be carried out at that place,—

a constable or traffic officer may require that person to permit a registered medical practitioner to take for the purpose of analysis a specimen of that person’s venous blood in accordance with normal medical procedures.

“(2) Every specimen of blood taken under the provisions of subsection (1) of this section shall be immediately divided into two parts, or if the specimen is insufficient to be divided into two parts a further specimen shall be taken, and each part or specimen, as the case may be, shall be placed in a separate container which shall be sealed.

“(3) A constable or traffic officer shall forthwith deliver or cause to be delivered, either personally or by registered post, both parts of that specimen or both those specimens, as the case may be, to the Dominion Analyst or a Government Analyst, or to an officer of the Department of Scientific and Industrial Research on his behalf, for the analysis of one of

those parts or one of those specimens, as the case may be, and the custody of the other:

“Provided that, upon the request of the person from whom the blood was taken or of his solicitor or counsel made before the blood has been sent to the Dominion Analyst or a Government Analyst under this subsection, one of those parts or one of those specimens, as the case may be, shall be supplied to an analyst specified by that person or by his solicitor or counsel or by any person acting on his behalf.

“(4) Where under subsection (3) of this section both parts of a specimen of blood or both specimens of blood are sent to the Dominion Analyst or a Government Analyst, he shall, on application in writing by the person from whom the blood was taken or by his solicitor or counsel made within twenty-eight days after the taking of the blood, supply one of those parts or specimens to an analyst specified by that person or by his solicitor or counsel.

“(5) Notwithstanding anything in subsection (6) or subsection (8) of this section, where application is made under subsection (4) of this section, within the time specified in that subsection, to the Dominion Analyst or a Government Analyst for one part of a specimen of blood or, as the case may be, one specimen of blood to be sent to an analyst, and the part or specimen is not sent to the analyst in compliance with that application, any certificate given under subsection (6) of this section in relation to the other part of the specimen of blood or, as the case may be, the other specimen of blood shall not be admissible in evidence in any proceedings for an offence against this Part of this Act.

“(6) For the purposes of any proceedings for an offence under this Part of the Act, a certificate purporting to be signed by the Dominion Analyst or a Government Analyst, or by an officer of the Department of Scientific and Industrial Research authorised in that behalf by the Dominion Analyst or a Government Analyst, and certifying as to the proportion of alcohol found in a specimen of blood analysed by the Dominion Analyst or a Government Analyst or by an officer under his control and identified by the certificate shall be sufficient evidence in the absence of proof to the contrary of the matters so certified and of the qualification of the person by whom the analysis was carried out. Every officer of the Department of Scientific and Industrial Research signing any such certificate shall, until the contrary is proved, be presumed to be duly authorised to sign it.

“(7) Upon the request of any person from whom blood has been taken under subsection (1) of this section or of his solicitor or counsel, a copy of the certificate given under subsection (6) of this section in respect of that blood shall be supplied to him by the Police.

“(8) For the purposes of proceedings for an offence against this Part of this Act arising out of the circumstances in respect of which a specimen of blood was provided by the defendant under this section, it shall be presumed that the proportion of alcohol in his blood at the time of the alleged offence was the same as the proportion of alcohol in the specimen of blood provided by the defendant.

“(9) Notwithstanding anything in subsection (6) or subsection (8) of this section, a certificate given under the said subsection (6) shall not be admissible in evidence where the defendant, by notice in writing given to the prosecutor at least seven clear days before the hearing, requires that the person who made the analysis be called by the prosecutor as a witness at the hearing.

“(10) If any certificate given under subsection (6) of this section certifies that the proportion of alcohol in the specimen of the blood of the person to whom the certificate relates did not exceed one hundred milligrammes of alcohol per one hundred millilitres of blood,—

“(a) No proceedings shall be taken against that person for an offence against section 59A of this Act for an offence arising out of the circumstances in respect of which the specimen of blood was taken; and

“(b) No proceedings shall be taken against that person for an offence against subsection (2) of section 55, section 58, or section 59 of this Act arising out of the circumstances in respect of which the specimen of blood was taken, being an offence relating to his being incapable of having proper control of a motor vehicle by reason of being under the influence of drink.

“(11) In any proceedings against any person for an offence against section 63 of this Act arising out of the circumstances in respect of which a specimen of blood was provided by that person, it shall not be a defence that a certificate given under subsection (6) of this section in respect of that specimen certifies that the proportion of alcohol in that specimen did not exceed one hundred milligrammes per one hundred millilitres of blood.

“59D. Proceedings for offence committed while under influence of a drug or a drug associated with drink—Nothing in paragraph (b) of subsection (7) of section 59B or in paragraph (b) of subsection (10) of section 59C of this Act shall be construed so as to prohibit the taking of proceedings for an offence against subsection (2) of section 55, section 58, or section 59 of this Act arising out of the circumstances in respect of which a breath test was carried out under subsection (1) or subsection (4) of the said section 59B or, as the case may be, a specimen of blood was taken under the said section 59C, where the offence is alleged to have been committed while the defendant was incapable of having proper control of a motor vehicle by reason of being under the influence of a drug or of a drug associated with drink.

“59E. Refusal to supply specimen of blood—(1) Every person commits an offence who, having been required to permit a specimen of blood to be taken under subsection (1) of section 59C of this Act, fails or refuses to do so, and is liable to the same penalties as if he had been convicted of an offence against section 59A of this Act.

“(2) It shall be a defence in proceedings for an offence against subsection (1) of this section if the Court is satisfied, on the evidence of a registered medical practitioner, that the taking of a specimen of blood from the defendant would have been prejudicial to the health of the defendant.

“(3) In any proceedings for an offence against subsection (2) of section 55 or section 58 of this Act, if it is proved that the defendant, when required by a constable or traffic officer to permit a specimen of blood to be taken, failed or refused, without reasonable cause, to do so, his refusal may be treated as supporting any evidence given on behalf of the prosecution, or as rebutting any evidence given on behalf of the defendant, with respect to the condition of the defendant at the time of the alleged offence.

“59F. Special provisions as to persons under medical treatment—No person who is in a hospital or a registered medical practitioner’s surgery or other place for the purpose of receiving medical care or treatment shall be required to provide a specimen of breath or to permit a specimen of blood to be taken, unless the constable or traffic officer first notifies the registered medical practitioner in immediate charge of the care or treatment of that person and the registered medical practitioner is satisfied that the giving or taking of such a specimen would not be prejudicial to the proper care or treatment of that person.”

14. Repeals consequential on section 13—The following enactments are hereby repealed:

- (a) Section 62A of the principal Act (as inserted by section 12 of the Transport Amendment Act 1966):
- (b) Section 12 of the Transport Amendment Act 1966.

15. Removal of abandoned vehicles from roads—(1) Section 76 of the principal Act is hereby amended by repealing subsection (3A) (as inserted by section 16 of the Transport Amendment Act 1966), and substituting the following subsections:

“(3A) Where a local authority believes on reasonable grounds that any motor vehicle to which subsection (1) of this section does not apply appears to have been abandoned by its owner on any road in the district of the local authority, the local authority may take possession of and remove the motor vehicle to a place of safety.

“(3AA) If, on application to a Magistrate’s Court, the Court is satisfied that any motor vehicle which has been removed from a road pursuant to subsection (3A) of this section appears to have been abandoned, the Court may make an order authorising the local authority to exercise in relation to the motor vehicle the powers conferred by subsections (2) and (3) of this section as if no licence to use the motor vehicle had been issued for the current licensing year. Where, pursuant to any such order, the local authority exercises those powers in relation to any motor vehicle, the provisions of subsection (3) of this section shall apply as if there were inserted in that subsection, after the word ‘including’, the words ‘the expenses incurred in obtaining the order.’”

(2) Section 76 of the principal Act is hereby further amended by repealing subsection (3C) (as inserted by section 10 of the Transport Amendment Act (No. 2) 1967), and substituting the following subsection:

“(3C) Before applying to a Magistrate’s Court for an order under subsection (3AA) of this section in relation to any motor vehicle, a local authority shall, where it is practicable to do so, give notice to the last registered owner and the immediately preceding registered owner of the motor vehicle of its intention to apply to the Court.”

(3) Section 16 of the Transport Amendment Act 1966 is hereby consequentially repealed.

16. Closing of roads for processions—Section 77 of the principal Act is hereby amended by adding to the first proviso to paragraph (u) of subsection (1) the words “; but

nothing in this proviso shall apply with respect to the closing of any road for a period not exceeding two hours on the occasion of the holding thereon of any event not amounting to a vehicle race or trial”.

17. Long service medals for traffic officers—Section 77 of the principal Act is hereby further amended by adding to subsection (1), the following paragraph:

“(x) Providing for the awarding of medals for long service and good conduct to traffic officers of the Department and prescribing the terms and conditions for the award of such medals.”

18. Piloting fees—The principal Act is hereby further amended by inserting, after section 78, the following section:

“78A. (1) In any case where the Secretary gives written permission under any regulations made under this Part of this Act for the use on any road of any motor vehicle which, or the load of which, exceeds any maximum dimension prescribed by the regulations, he may, as a condition of that permission, require that the motor vehicle be used only under the supervision of one or more traffic officers of the Department and that the person to whom the permission is given pay to the Secretary such fee as the Secretary fixes to cover the costs incurred by the Department in providing that supervision.

“(2) Any fee payable to the Secretary under subsection (1) of this section shall constitute a debt due to the Crown, and may be recovered accordingly in any Court of competent jurisdiction.”

19. Liability under contract of third-party risks insurance—(1) Section 82 of the principal Act is hereby amended by repealing subsections (2) and (2A) (as substituted by section 4 (1) of the Transport Amendment Act 1963), and substituting the following subsection:

“(2) The liability of an insurance company under any contract of insurance as aforesaid shall be limited to fifteen thousand dollars for any claim (inclusive of all costs incidental to any such claim) made by or in respect of any passenger in the motor vehicle to which the contract of insurance relates where the claim is made in respect of the death of or bodily injury suffered by a person who was at the time of the accident in respect of which the claim has arisen being conveyed in the motor vehicle, or was entering or alighting from, or about to enter or alight from, the motor vehicle.”

(2) Section 82 of the principal Act is hereby further amended—

- (a) By omitting from subsection (3) (as amended by section 4 (2) (a) of the Transport Amendment Act 1963) the words “or subsection (2A)”:
- (b) By omitting from subsection (5) (as amended by section 4 (2) (b) of the Transport Amendment Act 1963) the words “and subsection (2A)”:
- (c) By omitting from subsection (7) and also from subsections (8) and (9) (as added by section 19 of the Transport Amendment Act 1966) the words “subsections (2) and (2A)”, and substituting in each case the words “subsection (2)”.

(3) Section 4 of the Transport Amendment Act 1963 is hereby consequentially amended by repealing subsections (1) and (2).

20. Revocation or amendment of temporary transport licences—The principal Act is hereby further amended by inserting, after section 104, the following section:

“104A. If the proper Licensing Authority is at any time of the opinion that the circumstances under which a temporary transport licence was granted have changed materially since the licence was granted, or if it has reason to believe that incorrect or misleading information was supplied by the applicant or any other person in connection with the application for a temporary transport licence, the Licensing Authority may, without holding any inquiry under section 141 of this Act or without reviewing the licence under section 142 of this Act, revoke the licence, or amend the licence by altering or revoking any of the terms or conditions of the licence or by adding new terms or conditions, or may suspend the licence for such period as it thinks fit.”

21. Limitation of weight of motor vehicles for use on road—(1) The principal Act is hereby further amended by repealing section 69, and substituting the following section:

“69. Subject to the provisions of section 70 of this Act, it shall not be lawful to use a motor vehicle on any road—

- “(a) If the weight on any axle of the vehicle, not being an oscillating axle, exceeds eighteen thousand pounds:
- “(b) If the weight on any oscillating axle of the vehicle exceeds twenty-one thousand pounds.”

(2) Section 15 of the Transport Amendment Act 1966 is hereby consequentially repealed.

22. Powers of traffic officers in respect of heavy motor vehicles—The principal Act is hereby further amended by inserting, after section 69 (as substituted by section 21 of this Act), the following section:

“69A. (1) A traffic officer may at any time—

“(a) Inspect the load on any heavy motor vehicle on any road:

“(b) Measure, or require to be measured, the weight of any heavy motor vehicle on any road or the weight on any of its axles:

“(c) Where he has good cause to suspect that the weight of any heavy motor vehicle on any road or on any axle of any heavy motor vehicle on any road exceeds the maximum prescribed by this Act or by or pursuant to regulations made under this Act, direct the driver or person in charge to drive the vehicle to any site and onto a weighing device specified by the traffic officer for the purpose of ascertaining the weight of the vehicle or the weight on its axles:

“Provided that nothing in this paragraph shall authorise a traffic officer to direct the driver or person in charge, in order to drive his vehicle to any site or weighing device, to travel a distance that would increase the total length of his journey by more than two miles, or by more than ten miles in any case where the traffic officer has good cause to suspect that the driver has detoured from his normal route for the purpose of avoiding being required to have the weight of his vehicle or on any axle of his vehicle measured.

“(2) Where the weight of any heavy motor vehicle on any road is measured by or by the direction of a traffic officer, and the gross weight of the motor vehicle exceeds by twenty percent or more any gross weight restriction imposed by or pursuant to regulations made under this Act, then, unless the load on the motor vehicle is indivisible, the traffic officer shall, by direction given to the driver or person in charge of the motor vehicle,—

“(a) Direct that the motor vehicle be kept stopped at that place; or

“(b) Direct that the motor vehicle be removed to a place of safety approved by the traffic officer and be kept stopped at that last-mentioned place—

until such part of the load is removed as is necessary to reduce

the gross weight of the motor vehicle to not more than the amount of that weight restriction.

“(3) Where the weight on any axle or group of axles of any heavy motor vehicle on any road is measured by or by the direction of a traffic officer, and—

“(a) The weight on any axle of the motor vehicle, being an axle which is eight feet or more distant from the nearest other axle, exceeds by twenty percent or more the maximum weight prescribed by section 69 of this Act or by or pursuant to any regulations made under this Act; or

“(b) The weight on any axle of the motor vehicle, being an axle which is less than eight feet from the nearest other axle, exceeds by twenty percent or more the maximum weight prescribed by section 69 of this Act or by or pursuant to regulations made under this Act increased by ten hundredweight; or

“(c) The weight on any group of axles of the motor vehicle, being a group of axles each of which is less than eight feet from the nearest other axle, exceeds by twenty percent or more the sum of the maximum weights for the individual axles of that group prescribed by this Act or by or pursuant to regulations made under this Act,—

then, unless the load on the motor vehicle is indivisible, the traffic officer shall, by direction given to the driver or person in charge of the motor vehicle, direct that the vehicle be kept stopped at that place or be removed to a place of safety approved by the traffic officer and kept stopped at that last-mentioned place, until part of the load is removed or the load is rearranged so as to reduce the weight on all the axles and groups of axles of the motor vehicle to not more than the maximum so prescribed.

“(4) Every person commits an offence, and is liable to a fine not exceeding one thousand dollars, who—

“(a) Fails to comply with or does any act in contravention of any direction of a traffic officer given under subsection (1) or subsection (2) or subsection (3) of this section; or

“(b) Removes the load or any part of the load of any motor vehicle for the purpose of complying with any such direction and leaves the load or part so removed, or any of it, in a such a position as to be likely to constitute a danger to persons using the road; or

“(c) Having placed on any road the load or any part of the load of any motor vehicle that has been removed for the purpose of complying with any such direction, fails to remove the load or that part of the load within a period of twenty-four hours or within any longer period specified by the traffic officer in any particular case; or

“(d) Whether or not he is the person to whom any such direction is given, knowingly drives a heavy motor vehicle on any road in breach of any direction given under subsection (2) or subsection (3) of this section.

“(5) Where the load or any part of the load is removed from a motor vehicle for the purpose of complying with any direction given under subsection (2) or subsection (3) of this section, neither the Crown, nor, in the case of a direction given by a traffic officer who is an officer of a local authority, that local authority, nor any traffic officer giving the direction shall be liable for any loss of or damage to any part of the load so removed arising directly or indirectly from that removal.”

23. New sections (as to overloading infringements) inserted—The principal Act is hereby further amended by inserting, after section 69A (as inserted by section 22 of this Act), the following sections:

“**69B. Overloading infringements**—(1) In this section and in sections 69c and 69d of this Act—

“‘Enforcement authority’ means—

“(a) The Secretary, in the case of an alleged overloading infringement detected by a traffic officer who is an officer of the Department:

“(b) The local authority, in the case of an alleged overloading infringement detected by a traffic officer who is an officer of a local authority:

“‘Overloading infringement’ means the use on any road of any heavy motor vehicle in breach of any provision of this Act or of any regulations made under this Act—

“(a) By or pursuant to which maximum gross weight limits for motor vehicles are fixed; or

“(b) By or pursuant to which maximum weight limits for axles or groups of axles of motor vehicles are fixed;—

and for the purposes of this section and of section 69c of this Act an overloading infringement shall

be deemed to have been committed in respect of every axle and of every axle of a group of axles the weight on which exceeds the maximum so fixed:

“‘Overloading-infringement fee’ means an overloading-infringement fee prescribed pursuant to subsection (3) of this section:

“‘Overloading-infringement notice’ means a notice under this section containing the particulars specified in subsection (6) of this section.

“(2) Where the user of any motor vehicle commits an overloading infringement, he shall be liable to pay to the enforcement authority, in accordance with this section, the appropriate overloading-infringement fee.

“(3) The Minister may from time to time, by notice in the *Gazette*, prescribe a scale of overloading-infringement fees, not exceeding five hundred dollars in the case of any infringement, payable under this section in respect of overloading infringements of any specified description. The scale of fees so prescribed may fix different amounts having regard to the extent of the overloading.

“(4) Where a traffic officer has reason to believe that the user of any motor vehicle has committed an overloading infringement, he may cause to be served an overloading-infringement notice as hereinafter provided.

“(5) An overloading-infringement notice may be served by serving it personally on the user of the motor vehicle who appears to have committed the infringement or by sending it by registered letter addressed to him at his last known place of residence or business. Every overloading-infringement notice served by registered letter shall be deemed to have been received when in the ordinary course of post it would be delivered, and in proving service it shall be sufficient to prove that the letter was properly addressed and posted.

“(6) Every overloading-infringement notice shall be in a form prescribed by the Minister, by notice in the *Gazette*, and shall contain the following particulars:

“(a) Such details of the alleged overloading infringement as are sufficient fairly to inform the user to whom it is addressed of the time, place, and nature of the infringement; and

“(b) The amount of the appropriate overloading-infringement fee payable to the enforcement authority in respect of the infringement; and

“(c) The place at which the fee shall be paid and the times during which it may be paid; and

“(d) A statement that if the fee is not paid before the date specified in the notice, being not less than fourteen days after the date of service of the notice, proceedings may be taken under the Summary Proceedings Act 1957 for an offence against subsection (7) of this section, a copy of which subsection shall be set out in the notice.

“(7) Every person commits an offence against this Act who, being the user of the motor vehicle in respect of which an overloading infringement is committed, and having been served with an overloading-infringement notice relating to the infringement, fails without reasonable cause, proof of which cause shall lie on the defendant, to pay to the enforcement authority before the date specified in the notice the appropriate overloading-infringement fee payable in respect of that infringement.

“(8) In proceedings for an offence against subsection (7) of this section, where the gross weight of the motor vehicle or the weight on any axle or group of axles of the motor vehicle is measured at some place other than the place where the overloading infringement is alleged to have been committed, it shall be presumed, in the absence of proof to the contrary, that the gross weight of the motor vehicle or, as the case may be, the weight on that axle or group of axles at the time when and the place where the infringement is alleged to have been committed was the same as the gross weight or, as the case may be, the weight on that axle or group of axles as ascertained at the time when and the place where that weight was measured.

“(9) Where any person is convicted of any offence which is an overloading infringement in respect of which an overloading-infringement notice was served on him under this section, then, whether or not any penalty is imposed in respect of the offence, there shall be payable by the defendant to the enforcement authority as a debt due to that authority the amount of the appropriate overloading-infringement fee.

“(10) Notwithstanding anything in section 69 or section 193 of this Act or in any regulations made under this Act, a breach of the said section 69 or of any provision of any such regulations which is an overloading infringement within the meaning of this section shall not be an offence.

“69c. Overloading of Crown vehicles—(1) Where any overloading infringement is committed in respect of any heavy motor vehicle being used in the service of the Crown by an employee of the Crown, there shall be payable to the enforcement authority in accordance with this section, out of money appropriated by Parliament, the appropriate overloading-infringement fee.

“(2) Where a traffic officer has reason to believe that an overloading infringement to which subsection (1) of this section applies has been committed, he may cause to be served on the Permanent Head of the Department of State in the service of which the motor vehicle was being used a notice containing the following particulars:

“(a) Such details of the alleged overloading infringement as are sufficient fairly to inform that Permanent Head of the time, place, and nature of the infringement; and

“(b) The amount of the appropriate overloading-infringement fee payable to the enforcement authority in respect of the infringement; and

“(c) The place at which the fee shall be paid and the times during which it may be paid; and

“(d) A statement that unless an objection is made under subsection (4) of this section before the date specified in the notice, being not less than fourteen days after the date of the service of the notice, the overloading-infringement fee must be paid to the enforcement authority not later than the date so specified.

“(3) A notice under subsection (2) of this section shall be served by sending it by registered letter addressed to the Permanent Head at the head office of the department in Wellington, and shall be deemed to have been received when in the ordinary course of post it would be delivered.

“(4) The Permanent Head may, by notice in writing given to the Secretary before the date specified in the notice given pursuant to subsection (2) of this section, object to the last-mentioned notice on the ground that no overloading infringement was committed or on the ground that the amount of the overloading-infringement fee specified in the notice exceeds the amount properly payable. The Secretary shall refer the objection to the Transport Licensing Authority for the transport district in which the overloading infringement is alleged to have been committed.

“(5) The Transport Licensing Authority shall consider the objection, and may allow it or dismiss it, and, notwithstanding anything in this Act, the decision of that Authority shall be final. If the objection is dismissed, the appropriate overloading-infringement fee shall be payable to the enforcement authority not later than fourteen days after the notification of the decision to the objector.

“69D. Overloading infringement fees payable into National Roads Fund—All overloading-infringement fees received by an enforcement authority under section 69B or section 69C of this Act shall be paid into the National Roads Fund:

“Provided that the enforcement authority shall be entitled to deduct such portion of the fees so received as the Minister of Finance from time to time approves as being the expenses incidental to the collection thereof.”

24. Refund of duty on motor spirits—(1) Section 188 of the principal Act is hereby amended by repealing subsection (8) (as substituted by section 8 (3) of the Transport Amendment Act (No. 2) 1965), and substituting the following subsections:

“(8) Applications for refunds under this section shall be made in respect of the periods ending respectively with the last day of March, June, September, and December in any year. Except as provided in subsections (8A) and (9) of this section, no refund under this section shall be made unless application for the refund is made within two years following the close of the period in respect of which it is made. Where the application is made after the expiration of three months from the close of the appropriate period but within two years after the close of that period, the amount of the refund otherwise payable shall be reduced by an amount equal to ten percent thereof.

“(8A) Where application for a refund under this section is made after the expiration of three months from the close of the relevant period, whether or not it is made within two years after the close of that period, then, notwithstanding anything in subsection (8) of this section, a refund of the full amount may be made, in the discretion of the National Roads Board.”

(2) Section 8 of the Transport Amendment Act (No. 2) 1965 is hereby consequentially amended by repealing subsection (3).

(3) Subsections (8) and (8A) of section 188 of the principal Act (as substituted by subsection (1) of this section) shall apply with respect to motor spirits used on or after the first day of January, nineteen hundred and sixty-nine. With respect to motor spirits used before that date, the provisions of subsection (8) of section 188 of the principal Act as in force before the commencement of this section shall continue to apply, as if this section had not been enacted.

25. Additional refund of duty on motor spirits—Section 188B of the principal Act (as inserted by section 6 (1) of the Transport Amendment Act 1967) is hereby amended by repealing the proviso to subsection (1), and substituting the following proviso:

“Provided that nothing in this section shall apply with respect to motor spirits used as fuel for any vessel other than a vessel used exclusively or principally for commercial purposes.”

26. Jurisdiction of Justices of the Peace—Section 194 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) A Magistrate’s Court presided over by two or more Justices of the Peace shall have jurisdiction in respect of the following offences, not being offences punishable by imprisonment:

“(a) Any summary offence under Part II, Part III, Part IV, Part V, or Part IX of this Act or under any regulations made under any of those Parts, not being regulations relating to heavy traffic:

“(b) Any offence under any bylaw made under section 72 of this Act.”

27. Parking infringements—(1) The principal Act is hereby further amended by inserting, after section 194, the following section—

“194A. (1) In this section—

“‘Parking’ means—

“(a) In relation to any portion of a road where parking is for the time being governed by the location of parking meters placed pursuant to a bylaw of a local authority, the stopping or standing of a vehicle on that portion of the road for any period exceeding five minutes:

“(b) In relation to any other portion of a road, where parking is prohibited for a period in excess of a period fixed by a bylaw of a local authority, the stopping or standing of a vehicle on that portion of the road:

“‘Parking infringement’ means—

“(a) Parking in breach of a bylaw of the local authority in any portion of a road where parking is for the time being governed by the location of parking meters placed pursuant to a bylaw of the local authority:

“(b) Parking in any other portion of a road in breach of a bylaw of the local authority prohibiting parking for a period in excess of the period fixed by the bylaw:

“‘Parking-infringement notice’ means a notice under this section containing the particulars specified in subsection (6) of this section.

“(2) Where any person commits a parking infringement, he shall be liable to pay to the local authority, in accordance with this section, the appropriate fee fixed by the local authority, not exceeding the maximum amount prescribed by the Minister pursuant to subsection (10) of this section.

“(3) Where a traffic officer has reason to believe that a parking infringement has been committed in respect of any vehicle, he may serve or cause to be served a parking-infringement notice as hereinafter provided.

“(4) A parking-infringement notice may be served—

“(a) By serving it personally upon the person who appears to have committed the infringement or any person who is driving or appears to be in charge of the vehicle or by sending it by registered letter addressed to him at his last-known place of residence or business; or

“(b) By serving it personally on the owner of the vehicle or by sending it by registered letter addressed to the owner of the vehicle at his last-known place of residence or business. For the purpose of this paragraph, the address appearing as the latest address of the owner of a motor vehicle in the register of motor vehicles kept under Part II of this Act shall be taken to be his last-known place of residence or business, as the case may be.

“(5) Every parking-infringement notice served by registered letter shall be deemed to have been received when in the ordinary course of post it would be delivered, and in proving

service it shall be sufficient to prove that the letter was properly addressed and posted.

“(6) Every parking-infringement notice shall be in a form prescribed by the Minister by notice in the *Gazette*, and shall contain the following particulars:

“(a) Such details of the alleged parking infringement as are sufficient fairly to inform the person to whom it is addressed of the time, place, and nature of the infringement; and

“(b) Where the notice is served on the owner of the vehicle, a requirement that the owner shall, unless the fee payable to the local authority in respect of the infringement is paid before the date specified in the notice, give to the traffic officer all information in the possession of or obtainable by the owner which may lead to the identification of the driver or person in charge of the vehicle at the time of the alleged infringement, which requirement shall be deemed to be a request made to the owner by the traffic officer for the purposes of section 67 of this Act; and

“(c) The amount of the fee payable to the local authority in respect of the infringement; and

“(d) The place at which and the times during which the fee may be paid; and

“(e) A statement that if the fee is not paid before the date specified in the notice, being not less than fourteen days after the date of service of the notice, proceedings may be taken under the Summary Proceedings Act 1957 for an offence against subsection (8) of this section a copy of which subsection shall be set out in the notice.

“(7) The fee specified in any parking-infringement notice shall be the appropriate fee fixed by the local authority, not exceeding the maximum amount prescribed by the Minister pursuant to subsection (10) of this section.

“(8) Every person commits an offence and is liable to a fine not exceeding five dollars who, being the driver or person in charge of the vehicle concerned at the time of the commission of a parking infringement, and having been served with a parking-infringement notice relating to that infringement, fails without reasonable cause, proof of which cause shall lie on the defendant, to pay to the local authority before the date specified in the notice the fee specified in the notice.

“(9) Notwithstanding anything in any regulations under this Act or in any bylaws of a local authority, a breach of any provision of the regulations or the bylaws which is a parking-infringement within the meaning of this section shall not be an offence.

“(10) The Minister may from time to time, by notice in the *Gazette*, prescribe the maximum fees payable under this section in respect of parking infringements or of parking infringements of any specified description.

“(11) Every notice (not being a parking-infringement notice under this section) given by any traffic officer or other employee of the Department or of a local authority alleging that any person has committed a parking infringement and given to that person or attached to the vehicle shall be in a form prescribed by the Minister by notice in the *Gazette*.”

(2) Section 67 of the principal Act is hereby amended—

- (a) By inserting, after the words “any offence”, the words “or of any parking infringement within the meaning of section 194A of this Act”:
- (b) By inserting, after the word “whether”, the words “in the case of an offence”.

28. Registration and licence fees for self-propelled agricultural machines—The First Schedule to the principal Act (as substituted by section 2 (4) of the Transport Amendment Act 1967) is hereby amended—

- (a) By inserting in clause 6 of Part I, after the word “tractor”, the words “or any self-propelled agricultural machine”:
- (b) By inserting in clause 5 of Part II, after the word “tractor”, the words “or any self-propelled agricultural machine”.

29. Disqualification of drivers—(1) The Third Schedule to the principal Act is hereby amended by inserting in Part I, after the reference to section 59 of the principal Act, in the appropriate columns thereof, the following words:

| | | | |
|-----------------------------|---|---|---|
| “Section 59A of this Act | Driving or attempting to drive with excessive blood-alcohol concentration | } | At discretion of Court, subject to Part III of this Schedule (which requires a minimum period of disqualification to be ordered in certain cases).” |
| Section 59E of this Act | Refusing to permit specimen of blood to be taken | | |

(2) The Third Schedule to the principal Act is hereby further amended by adding to Part III, in the appropriate columns thereof, the following words:

| | | |
|--------------------------|---|--|
| "Section 59A of this Act | Driving or attempting to drive with excessive blood-alcohol concentration | } (a) <i>On first conviction, or on second or subsequent conviction when a period of seven years or more has elapsed since immediately preceding conviction— Six months.</i> |
| Section 59E of this Act | Refusing to permit specimen of blood to be taken | |
| | | } (b) <i>On second or subsequent conviction within a period of seven years from date of immediately preceding conviction— Three years."</i> |

(3) The Third Schedule to the principal Act is hereby further amended by adding to Part III the following note:

"NOTE—Where—

"(a) Any person is convicted of an offence against subsection (2) of section 55, or section 58, or section 59A, or section 59E of this Act; and

"(b) He has been previously convicted, whether before or after the commencement of this note, of an offence against any other of the enactments specified in paragraph (a) of this note,—

then, in determining for the purposes of the third column of this Part of this Schedule whether the conviction referred to in paragraph (a) of this note is a first or second or subsequent conviction, every such previous conviction shall be deemed to be a conviction for an offence which is the same as the offence referred to in paragraph (a) of this note."

(4) The Third Schedule to the principal Act is hereby further amended—

- (a) By repealing clause 2 of Part IV:
- (b) By omitting so much of the third column of Part I as relates to sections 25, 52, and 56 of the principal Act, and substituting in each case the words “At discretion of Court”:
- (c) By omitting so much of the third column of Part I as relates to sections 60, 63 (2), 64 (1), and 65 (1), of the principal Act, and substituting the words “At discretion of Court”:
- (d) By omitting so much of the third column of Part I as relates to section 66 (2) of the principal Act, and substituting the words “At discretion of Court”:
- (e) By omitting so much of the third column of Part I as relates to the item “Any other Act or any regulations or bylaws under this Act or any other Act”, and substituting the words “At discretion of Court, subject to clause 1 of Part IV of this Schedule (which requires a minimum period of disqualification to be ordered in certain cases)”.

This Act is administered in the Ministry of Transport.
