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1985, No. 76

An Act to amend the Transport Act 1962

[3 April 1985]

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 (No. 2) 1985, and shall be read together with and deemed part of the Transport Act 1962 (hereinafter referred to as the principal Act).

2. Certain trailers exempted from registration and licensing provisions—(1) Section 7 of the principal Act is hereby amended by omitting from subsection (4B) (as inserted

by section 22 of the Transport Amendment Act (No. 3) 1983) the expression "section 188", and substituting the expression "section 187".

(2) Section 7 of the principal Act is hereby further amended by inserting, after subsection (4B) (as so inserted), the following subsection:

"(4C) Nothing in paragraph (a) or paragraph (b) of subsection (1) of this section shall apply with respect to any motor vehicle that is registered in a State that is a party to the Convention on Road Traffic signed at Geneva on the 19th day of September 1949 or a State that is a party to the Convention on Road Traffic signed at Vienna on the 8th day of November 1968, while the vehicle remains in the ownership of the person who brought it into New Zealand, and—

- "(a) The owner of the vehicle holds a current driving permit recognised in regulations made under this Act as if it were a driver's licence issued in New Zealand; and
- "(b) The vehicle remains registered in that State and evidence of that registration is carried on the vehicle; and
- "(c) There is displayed on the back of the vehicle a registration number allocated to it by that State or a competent authority of that State, and an appropriate distinguishing sign indicating the place of registration of the motor vehicle; and
- "(d) The first licensing year that commences after the arrival of the vehicle in New Zealand has not expired."

3. Exemption from registration fees and licence fees—

(1) The principal Act is hereby amended by repealing section 13, and substituting the following section:

"13. (1) All motor vehicles to which this section applies are hereby exempted from the payment of registration fees and licence fees, but whenever any vehicle described in paragraphs (c) to (f) of subsection (2) of this section is used on a road the owner shall ensure that it is fitted with registration plates and licences that shall only be issued on payment of the appropriate fees prescribed under section 14A (3) of this Act.

"(2) This section applies to—

- "(a) Any motor vehicle that is not used on a road that is not a public highway;
- "(b) Any motor vehicle to which any of subsections (4) to (4C) of section 7 of this Act apply;
- "(c) Any motor vehicle that is used on a road that is a public highway only in connection with its inspection,

servicing, or repair, or for the purpose of allowing any person to sit a practical driving test in that vehicle:

- “(d) Any pedestrian-controlled goods service vehicle;
- “(e) Any motor vehicle propelled and supported solely by self-laying tracks;
- “(f) Any motor vehicle used on roads only in road construction zones in accordance with notices declaring such zones;
- “(g) Any motor vehicle that is used on a road only in crossing or proceeding along a section of the road where it has been authorised to operate by the controlling authority of the road by an authorisation that requires—
 - “(i) A written agreement by the operator of the vehicle, or the person for whom the vehicle is being operated to construct, reconstruct, maintain, or restore to the satisfaction of the controlling authority all or part of the road used by the vehicle; and
 - “(ii) The erection and maintenance of warning devices, signs, or control devices as required by the controlling authority and the Secretary; and
 - “(iii) Where the use of the road does not consist solely of the direct crossing of the road, the prior approval of the National Roads Board.”

(2) Section 6 of the Transport Amendment Act (No. 2) 1965 is hereby repealed.

4. New sections inserted—(1) The principal Act is hereby amended by inserting, after section 14, the following sections:

“14A. Form of registration plates and licences—(1) The Minister may from time to time, by notice in the *Gazette*,—

“(a) Prescribe the form and colour of registration plates and licences, the size, shape, and character of the letters, numbers, or distinguishing marks to be shown on them, and the means to be adopted to make the plates and licences easily visible;

“(b) Prescribe the number of registration plates to be displayed and the position or positions in which registration plates and licences are to be displayed.

“(2) The Minister may, under subsection (1) of this section, prescribe specific types of or distinguishing marks for registration plates and licences to be issued for use on vehicles operated or regularly used by persons holding specified offices

or having specified status, immunities, or privileges, and specific types of or distinguishing marks for plates and licences to be issued for use on vehicles of specified classes.

“(3) The Minister may from time to time, by notice in the *Gazette*, prescribe various fees payable in respect of the issue of registration plates and licences to cover the cost of production and issue of the plates and licences.

“14B. Duplicate certificates of registration and substitute registration plates and licences—(1) The Deputy Registrar shall, if he is satisfied that the certificate of registration, registration plate or plates, or licence for any vehicle has been lost, damaged, or destroyed, issue a duplicate certificate of registration, a substitute plate or plates, or a substitute licence, as the case may require.

“(2) The Deputy Registrar may require the surrender to him of any damaged certificate of registration, registration plate, or licence or the undamaged part of any set of plates before issuing any duplicate certificate or substitute plate or licence under subsection (1) of this section.

“(3) Every application for the issue of any duplicate certificate of registration, substitute registration plate or plates, or substitute licence shall be made by or on behalf of the owner to a Deputy Registrar, on a form provided by the Registrar, and shall specify—

“(a) The name of the owner;

“(b) The address of the owner’s place of residence or place of business within New Zealand;

“(c) The owner’s postal address within New Zealand, if that address differs from the address given under paragraph (b) of this subsection;

“(d) Such particulars relating to the vehicle as may be required by the Registrar as indicated on the form—and shall be accompanied by the fee prescribed under subsection (5) of this section for the issue of the duplicate certificate of registration or under section 14A (3) of this Act for the issue of registration plates or a licence, as the case may require.

“(4) The Deputy Registrar may require the person making the application under subsection (3) of this section to produce a statutory declaration by the person claiming to be the owner of the vehicle that the person is the owner of the vehicle and a statutory declaration by an appropriate person explaining the circumstances in which the certificate, plate, or licence was lost, damaged, or destroyed.

“(5) The Minister may from time to time, by notice in the *Gazette*, prescribe a fee payable in respect of the issue of a duplicate certificate of registration to cover the cost of production and issue of the certificate.

“14C. Change of use of motor vehicle—(1) Where a motor vehicle is used for a purpose different from that indicated by the licence the owner of the vehicle shall forthwith apply for an appropriate new licence.

“(2) The Deputy Registrar may require production of the certificate of registration of the vehicle for amendment if necessary, and may require the surrender or destruction of the present licence before issuing a new licence.”

(2) Section 24 (d) of the principal Act is hereby repealed.

5. Offences—Section 15 of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraphs:

“(a) Operates any motor vehicle on which the appropriate registration plate or plates or licence is not displayed in the manner prescribed by the Minister under section 14A of this Act;

“(aa) Operates any vehicle on which is displayed any object or design that is intended to cause, or reasonably likely to cause, any person to believe that there is displayed on the vehicle the appropriate registration plate or plates or licence prescribed by the Minister under section 14A of this Act.”.

6. Change of cross reference—Section 18 (2) (d) of the principal Act is hereby amended by omitting the expression “section 76 of this Act”, and substituting the expression “section 356 of the Local Government Act 1974”.

7. Offence relating to application for duplicate certificate or substitute plate or licence—Section 18A (1) of the principal Act (as inserted by section 5 of the Transport Amendment Act 1985) is hereby amended by inserting, after paragraph (b), the following paragraph:

“(ba) In or for the purposes of any application under section 14B of this Act for a duplicate certificate of registration, a substitute registration plate or plates, or a substitute licence for any motor vehicle; or”.

8. Unlicensed disqualified driver may be tested for limited licence—Section 25 (3) (b) of the principal Act (as

substituted by section 3 of the Transport Amendment Act (No. 3) 1983) is hereby amended by inserting, after the words "in accordance with", the words "or while being tested for".

9. National register of drivers' licences—Section 29C (1) (i) of the principal Act (as substituted by section 3 of the Transport Amendment Act (No. 3) 1983) is hereby amended by inserting, after the word "under", the expression "section 30C or".

10. Regulations as to motor drivers' licences and driving instructors—(1) Section 29F of the principal Act (as substituted by section 3 of the Transport Amendment Act (No. 3) 1983) is hereby amended by inserting in paragraph (a), after the words "such examinations and tests", the words ", or, in the case of applicants for the renewal of licences who have attained an age specified in the regulations, being not less than the age of 70 years, providing that the applicant shall pass the test if the person conducting the test is satisfied that the driving ability of the applicant is such that the applicant is a fit and proper person to hold the licence.

(2) Section 29F of the principal Act (as so substituted) is hereby further amended by adding to paragraph (d) the words ", and prescribing circumstances in which the Secretary may allow persons who do not meet the age requirements to apply for any class of licence which, if granted, shall be subject to such conditions as the Secretary thinks fit".

(3) Section 29F of the principal Act (as so substituted) is hereby further amended by inserting, after paragraph (e), the following paragraph:

"(ea) Authorising the Secretary, where he has reasonable grounds to do so, to require the medical examination of any applicant for or holder of a driver's licence to be conducted by a registered medical practitioner nominated by the Secretary; empowering the Secretary to decline to grant a licence or revoke a licence if the person refuses or neglects to submit to the examination or if, following the examination, the Secretary is satisfied that on medical grounds the person is unfit to be granted or continue to hold a driver's licence; providing for a right of appeal to a District Court Judge against the refusal to grant the licence or the revocation of the licence; and prescribing the time within which and the manner in which such appeals may be made:".

(4) Section 29F of the principal Act is hereby further amended by inserting, after paragraph (f), the following paragraph:

“(fa) Empowering the Secretary, where he has reasonable grounds to do so, to impose in particular cases conditions on licences relating to the use of aids or the driving of vehicles that are specially adapted or have particular features; providing for a right of appeal to a District Court Judge against the imposition of any such condition; and prescribing the time within which and the manner in which such appeals may be made.”.

(5) Section 29F of the principal Act (as so enacted) is hereby further amended by omitting from paragraph (m) the words “practical, theoretical, or medical”, and substituting the words “practical or theoretical”.

(6) Section 29F of the principal Act (as so enacted) is hereby further amended by repealing paragraph (n), and substituting the following paragraph:

“(n) Authorising the Secretary to decline to issue or revoke any licence that authorises the holder to drive vehicles carrying passengers for reward where the Secretary considers the refusal or revocation to be necessary in the public interest having regard to the conduct of that person; providing for a right of appeal to a District Court Judge against the refusal to grant the licence; and prescribing the time within which and the manner in which such appeals may be made.”.

(7) Section 29F of the principal Act (as so substituted) is hereby further amended by inserting in paragraph (q), after the word “issued”, the words “, held, suspended.”.

(8) Section 29F of the principal Act is hereby amended by inserting, after paragraph (r), the following paragraph:

“(ra) Providing that any licence or permit issued in any other jurisdiction shall, subject to any conditions specified in the regulations and to the extent specified in the regulations, have effect for the purposes of this Act and any regulations made under this Act or such of them as may be specified, as if it were a driver’s licence issued in New Zealand.”.

(9) Section 29F of the principal Act (as so enacted) is hereby further amended by adding, as subsection (2), the following subsection:

“(2) The Secretary may from time to time, by notice in the *Gazette*,—

- “(a) Approve any defensive driving organisation or traffic improvement school as an organisation that conducts any course that is required to be completed by any applicant for a driver’s licence;
- “(b) Approve schools of instruction in relation to motorcycle driving for the purpose of regulations made pursuant to this Act relating to drivers’ licences.”

11. Effect of disqualification—Section 33 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Where the holder of a driver’s licence is disqualified from holding or obtaining a driver’s licence for a period of more than 12 months or for 2 or more cumulative periods totalling more than 12 months, the licence shall, on the expiration of his disqualification, continue to be of no effect until the holder applies for in the prescribed manner and passes such examinations and tests as are prescribed for a driver’s licence authorising him to drive motor vehicles of the class or classes that he was authorised to drive by virtue of his driver’s licence, or any of those classes.”

12. Issue of limited licence to disqualified person—
(1) Section 38 of the principal Act (as substituted by section 5 (1) of the Transport Amendment Act (No. 3) 1976) is hereby amended by repealing subparagraph (ii) of paragraph (a) of the proviso to subsection (2), and substituting the following subparagraph:

“(ii) For an offence against this Act of any of the kinds specified in subsection (1), subsection (2A), or subsection (3) of section 30 of this Act committed within 5 years of the commission of any other offence specified in any of those subsections and arising from a different incident (whether or not both offences are of the same kind):”.

(2) Section 38 of the principal Act (as so substituted) is hereby further amended by repealing subsection (8), and substituting the following subsection:

“(8) Where the holder of a limited licence or any person who is authorised to obtain a limited licence but has not become the holder of such a licence, is convicted of any offence for which an order of disqualification is imposed, the limited licence

shall be deemed to be revoked or shall not be issued, as the case may be, and the original order of disqualification shall revive and have effect for the balance of the term for which it was originally imposed; and, unless the Court orders otherwise, the period of disqualification under the revived order of disqualification shall run concurrently with the order of disqualification in respect of the second offence.”

13. Entitlement to infringement fees—Section 43 (3) of the principal Act (as substituted by section 7 of the Transport Amendment Act 1980) is hereby amended by repealing paragraph (a).

14. Blood tests—(1) Section 57A (1) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by repealing the definitions of the terms “approved Hospital Board” and “authorised person”, and substituting the following definitions:

“‘Area Health Board’ has the same meaning as in the Area Health Boards Act 1983;

“‘Approved Area Health Board or approved Hospital Board’ means an Area Health Board or Hospital Board approved by the Minister, with the agreement of the Minister of Health, for the purposes of section 58F of this Act;

“‘Authorised person’ means—

“(a) Any person acting in any hospital who is a registered nurse or other person employed by an Area Health Board or Hospital Board and who in the normal course of his duties takes blood specimens; or

“(b) A registered nurse who for the time being is the holder of an office or position declared by the Director-General of Health by notice in the *Gazette* as an office or position the holder of which is an authorised person for the purposes of sections 58B and 58F of this Act.”.

(2) Section 57A (1) of the principal Act (as so substituted) is hereby further amended by adding the following definition:

“‘Registered nurse’ has the same meaning as in the Nurses Act 1977.”

(3) Section 57A (3) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by inserting, before the words “a Hospital Board”, the words “an Area Health Board or”.

(4) Section 58B (12) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by omitting the words "in any hospital".

(5) Section 58C (2) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by inserting, before the words "an authorised person", the words "a registered medical practitioner or".

(6) Section 58D (7) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by inserting, before the words "a Hospital Board", the words "an Area Hospital Board or".

(7) Section 58F (1) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by omitting the words "authorised person employed by an approved Hospital Board may, with the general or special approval of the Hospital Board", and substituting the words "registered medical practitioner or authorised person employed by an approved Area Health Board or approved Hospital Board may, with the general or special approval of that Board".

15. Compulsory stopping of certain vehicles at railway crossings—Section 64 (1) of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph:

"(c) The carriage of flammable liquid or liquefied petroleum gas in bulk or in containers any of which has a capacity of 250 litres or more or, where the greater part of the load consists of flammable liquid or liquefied petroleum gas, or both, in smaller containers—".

16. Bylaws—Section 72 (1) of the principal Act is hereby amended by adding to paragraph (kb) (as substituted by section 22 (2) of the Transport Amendment Act 1974), the words "or not less than a specified number of occupants".

17. Cost of enforcement of traffic legislation—(1) Section 75 of the principal Act (as substituted by section 6 of the Transport Amendment Act 1965) is hereby amended by repealing subsections (2) and (3), and substituting the following subsection:

"(2) The whole of the cost of enforcement under any arrangement made under subsection (1) of this section shall be payable by the Crown."

(2) The Local Government Amendment Act 1979 is hereby consequentially amended by repealing so much of Part III of the Third Schedule as relates to section 75 (3) of the principal Act.

18. Manufacture or sale of seat belts and child restraints—The principal Act is hereby amended by adding to section 77C (as inserted by section 12 of the Transport Amendment Act 1972 as section 77A, and renumbered as section 77C by section 26 of the Transport Amendment Act (No. 3) 1983), as subsection (2), the following subsection:

“(2) Notwithstanding subsection (1) of this section and notwithstanding that regulations made under this Act may permit the use of seat belts and child restraints that have not been approved by the Secretary, no person shall manufacture for the purposes of sale, import for sale, sell, offer or expose for sale, or have in his possession for the purposes of sale any seat belt or child restraint which is or purports to be for use or fitting in any motor vehicle unless that seat belt or child restraint is for the time being approved by the Secretary by notice in the *Gazette* pursuant to section 77B of this Act.”

19. Certificates of fitness—Section 79 of the principal Act (as inserted by section 2 of the Transport Amendment Act (No. 2) 1983) is hereby amended by adding to subsection (4) the following paragraphs:

“(e) Any motorcar, and any motor vehicle used by any part of the Armed Forces (as defined in the Defence Act 1971), that is being used to convey persons who would otherwise use public transport during any period in which any public transport in any part of New Zealand is suspended;

“(f) Any motorcar used to carry persons to or from their places of employment or business pursuant to a cost-sharing arrangement between the occupants of the vehicle.”

20. Repeal of provisions relating to orders for costs and expenses—Section 176 of the principal Act (as substituted by section 18 of the Transport Amendment Act (No. 2) 1983) is hereby amended by omitting the words “or the Licensing Appeal Authority or the Charges Appeal Authority”.

21. Application of fees relating to taxicab services—Section 177 of the principal Act (as substituted by section 18 of the Transport Amendment Act (No. 2) 1983) is hereby amended by repealing subsection (2).

22. Definition of term “exempted vehicle”—Section 187 of the principal Act (as substituted by section 2 (1) of the Transport Amendment Act (No. 2) 1982) is hereby amended by adding to the definition of the term “exempted vehicle” the words “or a vehicle so exempted by virtue of section 7 (4C) of this Act”.

23. Obstruction of traffic officers—Section 192A of the principal Act (as inserted by section 15 (1) of the Transport Amendment Act (No. 2) 1967) is hereby amended by omitting from paragraph (a) the expression “; or”, and repealing paragraph (b).

24. Evidence of accuracy of weighing devices—(1) Section 197 of the principal Act (as substituted by section 22 (1) of the Transport Amendment Act 1970) is hereby amended by repealing subsection (5), and substituting the following subsection:

“(5) In any proceedings for an offence against this Act or the Road User Charges Act 1977, or any regulations or bylaws made pursuant to this Act or that Act, proof that any weighing device bore the stamp of a mark of verification under the Weights and Measures Act 1925 indicating that the weighing device had been so stamped in a month not earlier than 12 months before the month of the alleged offence shall, in the absence of proof to the contrary, be sufficient evidence that the weighing device was accurate on the date of the alleged offence.”

(2) Section 30 (b) of the Road User Charges Act 1977 is hereby consequentially repealed.

25. Repeal of Schedule to Transport Amendment Act 1971—The Schedule to the Transport Amendment Act 1971 is hereby repealed.

26. Amendments to Transport Amendment Act (No. 2) 1983—(1) Section 21 (2) of the Transport Amendment Act (No. 2) 1983 is hereby amended by repealing paragraphs (b) and (c), and substituting the following paragraph:

“(b) Subsections (3), (6) (b), and (8) (c) of section 117;”.

(2) Section 21 (2) of the Transport Amendment Act (No. 2) 1983 is hereby further amended by repealing paragraph (g), and substituting the following paragraph:

“(g) Section 140 (9) (d);”.

(3) Section 22 of the Transport Amendment Act (No. 2) 1983 is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Section 119 (1) (c) (ii) of the principal Act (as substituted by section 18 of this Act) is hereby repealed.”

(4) Section 22 (4) of the Transport Amendment Act (No. 2) 1983 is hereby amended by omitting the expression “Section 132”, and substituting the expression “Section 134”.

(5) The Third Schedule to the Transport Amendment Act (No. 2) 1983 is hereby amended—

(a) By omitting from the item relating to the Transport Amendment Act 1970 the expression “Sections 15”, and substituting the expression “Sections 16”;

(b) By omitting from the item relating to the Transport Amendment Act 1971 the expression “Sections 17 and 18 (2)”, and substituting the expression “Section 17”.

27. Amendment to Summary Proceedings Act 1957—
Section 24 (1) of the Summary Proceedings Act 1957 is hereby amended by inserting in paragraph (d) (as inserted by section 3 of the Summary Proceedings Amendment Act 1985), after the expression “section 12 (1)”, the expression “section 14B (3)”,.

This Act is administered in the Ministry of Transport.
