

House of Representatives
Supplementary Order Paper

Tuesday, 14 June 2005

Land Transport Amendment Bill

Proposed amendments

Hon Pete Hodgson, in Committee, to move the following amendments:

Clause 2

To insert in subclause (1), after the expression "**19**," (line 7 on page 5), the expression "**24(2)**,".

To insert in subclause (2), after the expression "**83**," (line 3 on page 6), the expression "**84(1)**,".

Clause 4(3)

To omit the definition of **cumulative work day** (lines 4 and 5 on page 8), and substitute the following definition:

"cumulative work day means a period—

“(a) during which work occurs; and

“(b) that—

“(i) does not exceed 24 hours; and

“(ii) begins after a continuous period of rest time of at least 10 hours

To omit paragraph (b)(iii) from the definition of **passenger service** (lines 3 to 6 on page 10), and substitute the following subparagraph:

“(iii) in which the carriage of passengers is an integral part of, or reasonably necessary to provide, another service or activity (other than a transport service) for which payment is made” .

To omit the definition of **transport service operator** (lines 21 to 24 on page 12), and substitute the following definition:

"transport service operator means a person who carries on a transport service, whether or not that person employs

personnel to assist in doing so on its behalf; but does not include those personnel

Clause 13

To omit from the heading the expression “**section 29A**” (line 33 on page 20), and substitute the words “**sections 29A and 29B**”.

To omit the word “section” (line 35 on page 20), and substitute the word “sections”.

Clause 13: new section 29A(2)(b)

To insert, after the word “imprisonment” (line 15 on page 21), the words “(other than an act that is no longer an offence)”.

Clause 13: new section 29B inserted

To insert, after *new section 29A* (after line 15 on page 22), the following section:

“29B Passenger endorsement may be reinstated in certain cases

- “(1) A person whose passenger endorsement is deemed to be expired and of no effect under **section 29A(1A)** may apply to the Director to have that passenger endorsement reinstated if—
- “(a) the person has not been convicted of an offence specified in **section 29A(2)(a)** or **section 29A(2)(b)**; and
 - “(b) the person’s last conviction for a specified serious offence occurred more than 10 years before the commencement of this section; and
 - “(c) during the 10-year period immediately preceding the application, the person has had no convictions for an offence that is punishable by a term of imprisonment.
- “(2) If an application is made under **subsection (1)**, the Director—
- “(a) may, if satisfied that allowing the applicant to hold a passenger endorsement would not be contrary to the public interest, reinstate the applicant’s passenger endorsement; and
 - “(b) must, when determining whether reinstating the applicant’s passenger endorsement would not be contrary to the public interest, have regard to—
 - “(i) the sentence imposed for the applicant’s last conviction for a specified serious offence; and
 - “(ii) the general safety criteria set out in **section 30B**; and
 - “(iii) any other matters that the Director considers relevant, including (but not limited to) submissions by any affected party.
- “(3) If the Director decides to reinstate the applicant’s passenger endorsement, **section 29A(1)** does not apply with respect to that applicant unless that applicant commits a specified serious offence on or after the date of the Director’s decision.

“(4) If the Director decides not to reinstate the applicant’s passenger endorsement, the applicant may appeal to the High Court.

“(5) For the purposes of this section, **specified serious offence** has the same meaning as in **section 29A(2)**.”

Clause 14: new section 30I

To omit *new section 30I* (lines 34 to 38 on page 27 and line 1 on page 28), and substitute the following section:

“30I **Transport service operators may not carry on certain transport services unless licensed to do so**

A transport service operator may not carry on any of the following transport services unless licensed to do so:

“(a) goods service:

“(b) passenger service:

“(c) rental service:

“(d) vehicle recovery service.

Clause 15: new section 30Z

To insert in subsection (1), after the word “in” (line 25 on page 37), the words “**subpart 1** or”.

Clause 15: new section 30ZAA

To insert in subsection (1), after the word “if” (line 16 on page 38), the words “, in a cumulative work period,”.

Clause 15: new section 30ZA

To omit subsection (2) (lines 18 and 19 on page 39), and substitute the following subsection:

“(2) In any cumulative work day, a driver—

“(a) may not exceed 13 hours of work time; and

“(b) must have at least 10 hours of continuous rest time.

Clause 15: new section 30ZBA

To insert in subsection (1), after the word “if” (line 3 on page 41), the words “, in a cumulative work period,”.

Clause 15A

To add the following subsection (after line 3 on page 44):

- (4) Section 31(1)(d) of the principal Act is amended by inserting, after the word “Director”, the words “, a person appointed by the Director, or a member of the Police”.

Clause 33A: new section 79T

To insert, after the word “requires” (line 11 on page 63), the words “(whether or not the sole cause)”.

Clause 33B: new section 79U

To insert, after the word “requires” (line 1 on page 64), the words “(whether or not the sole cause)”.

To add the words “if that person knew, or should have known, that the breach would, or would be likely to, occur” (line 4 on page 64).

Clause 68: new section 168A(1)

To insert, after the words “type of vehicle” (line 27 on page 88), the words “is powered solely by a motor that”.

Schedule: Part 1

To insert, after the item relating to the Road User Charges Act 1977 (after line 35 on page 100), the following item:

Transport Services Licensing Act 1989 (1989 No 74)

Insert in Part 1 of Schedule 1, after clause 1, the following clause:

- “1A Transport provided in motor vehicles that are designed or adapted to carry 12 or fewer persons (including the driver) by persons providing home or community support services, where—
- “(a) the transport is provided to clients as an incidental part of the service; and
 - “(b) a fee or fare is not required of the client for the provision of transport.”

Schedule: Part 5

To insert, before the amendment to clause 1(a) (before line 11 on page 107), in the item relating to the Land Transport (Offences and Penalties) Regulations 1999, the following items:

Omit from the fifth column of the item relating to clause 7.4(1) of the Land Transport (Road User) Rule 2004 (61001) in Schedule 1 the expression “150” and substitute the expression “250”.

Omit from the fifth column of the item relating to clause 7.4(2) of the Land Transport (Road User) Rule 2004 (61001) in Schedule 1 the expression “150” and substitute the expression “250”.

Insert in item 2 of Schedule 2, after the item relating to clause 7.1(2), the following items:

7.4(1) Operate vehicle that creates excessive noise	10
7.4(2) Create excessive noise within or on vehicle	10

To omit from the item relating to the Land Transport (Offences and Penalties) Regulations 1999 the expression “clause 1(d)” (line 19 on page 107), and substitute the expression “clause 1”.

Schedule: Part 6

To insert, after the item relating to the Land Transport (Driver Licensing) Rule 1999 (after line 29 on page 110), the following item:

Land Transport (Road User) Rule 2004 (SR 2004/427)

Revoke the definition of **mobility device** in clause 1.6, and substitute:

“**mobility device** means—

“(a) a vehicle that—

- “(i) is designed and constructed (not merely adapted) for use by persons who require mobility

Land Transport (Road User) Rule 2004 (SR 2004/427)—
continued

assistance due to a physical or neurological impairment; and

“(ii) is powered solely by a motor that has a maximum power output not exceeding 1 500 W; or

“(b) a vehicle that the Director has declared under section **168A(1)** of the Land Transport Act 1998 to be a mobility device”.

Omit from the definition of **passenger service vehicle** in clause 1.6 the words “Transport Services Licensing Act 1989” and substitute the word “Act”.

Omit from the definition of **power-assisted cycle** in clause 1.6 the expression “200 W” and substitute the expression “300 W”.

Omit from the definition of **vehicle recovery service vehicle** in clause 1.6 the words “Transport Services Licensing Act 1989” and substitute the word “Act”.

Omit from the definition of **wheeled recreational device** in clause 1.6 the expression “200 W” and substitute the expression “300 W”.

Schedule: Part 7

To omit from the item relating to the Land Transport (Driver Licensing) Rule 1999 the words “‘or; and also add:’” (line 10 on page 128), and substitute the words “‘; or’ and also add:”.

Explanatory note

This Supplementary Order Paper amends the Land Transport Amendment Bill. The amendment to *clause 2* adds *clause 24(2)* to the commencement regime set out in *clause 2(1)*, and *clause 84(1)* to the commencement regime set out in *clause 2(2)*.

The amendment to *clause 4(3)* refines the definitions of **cumulative work day**, **passenger service**, and **transport service operator**.

The amendment to *clause 13: new section 29A(2)(b)* provides that **specified serious offence** does not include convictions for acts that are no longer offences. The amendment to *clause 13: new section 29B inserted* inserts *new section 29B*. *New section 29B* provides a procedure by which a person whose passenger endorsement is invalidated under *new section 29A* may apply to the Director of Land Transport for reinstatement of that passenger endorsement. If the Director decides not to reinstate the passenger endorsement, the applicant may appeal to the High Court.

The amendment to *clause 14: new section 30I* clarifies that transport service operators may not provide certain transport services unless licensed to do so.

The amendment to *clause 15: new section 30Z* inserts a cross reference to the work time provisions set out in subpart 1 of Part 2. The amendment to *clause 15: new section 30ZAA* clarifies that the relevant provisions only apply to a cumulative work period. The amendment to *clause 15: new section 30ZA*

provides that in any cumulative work day, a driver may not exceed 13 hours of work time and must have at least 10 hours of continuous rest time. The amendment to *clause 15: new section 30ZBA* clarifies that the relevant provisions only apply to a cumulative work period. The amendment to *clause 15A* adjusts section 31(1)(d) of the principal Act to match the change made to section 30 of the principal Act in *clause 13A(3)*.

The amendment to *clause 33A: new section 79T* clarifies that requiring or causing a person to breach the relevant provisions need not be the sole cause for the breach. The first amendment to *clause 33B: new section 79U* clarifies that requiring or causing a person to breach the relevant provisions need not be the sole cause for the breach. The second amendment to *clause 33B: new section 79U* adds the words “if that person knew, or should have known, that the breach would, or would be likely to, occur” to parallel the wording in *clause 33A: new section 79T*. The amendment to *clause 68A: new section 168A(1)* aligns the provision with the definition of **mobility device** in clause 4(4).

The amendment to *Part 1 of the Schedule* amends Part 1 of Schedule 1 of the Transport Services Licensing Act 1989 to provide that transport by a home or community support service is exempt if the transport is an incidental part of the service and does not require a fee or fare. The amendments to *Part 5 of the Schedule* raise the infringement fee for breaches of the Land Transport (Road User) Rule 2004 with respect to using vehicles to create excessive noise and provides demerit points for those breaches. The amendments also change a clause reference. The amendments to *Part 6 of the Schedule* change some of the definitions in the Land Transport (Road User) Rule 2004. The definition of **mobility device** in the Land Transport (Road User) Rule 2004 is changed to be consistent with the definition of **mobility device** in the Bill. In the definitions of **power assisted cycle** and **wheeled recreational device**, the 200 W limit is raised to 300 W. In the definitions of **passenger service vehicle** and **vehicle recovery service vehicle**, the reference to the Transport Services Licensing Act 1989 is changed to a reference to the Land Transport Act 1998. The amendment to *Part 7 of the Schedule* corrects a typographical error.

