



REPEALED: See Act, 196 No.

ANALYSIS

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| <p>Title</p> <ol style="list-style-type: none"> 1. Short Title 2. Meaning of "taxicab" 3. Term of disqualification of drivers 4. Penalty for driving while disqualified 5. Application to Court to remove disqualification | <ol style="list-style-type: none"> 6. Provisional licences to drive motor cycles 7. Defective nomination of insurance company 8. Meaning of "goods service" 9. Regulations as to hours of work of drivers of trackless-trolley omnibuses |
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1958, No. 53

An Act to amend the Transport Act 1949

[26 September 1958]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Transport Amendment Act (No. 2) 1958, and shall be read together with and deemed part of the Transport Act 1949 (hereinafter referred to as the principal Act).

2. Meaning of "taxicab"—Section two of the principal Act is hereby amended by omitting from paragraph (c) of the definition of the term "taxicab" in subsection one the words "on terms that do not expressly or impliedly require the payment of separate fares by passengers".

3. Term of disqualification of drivers—(1) Section thirty-one of the principal Act (as substituted by subsection one of section eight of the Transport Amendment Act 1955) is hereby amended as follows:

- (a) By omitting from subsection one the words "Subject to subsections two and three of section forty-six of this Act":
- (b) By omitting from subsection three the words "against section forty of this Act (not being an offence to which section forty-one of this Act applies), or":
- (c) By omitting from paragraph (a) of subsection three, and also from paragraphs (b) and (c) of that subsection, the words "twenty-eight days" wherever they occur, and substituting in each case the words "three months".

(2) The principal Act is hereby amended by repealing section forty-one (as amended by subsection two of section six of the Transport Amendment Act 1953 and by section ten of the Transport Amendment Act 1955), and substituting the following section:

"41. (1) Upon the conviction of any person for—

"(a) An offence against subsection one of section thirty-nine of this Act; or

"(b) An offence against section forty of this Act (not being an offence of the kind specified in paragraph (b) of subsection two of this section),—

unless for special reasons the Court thinks fit to order otherwise, and without prejudice to the power of the Court to order a longer period of disqualification, the Court shall make an order under section thirty-one of this Act cancelling his motor-driver's licence (if any) and disqualifying him from obtaining a motor-driver's licence for a period of one year from the date of the conviction.

"(2) Upon the first conviction of any person for—

"(a) An offence against subsection two of section thirty-nine of this Act; or

"(b) An offence against section forty of this Act of driving or attempting to drive a motor vehicle on a road while under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle,—

unless for special reasons the Court thinks fit to order otherwise, and without prejudice to the power of the Court to order a longer period of disqualification, the Court shall make an order under section thirty-one of this Act cancelling his motor-driver's licence (if any) and disqualifying him from obtaining any motor-driver's licence for a period of three years from the date of the conviction.

“(3) Upon a second or subsequent conviction of any person for any offence specified in subsection two of this section, unless for special reasons the Court thinks fit to order otherwise, and without prejudice to the power of the Court to order a longer period of disqualification, the Court shall make an order under section thirty-one of this Act cancelling his motor-driver’s licence (if any) and disqualifying him from obtaining any motor-driver’s licence for a period of ten years from the date of the conviction and thereafter until the Court, upon application made after the expiration of that period, orders the removal of the disqualification.”

(3) Section forty-six of the principal Act is hereby amended by repealing subsections two and three.

(4) The following enactments are hereby consequentially repealed:

(a) Subsection two of section six of the Transport Amendment Act 1953:

(b) Section ten of the Transport Amendment Act 1955.

4. Penalty for driving while disqualified—(1) Section thirty-one of the principal Act (as substituted as aforesaid) is hereby further amended by omitting from subsection ten the words “and in addition the Court by which he is so convicted may extend the period of his disqualification for such further period, not exceeding one year, as the Court thinks fit”.

(2) Section thirty-one of the principal Act (as substituted as aforesaid) is hereby further amended by inserting, after subsection ten, the following subsection:

“(10A) Where any person is convicted of an offence against subsection ten of this section, then, unless for special reasons the Court thinks fit to order otherwise, the Court by which the defendant is convicted shall—

“(a) Extend the period of disqualification for such further period as the Court thinks fit, being not less than one year:

“(b) In any case where on or before the date on which the defendant is sentenced or otherwise dealt with for the offence the period of disqualification has expired, make a further order under this section cancelling his motor-driver’s licence (if any) and disqualifying him from obtaining a motor-driver’s licence for such period from the date of the conviction as the Court thinks fit, being not less than one year.”

5. Application to Court to remove disqualification—Section thirty-one of the principal Act (as substituted as aforesaid) is hereby further amended by repealing subsection eleven, and substituting the following subsection:

“(11) Any person who by an order under this section is disqualified from obtaining a motor-driver’s licence or any class of licence, or whose licence is suspended by any such order, may, from time to time,—

“(a) After the expiration of six months from the date of the order, except in any case to which paragraph (b) or paragraph (c) of this subsection applies; or

“(b) After the expiration of twelve months from the date of the order, in any case where the order was made on the first conviction of that person of an offence under subsection two of section thirty-nine of this Act or an offence under section forty of this Act of driving or attempting to drive a motor vehicle on a road while under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle; or

“(c) After the expiration of two years from the date of the order, in any case where the order was made pursuant to subsection three of section forty-one of this Act,—

apply to the Court by which the order was made to remove the disqualification or suspension, and on any such application the Court may, as it thinks proper, having regard to the character of the applicant and his conduct subsequent to the order, the nature of the offence, and any other circumstances of the case, either by order remove the disqualification as from such date as may be specified in the order and subject to such conditions (if any) as the Court thinks fit to impose, or refuse the application:

“Provided that where an application under this subsection is refused or an order is made removing any such disqualification or suspension subject to any condition, a further application for removal of the disqualification or suspension or for the modification or removal of the condition, as the case may be, shall not be entertained if made within three months after the date of the refusal or of the order, as the case may be:

“Provided also that, where the disqualification or suspension was ordered by a Magistrate’s Court, every application under this subsection shall be made to a Magistrate exercising jurisdiction in the Court where the conviction was entered.”

6. Provisional licences to drive motor cycles—Section thirty-five of the principal Act (as amended by section sixteen of the Transport Amendment Act 1950) is hereby further amended by inserting, after paragraph (ff), the following paragraph:

“(fff) Providing, notwithstanding anything in this Part of this Act, for the issue by local authorities at a fee of five shillings for the period prescribed of provisional motor-drivers’ licences authorising the holder to drive a motor cycle only, and applying to those licences, with such modifications as may be considered necessary, any of the provisions of this Part of this Act and of any regulations made pursuant to any other provision of this section:”.

7. Defective nomination of insurance company—Section sixty-nine of the principal Act is hereby amended by inserting in subsection two A (as inserted by section sixteen of the Transport Amendment Act 1953), after the words “cannot be ascertained”, the words “or where the insurance company so nominated does not undertake insurance business in terms of this Part of this Act”.

8. Meaning of “goods service”—(1) Section ninety-six of the principal Act (as substituted by subsection one of section fourteen of the Transport Amendment Act 1955) is hereby amended by adding the following subsection:

“(5) For the purposes of this section (or of any regulations under this Act relating to the carriage of goods by road where there is an available route for the carriage of the goods that includes not less than a specified length of open Government railway),—

“(a) A route which includes open Government railway shall be deemed to be available, notwithstanding the fact that to connect with the railway from the customary or any other road route would require a diversion in any direction or for any distance at either end or both ends of the railway part of the route:

“Provided that no diversion shall be required by way of any railway station or yard which is beyond the place of commencement or termination of the carriage of the goods, unless it is the nearest station or yard to the place of commencement or termination of that carriage:

“Provided also that nothing in this subsection shall apply in any case where the shortest road route for the carriage of the goods is less than fifty miles in the cases to which paragraph (a) of subsection two of this section applies and less than thirty miles in other cases:

“(b) The expression ‘shortest road route’ does not include any route which, because of the nature of the road or any restriction on the use of the road, cannot reasonably or profitably be used for the carriage of the goods sought to be carried.”

(2) In addition to the matters specified in section one hundred and two of the principal Act, the Licensing Authority, when considering any application for a transport licence that is lodged within three months after the date of the passing of this Act, shall take into account—

- (a) The desirability in the public interest of protecting the revenue of the Government Railways; and
- (b) The desirability of maintaining to licensees the right to continue to carry on any service which they were lawfully carrying on at any time during the period of twelve months preceding the passing of this Act.

9. Regulations as to hours of work of drivers of trackless-trolley omnibuses—Section one hundred and sixty of the principal Act is hereby amended by adding to paragraph (t) the words “Regulations under this paragraph regulating the hours of work of persons so employed may provide that the hours so prescribed in relation to any service by trackless-trolley omnibus may, in the manner and in accordance with the procedure prescribed in the regulations, be varied by a Licensing Authority with right of appeal to the Licensing Appeal Authority, notwithstanding that the service may not be a licensed service.”
