

TRANSPORT AMENDMENT (NO. 2) BILL

EXPLANATORY NOTE

THIS Bill, which is deemed to have come into force on 23 May 1975, is directly related to the increase in motor spirits duty effected by the Customs Acts Amendment Bill (which also imposes that duty in respect of aviation fuel (other than jet fuel)).

This Bill provides that—

- (a) The additional motor spirits duty of 4.7 cents per litre be credited to the Consolidated Revenue Account. (The existing duty of 4 cents per litre will continue to be credited to the National Roads Fund.)
- (b) The whole of the motor spirits duty of 9.36 cents per litre collected in respect of aviation fuel be credited to the Consolidated Revenue Account. (The extra 0.66 cent imposed in respect of aviation fuel is a loading designed to compensate for the fact that local authorities petroleum tax is not imposed in respect of aviation fuel.)
- (c) Where motor spirits is used as fuel in a goods-service vehicle (i.e. a motor vehicle designed exclusively or principally for carrying goods and used exclusively under a goods-service licence issued under Part VII of the Transport Act 1962), a refund of the additional motor spirits duty of 4.7 cents per litre will be payable.
- (d) Where aviation fuel is used as fuel in an aircraft—
 - (i) Operated under the terms of either an air service licence granted under the Air Services Licensing Act 1951 or an international air service licence granted under the International Air Services Licensing Act 1947; or
 - (ii) Employed by the holder of any such licence to train his staff,—a refund of the full motor spirits duty of 9.36 cents per litre will be payable.
- (e) Refunds of motor spirits duty paid in respect of aviation fuel will be payable monthly. Refunds in respect of other classes of motor spirits will continue to be payable quarterly.
- (f) Except in three cases, the rate of refund will be increased so that the groups at present entitled to refunds will be entitled to a full refund of the additional duty. The three exceptions are—
 - (i) Motor spirits used in vehicles used principally in vehicle races or trials or other sporting events;
 - (ii) Motor spirits used in vessels for non-commercial purposes;
 - (iii) Motor spirits used otherwise than as a fuel for a motor vehicle when the use is for non-commercial purposes.In these three cases the right to a refund will cease. (In this respect this Bill duplicates the provisions contained in the Transport Amendment Bill now before the House and that Bill is superseded.)

- (g) The additional amount of mileage tax is to be credited to the Consolidated Revenue Account. (Mileage tax increases in proportion to the increase in motor spirits duty on motor spirits other than aviation fuel.)
 - (h) The mileage tax payable in respect of goods-service vehicles will remain at the rate payable immediately before the commencement of this Bill.
 - (i) Applications for refunds of motor spirits duty paid in respect of aviation fuel are to be made to the Secretary for Transport. Other applications for refunds of motor spirits duty will continue to be made to Deputy Registrars of Motor Vehicles.
 - (j) Such applications are to be made on forms provided by these officers.
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Hon. Sir Basil Arthur

TRANSPORT AMENDMENT (NO. 2)

ANALYSIS

Title	188. Refund of motor spirits
1. Short Title and commencement	duty
2. New sections substituted	3. Mileage tax on certain classes of
187. Duty on motor spirits	motor vehicle

A BILL INTITULED

An Act to amend the Transport Act 1962

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

1. Short Title and commencement—(1) This Act may be cited as the Transport Amendment Act (No. 2) 1975, and shall be read together with and deemed part of the Transport Act 1962* (hereinafter referred to as the principal Act).

10 (2) This Act shall be deemed to have come into force on the 23rd day of May 1975.

2. New sections substituted—(1) The principal Act is hereby amended by repealing section 187 (as substituted by section 24 of the Transport Amendment Act (No. 2) 1969
15 and amended by section 8 (1) of the Transport Amendment

*Reprinted 1970, Vol. 3, p. 2383

Amendments: 1971, Nos. 57, 68; 1972, No. 129; 1973, No. 35; 1974, No. 61

Act (No. 2) 1971 and section 3 (2) of the Customs Amendment Act 1971) and section 188 (as substituted by section 24 of the Transport Amendment Act (No. 2) 1969 and amended by section 3 (1) of the Transport Amendment Act 1970, section 5 (4) of the Transport Amendment Act 1971, section 8 (2) (a) of the Transport Amendment Act (No. 2) 1971, and section 29 (1) of the Transport Amendment Act 1974), and substituting the following sections: 5

“187. **Duty on motor spirits**—(1) In this Part of this Act, unless the context otherwise requires,— 10

“‘Aviation fuel’ means motor spirits of a kind for the time being determined by the Minister of Customs under section 10 (1) (a) of the Motor Spirits Duty Act 1961 to be aviation fuel:

“‘Motor spirits duty’ means the money received under the Motor Spirits Duty Act 1961 as motor spirits duty and the money received under the Customs Tariff on goods in respect of which motor spirits duty under that Act would be payable if they were sold, used, or otherwise disposed of in New Zealand by a licensee within the meaning of that Act. 15 20

“(2) Subject to section 22 (4) of the National Roads Act 1953, all money received as motor spirits duty, after deducting any refunds or drawbacks of duties made under the Customs Act 1966 or made under that Act as applied by the Motor Spirits Duty Act 1961, shall be paid into the Public Account and shall be credited as follows: 25

“(a) 9.36 cents of the duty received in respect of each litre of aviation fuel and 4.70 cents of the duty received in respect of each litre of all other motor spirits shall be credited to the Consolidated Revenue Account; and 30

“(b) The balance thereof shall be credited to the National Roads Fund.

“188. **Refund of motor spirits duty**—(1) In this section, unless the context otherwise requires,— 35

“‘Class A motor vehicle’ means any motor vehicle which is exempted from the payment of registration fees and annual licence fees by virtue of section 13 of this Act: 40

“‘Class B motor vehicle’ means any motor vehicle which is declared by Order in Council to be a vehicle of Class B for the purposes of this section:

5 “‘Class C motor vehicle’ means any motor vehicle which is declared by Order in Council to be a vehicle of Class C for the purposes of this section:

“‘Commercial vessel’ means a vessel used exclusively or principally for commercial purposes:

10 “‘Goods-service vehicle’ means a motor vehicle designed exclusively or principally for carrying goods and used exclusively under a goods-service licence issued under Part VII of this Act:

15 “‘Passenger-service vehicle’ means a motor vehicle designed exclusively or principally for carrying passengers and used exclusively in 1 or more of the following ways:

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

20 (b) As a contract vehicle:

(c) For the carriage to or from school of school children and their teachers;—
but does not include a taxicab.

25 “(2) This section applies to motor spirits (in respect of which motor spirits duty has been paid and in respect of which no exemption from or refund of motor spirits duty has been granted under any other enactment) which is used for any of the following purposes, otherwise than as fuel for any vehicle used principally in vehicle races or trials or any other sporting events:

30 “(a) As fuel for any motor vehicle (other than a motor vehicle used with trade plates pursuant to section 22 of this Act) in respect of which an annual licence fee is not payable under section 12 of this Act; or

35 “(b) As fuel for any specified motor vehicle or any specified class of motor vehicle to which the provisions of this section are applied by Order in Council; or

“(c) As fuel for any passenger-service vehicle; or

“(d) For commercial purposes otherwise than as fuel for any motor vehicle, vessel, or aircraft; or

40 “(e) As fuel in a commercial vessel; or

“(f) As fuel in an aircraft—

“(i) Operated under an air service licence granted under the Air Services Licensing Act 1951 or an international air service licence granted under the International Air Services Licensing Act 1947; 5
or

“(ii) Employed by the holder of any such licence to train his staff; or

“(g) As fuel in a goods-service vehicle.

“(3) Any Order in Council made under paragraph (b) of subsection (2) of this section shall specify the classification for the purposes of this section of the motor vehicle or class of motor vehicle to which the order relates. 10

“(4) Persons using any motor spirits with respect to which this section applies shall, on application— 15

“(a) To the Secretary in the case of aviation fuel; and

“(b) To a Deputy Registrar in the case of other motor spirits,—

be entitled to a refund in respect of motor spirits duty to the extent specified in subsection (6) of this section. 20

“(5) All refunds under this section shall be paid out of the National Roads Fund and out of the Consolidated Revenue Account to the extent specified in subsection (6) of this section without further appropriation than this section.

“(6) The refunds authorised by this section shall be paid in 25 respect of motor spirits used as described in column 1 of the table following this subsection and to the extent specified in column 2 of that table, and shall be paid from the National Roads Fund or the Consolidated Revenue Account, as the case may be, to the extent specified in column 3 or, as the case 30 may be, column 4 of that table. The table referred to in this subsection is as follows:

“TABLE OF REFUNDS OF MOTOR SPIRITS DUTY

Column 1 Use of Motor Spirits Entitling Refund of Motor Spirits Duty	Column 2 Amount of Refund per Litre of Motor Spirits	Column 3 Amount of Refund per Litre of Motor Spirits Payable from National Roads Fund	Column 4 Amount of Refund per Litre of Motor Spirits Payable from Consolidated Revenue Account
	c	c	c
Used as fuel in a Class A motor vehicle, or for commercial purposes in a motor vehicle not required to be registered under section 7 of this Act, not being in either case a vehicle used principally in vehicle races or trials or any other sporting events	8.7	4.0	4.7
Used as fuel in a Class B motor vehicle ..	8.7	4.0	4.7
Used as fuel in a Class C motor vehicle ..	7.6	2.9	4.7
Used as fuel in a passenger-service vehicle ..	5.4	0.7	4.7
Used as fuel in a commercial vessel ..	8.7	4.0	4.7
Used for commercial purposes otherwise than as fuel in any motor vehicle, vessel, or aircraft	8.7	4.0	4.7
Being aviation fuel is used as fuel in an aircraft— (a) Operated under the terms of either an air service licence granted under the Air Services Licensing Act 1951 or an international air service licence granted under the International Air Services Licensing Act 1947; or (b) Employed by the holder of any such licence to train his staff	9.36	..	9.36
Used as fuel in a goods-service vehicle ..	4.7	..	4.7

“(7) Every application for a refund under this section shall be on a form to be provided by the Secretary or the Deputy Registrar, as the case may require, and shall be supported by such documentary evidence as the Secretary or the Deputy Registrar may require or as may be prescribed by regulations made under this Act.

“(8) Every person commits an offence who, for the purposes of obtaining a refund under this section, makes any application or furnishes any information that is false in any material particular. Notwithstanding the provisions of section 259 of the Customs Act 1966, any information under the Summary Proceedings Act 1957 for an offence against this subsection may be laid by a Collector within the meaning of the Customs Act 1966 or by the Secretary or by the Registrar or by any constable. 5

“(9) Section 14 of the Summary Proceedings Act 1957 shall not apply with respect to a prosecution for an offence against subsection (8) of this section. 10

“(10) Applications for refunds under this section shall—

“(a) In the case of refunds relating to fuel used in an aircraft, be made in respect of monthly periods ending with the last day of each month; and 15

“(b) In the case of all other refunds, be made in respect of periods ending respectively with the last day of March, June, September, and December in any year. 20

“(11) Except as provided in subsections (12) and (13) of this section, no refund under this section shall be made unless application for the refund is made within 2 years following the close of the period in respect of which it is made. Where the application is made after the expiration of 3 months from the close of the appropriate period but within 2 years after the close of the period, the amount of the refund otherwise payable shall be reduced by an amount equal to 10 percent thereof. 25

“(12) Where application for a refund under this section is made after the expiration of 3 months from the close of the relevant period, whether or not it is made within 2 years after the close of that period, then, notwithstanding anything in subsection (11) of this section, a refund of the full amount may be made, in the discretion of the National Roads Board or the Secretary, as the case may require. 35

“(13) Notwithstanding anything in subsections (10) and (11) of this section, a refund of duty pursuant to this section may in any special case be made before the close of any period in respect of motor spirits used within that period. 40

“(14) No refund of duty shall be allowed under this section unless application therefor is made in accordance with the provisions of subsections (10) to (12) of this section.”

(2) Refunds under Part VIII of the principal Act of motor spirits duty paid, whether before or after the commencement 45

of this Act, in satisfaction of a liability for such duty incurred before the commencement of this Act may be applied for and made as if this Act had not been passed.

5 (3) Section 189 of the principal Act (as substituted by section 24 of the Transport Amendment Act (No. 2) 1969) is hereby amended by omitting from subsection (1) the words “an exemption or refund has been granted under the provisions of the Customs Act 1966 or the Motor Spirits Duty Act 1961”, and substituting the words “motor spirits duty is
10 not payable”.

(4) The following enactments are hereby consequentially repealed, namely—

15 (a) So much of the Schedule to the Transport Amendment Act 1970 as relates to section 188 of the principal Act:

(b) So much of the Second Schedule to the Customs Amendment Act 1971 as relates to section 187 (1) of the principal Act:

20 (c) Section 5 (4) of the Transport Amendment Act 1971:
(d) Subsection (1) and paragraph (a) of subsection (2) of section 8 of the Transport Amendment Act (No. 2) 1971:

(e) Section 29 (1) of the Transport Amendment Act 1974.

25 **3. Mileage tax on certain classes of motor vehicle—**(1) The principal Act is hereby amended by repealing section 190 (as substituted by section 24 of the Transport Amendment Act (No. 2) 1969 and amended by section 3 (1) of the Transport Amendment Act 1970, section 3 (2) of the Customs Amendment Act 1971, section 9 of the Transport Amendment Act
30 (No. 2) 1971, section 18 of the Transport Amendment Act 1972, and section 30 of the Transport Amendment Act 1974), and substituting the following section:

“190. (1) This section applies to—

35 “(a) Every motor vehicle (not being a traction engine or a vehicle designed solely or principally for the use of fire brigades for attendance at fires or a motor vehicle classified in Class A or Class B by or pursuant to section 188 of this Act or a trolley omnibus) in respect of which an annual licence fee is payable under this Act (including a motor vehicle
40 used with trade plates pursuant to section 22 of this Act), if its motive power is not wholly derived from motor spirits on which motor spirits duty is imposed:

“(b) Every motor vehicle of a class which is exempt from payment of an annual licence fee under this Act and to which the Governor-General, by Order in Council, applies the provisions of this section:

“Provided that nothing in paragraph (b) of clause 6 of the Second Schedule to this Act shall apply with respect to any Class C motor vehicle or any passenger-service vehicle, as defined in section 188 (1) of this Act.

“(2) If any motor vehicle to which this section applies is converted by mechanical adaptation (whether of a temporary or permanent nature) into any kind of motor vehicle to which this section does not apply, it shall continue to be subject to the provisions of this section until notice of the conversion is received by the Registrar. Such notice shall be on a form to be provided by the Registrar.

“(3) Within 14 days after the expiration of any quarter, or, in the case of a quarter ending with the 31st day of December, not later than the 31st day of January following, every owner of a motor vehicle to which this section applies shall lodge with a Deputy Registrar a return in a form provided by him stating the total number of miles of public highway over which the motor vehicle was used during the quarter and concerning such other matters as may be prescribed. Any return made for the purposes of this subsection may relate to any number of motor vehicles, but particulars with respect to each vehicle to which the return relates shall be given separately.

“(4) There shall be paid by the owner to the Deputy Registrar by way of tax in respect of the total number of miles stated in every such return in respect of any motor vehicle an amount computed as prescribed by the Second Schedule to this Act. That amount shall become due and payable on the last day of the period within which the return is required to be lodged as aforesaid.

“(5) If default is made by the owner in complying with the foregoing provisions of this section as to the lodging of any return or the payment of any tax, there shall also be paid by him to the Deputy Registrar a penalty computed at the rate of 10 percent of the amount of the tax if the payment or lodgment is made within 21 clear days from the day of

termination of the prescribed period, that penalty being increased by a further 5 percent of the amount of the tax for each additional term of 21 days or part thereof by which the prescribed period is exceeded, but so that the penalty shall in
5 no case exceed 50 percent of the amount of the tax.

“(6) All money payable to a Deputy Registrar under this section shall constitute a debt due to the Crown, and may be recovered accordingly in any Court of competent jurisdiction.

“(7) Subject to section 22 (4) of the National Roads Act
10 1953, all money paid or recovered under the foregoing provisions of this section shall be paid into the Public Account, and shall be credited as follows:

“(a) Forty-seven cents of every 87 cents thereof shall be credited to the Consolidated Revenue Account; and

15 “(b) The balance thereof shall be credited to the National Roads Fund.

“(8) Every owner or other person who imports into New Zealand any motor vehicle to which this section applies or manufactures such a motor vehicle or converts any vehicle by
20 mechanical adaptation (whether of a temporary or permanent nature) into such a motor vehicle shall, within 14 days after the importation or manufacture or conversion, give to the Registrar notice of the importation or manufacture or conversion. Such notice shall be on a form to be provided by
25 the Registrar.

“(9) Without limiting the general power to make regulations conferred by section 199 of this Act, the Governor-General may from time to time, by Order in Council, make such regulations as are necessary for the purpose of giving full
30 effect to this section.

“(10) Every person commits an offence who fails to comply with any of the requirements of this section, or who makes any return or furnishes any information required by this section knowing the same to be false in any particular. Conviction
35 for any such offence shall not relieve the offender from payment of any other penalty imposed by this section.

“(11) In proceedings for any offence against this section the production of a certificate purporting to be signed by an officer of the Post Office authorised by the Director-
40 General of the Post Office in that behalf, either generally or in any particular case, certifying that the owner of a motor

vehicle has failed to lodge a return as required by subsection (3) of this section or that the owner of a motor vehicle has failed to pay any tax or penalty as prescribed in subsection (4) or subsection (5) of this section shall, until the contrary is proved, be sufficient evidence of the matters so certified. 5
 Any person signing any such certificate shall, until the contrary is proved, be presumed to be duly authorised to sign it, and it shall not be necessary for any such certificate to show on its face that the officer signing it was so authorised.

“(12) The Court before which any person is convicted of any such offence may, if necessary, determine the amount of tax and penalty payable by that person under this section in respect of the matters to which the offence relates, and the amount so determined, together with any penalty subsequently accruing, shall be due and payable accordingly. 15

“(13) Section 14 of the Summary Proceedings Act 1957 shall not apply with respect to a prosecution for an offence against subsection (10) of this section. 15

“(14) The Governor-General may from time to time, by Order in Council, exempt any class of motor vehicles from the operation of this section.” 20

(2) The Second Schedule to the principal Act (as substituted by section 13 (1) of the Transport Amendment Act 1965) is hereby amended by inserting in clause 6 (b) (as substituted by section 29 (2) of the Transport Amendment Act 1974), after the words “on motor spirits”, the words “(other than aviation fuel)”. 25

(3) Notwithstanding anything in subsection (4) of section 190 of the principal Act, mileage tax payable pursuant to that subsection shall be payable— 30

(a) In respect of the period commencing on the 1st day of April 1975 and ending with the day before the commencement of this Act at the rate in force immediately before the commencement of this Act: 35

(b) In respect of the period commencing on the date of the commencement of this Act and ending with the 30th day of June 1975 at the rate computed as prescribed by the Second Schedule to the principal Act.

(4) Notwithstanding anything in paragraph (b) of clause 6 of the Second Schedule to the principal Act, mileage tax payable in respect of goods-service vehicles as defined in section 188 (1) of the principal Act shall be payable at the rate in force immediately before the commencement of this Act. 40

(5) The following enactments are hereby consequentially repealed, namely:

- 5 (a) So much of the Schedule to the Transport Amendment Act 1970 as relates to section 190 of the principal Act:
- (b) So much of the Second Schedule to the Customs Amendment Act 1971 as relates to section 190 (1) (a) of the principal Act:
- 10 (c) Section 9 of the Transport Amendment Act (No. 2) 1971:
- (d) Section 18 of the Transport Amendment Act 1972:
- (e) Section 30 of the Transport Amendment Act 1974.