

TRANSPORT AMENDMENT BILL

EXPLANATORY NOTE

1. The purpose of this Bill is to provide a new method of fixing the charges for transport services under the Transport Act, 1949, and to make several other miscellaneous amendments to that Act.

PART I—ROAD AND FERRY TRANSPORT CHARGES

2. The Transport Charges Committee is to be abolished (*clause 3*), and the charges which may be made in respect of any transport service to which the principal Act applies are to be fixed—

- (a) In the case of a service owned by a public body, by that body itself, with a right of appeal to the Transport Charges Appeal Authority;
- (b) In the case of any other service, by the Commissioner of Transport, with a right of appeal to the Transport Charges Appeal Authority.

3. *Clauses 4 to 7* contain provisions which substantially re-enact the provisions of sections 123, 124, 125, and 126 of the principal Act (which set out the procedure to be adopted in fixing charges) suitably modified to apply to the new system of fixing charges by the public body concerned or by the Commissioner. New matter appearing in the new sections is as follows:—

(a) *Clause 4*: Under subsection (3) of the new section 123, the public body or the Commissioner, in cases where the Charges Appeal Authority has directed that body or the Commissioner to review existing charges, may decline to make an order if it is considered that no order is justified. This decision may be appealed against as in the case of any other decision by the public body or Commissioner:

(b) *Clause 6*: Under subsection (1) of the new section 125, the right of making application to fix, review, or alter transport charges is given to incorporated bodies whose members have a special interest in the type of transport concerned or whose principal objects are the protection of the interests of transport operators. Under subsection (4) the Commissioner may treat an application in respect of a particular service as a general application. Under subsection (5) he may refuse to make an order relating to goods service charges if he is not satisfied that the applicant has made reasonable attempts to obtain agreement as to the order proposed between the licensees concerned and the users of the service. Under subsection (6) the Commissioner is bound to make an order on an application relating to goods service charges if the interested parties agree to the proposed order.

4. *Clause 8* provides for consequential amendments to the principal Act, and *clause 9* contains saving provisions relating to existing orders and appeals pending.

5. *Clause 10* requires the Commissioner to be represented at every appeal against a decision by him, and to adduce all available evidence and give reasons for his decision.

PART II—MISCELLANEOUS

6. This part provides for several miscellaneous amendments to the principal Act.

7. *Clause 11* abolishes the Transport Co-ordination Board. Section 7 of the principal Act is retained whereby the Minister may make, or may appoint any other person to make, inquiries for the purposes of transport co-ordination.

8. *Clause 12* provides for increases in the fees payable in respect of the licensing of motor vehicles as follows:—

- (a) The annual licence fees for motor vehicles are increased by 1s. in each case (*subclause (1)*):
- (b) The fee payable on giving notice of change of ownership is increased from 5s. to 5s. 6d. (*subclause (2)*):
- (c) The fees for dealers' licences are increased by 1s. in each case (*subclause (3)*):
- (d) The proportions of the fees payable into the Post Office Account are to be determined from time to time by the Minister of Finance, instead of being fixed in the Act itself (*subclause (4)*).

9. *Clause 13* authorizes a dealer to use dealers' plates on a motor vehicle held by him for servicing or repair.

10. *Clause 14* enables a person who is disqualified from holding a driver's licence or whose licence has been suspended to apply after six months to the Court by which the disqualification or suspension was imposed for an order removing the disqualification or suspension.

11. *Clause 15* requires notice of Court orders disqualifying convicted persons from obtaining drivers' licences or endorsing drivers' licences to be sent to the Commissioner of Transport, in the case of a disqualification, and to the local authority which issued the licence, in the case of an endorsement. The existing provision requires the notice in these cases to be sent to the Registrar of Motor Vehicles.

12. *Clause 16* authorizes the making of regulations for the issue by the Commissioner of Transport of drivers' licences to members of the armed forces.

13. *Clause 17*: This clause repeals section 39 of the principal Act (relating to the offence of causing bodily injury or death by reckless or negligent driving or driving while intoxicated), and substitutes a new section in a modified form. Under the present section the offence can be dealt with only on indictment, and there is no provision for summary trial even though the negligence which caused the death or injury is of a degree substantially less than what is commonly known as gross negligence. The new section 39 provides that an offence of negligent or reckless driving causing bodily injury or death (but not an offence of causing injury or death while intoxicated) may be dealt with either on indictment or summarily. Where

the offence is dealt with summarily the maximum punishment is a term of imprisonment not exceeding three months or a fine not exceeding £100. The existing penalties where the offence is dealt with on indictment are retained.

14. *Clause 18* provides for an increase in the maximum weights of motor vehicles. The maximum permitted weight of vehicles not being multi-axled vehicles is increased from 10 tons to 12 tons provided the axle load on any one axle does not exceed 8 tons. In the case of multi-axled vehicles the maximum permitted axle load is increased from 6 tons per axle to 7 tons per axle, in any case where the axle concerned is 8 ft. or more from the nearest other axle.

15. *Clause 19* authorizes by-laws to be made prohibiting or restricting the stopping of vehicles on streets.

16. *Clause 20* extends the provisions of section 62 of the principal Act to the Cook Islands, and will enable refunds of motor spirits tax to be made in respect of motor spirits used in the Cook Islands.

17. *Clauses 21* and *22* are drafting amendments only.

18. *Clause 23* extends by seven days the time for making returns for mileage tax purposes.

19. *Clause 24* increases the maximum liability of insurance companies under third party risks insurance from £2,000 to £5,000, in the case of each passenger in the vehicle, and from £20,000 to £50,000, in the case of the aggregate claims of all the passengers. These increases are to operate from the commencement of the next licensing year.

20. *Clause 25* provides that, subject to a right of appeal to the Licensing Appeal Authority, the decisions of Metropolitan Licensing Authorities are final and cannot be questioned in any Court.

21. *Clause 26* prescribes a new method of dealing with applications to Metropolitan Licensing Authorities for taxicab service licences. The Authority is required to make such investigations or inquiries as it thinks necessary in the circumstances of the case, but it is not required to hold a formal public sitting or to call witnesses. In the event of an appeal from a decision of a Metropolitan Authority, the Licensing Appeal Authority is required to hold a public sitting of which notice must be given, and to hear evidence tendered and representations made at that sitting.

22. *Clause 27* requires a Licensing Authority in considering an application for a transport licence to take into account, in addition to the matters already provided in section 102 of the principal Act, the extent to which an improved standard of service is necessary or desirable in the public interest.

23. *Clause 28* extends the duration of road transport licences from three years to five years. Existing licences granted for three years are deemed to have been extended by two years in each case (*subclause (3)*).

24. *Clause 29* gives rights of appeal from the decisions of Licensing Authorities to incorporated bodies whose members have a special interest in the type of transport concerned and to organizations representing transport operators.

25. *Clause 30: Subclause (1)* substitutes a new section 147 of the principal Act. Subsection (1) of the new section entitles the licensee concerned to carry on his service according to the terms of his licence pending the determination of an appeal to the Licensing Appeal Authority. The present section 147 (1) of the principal Act authorizes him to carry on the service only in cases where the licensee is the appellant. The amendment will entitle him to carry on the service irrespective of who is the appellant. The new subsection (2) provides that an order of a public body or of the Commissioner against which an appeal to the Charges Appeal Authority is lodged is to continue in force and have effect pending the determination of the appeal. *Subclauses (2) and (3)* make a corresponding amendment to section 149 of the principal Act (relating to the rights of the licensee where the Licensing Appeal Authority or the Charges Appeal Authority refers back an order appealed against to the Licensing Authority or the public body or Commissioner for reconsideration).

26. *Clause 31* requires the Licensing Authority to take immediate steps to carry into effect every decision of the Licensing Appeal Authority.

This PUBLIC BILL, originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,

9th November, 1950.

Hon. Mr. Goosman

TRANSPORT AMENDMENT

ANALYSIS

<p>Title.</p> <p>1. Short Title.</p>	<p>13. Dealers' plates may be used on motor vehicles held for purposes of servicing or repair.</p> <p>14. Disqualified persons may apply for removal of disqualification.</p> <p>15. Amending provisions as to endorsement of drivers' licences.</p> <p>16. Issue of drivers' licences to members of armed forces.</p> <p>17. Offence to cause bodily injury or death through reckless driving or driving while intoxicated.</p> <p>18. Increasing limit of weight of motor vehicles.</p> <p>19. By-laws may prohibit stopping of vehicles.</p> <p>20. Refunds of duty on motor spirits used in Cook Islands.</p> <p>21. Amending section 63 of principal Act.</p> <p>22. Minister of Transport to determine allocation of motor spirits tax to Borough Councils.</p> <p>23. Extending time for making returns for mileage tax purposes.</p> <p>24. Increasing maximum liability of insurance companies under third party risks insurance.</p> <p>25. Proceedings before Metropolitan Authorities not to be questioned except before Licensing Appeal Authority.</p>
<p>PART I</p> <p>ROAD AND FERRY TRANSPORT CHARGES</p>	
<p>2. Meaning of terms "contract" and "public body".</p> <p>3. Charges to be fixed by public body or Commissioner with right of appeal to Charges Appeal Authority. Repeals.</p> <p>4. Fixing of charges by public body or Commissioner.</p> <p>5. Orders of public body or Commissioner not to be questioned except before Charges Appeal Authority.</p> <p>6. Applications to fix charges.</p> <p>7. Notice of decisions to be given.</p> <p>8. Consequential amendments.</p> <p>9. Savings.</p> <p>10. Provisions as to appeals from decisions of Commissioner.</p>	
<p>PART II</p> <p>MISCELLANEOUS</p>	
<p>11. Transport Co-ordination Council abolished.</p> <p>12. Amending provisions as to fees for licensing of motor vehicles.</p>	

26. Applications to Metropolitan Authorities for taxicab service licences, and appeals thereon.	29. Amending provisions as to persons entitled to appeal to Licensing Appeal Authority.
27. Matters to be considered before determining applications for licences.	30. Rights of licensee pending determination of appeal.
28. Extending duration of road transport licences.	31. Licensing Authority to give effect to decisions of Licensing Appeal Authority. Schedules.

A BILL INTITULED

Title.

AN ACT to Amend the Transport Act, 1949.

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

Short Title.

1. This Act may be cited as the Transport Amendment Act, 1950, and shall be read together with and deemed part of the Transport Act, 1949 (hereinafter referred to as the principal Act).

1949, No. 7

PART I

ROAD AND FERRY TRANSPORT CHARGES

Meaning of terms "contract" and "public body".

2. Section two of the principal Act is hereby amended by inserting in subsection one, in their appropriate alphabetical order, the following new definitions:—

“ ‘Contract’, in relation to the carriage of passengers or goods or the letting of motor vehicles on hire by any transport service, means a contract in writing signed by the parties thereto for the carriage of any passenger or goods or the letting of a motor vehicle on hire (otherwise than under a hire purchase agreement) on a specified occasion or on specified occasions or during a specified period; but does not include a contract which is evidenced by the issue of a ticket: ”

“ ‘Public body’, for the purposes of Part VI of this Act, means a Borough Council, a County Council, a Town Board, or a Hospital Board; and includes the Auckland Transport Board, and any other incorporated body declared by the Governor-General by Order in Council gazetted to be a public body for the purposes of Part VI of this Act.”

3. (1) Section one hundred and nineteen of the principal Act is hereby repealed, and the following section substituted:—

Charges to be fixed by public body or Commissioner with right of appeal to Charges Appeal Authority.

5 “119. (1) Subject to the provisions of section one hundred and thirty-three of this Act, the charges which may be made in respect of any transport service owned by a public body shall be fixed, reviewed, altered, or revoked by that body or by the Transport Charges Appeal Authority, as the case may be, under the provisions of this Part of this Act, and no Licensing Authority or other authority shall exercise any jurisdiction to fix, review, alter, or revoke any such charges.

15 “(2) Subject to the provisions of sections one hundred and thirty-three and one hundred and thirty-four of this Act, the charges which may be made in respect of any transport service owned by a person not being a public body may be fixed, reviewed, altered, or revoked by the Commissioner or by the Transport Charges Appeal Authority, as the case may be, under the provisions of this Part of this Act, and no Licensing Authority or other authority shall exercise any jurisdiction to fix, review, alter, or revoke any such charges.

20 “(3) Where, having regard to all the circumstances in any particular case, the public body or the Commissioner, as the case may be, considers it desirable in the public interest so to do, the public body or the Commissioner, as the case may be, instead of prescribing a fixed charge for the carriage of passengers or goods or the letting of motor vehicles on hire, may fix a maximum charge together with a minimum charge.”

(2) Sections one hundred and twenty, one hundred and twenty-one, and one hundred and twenty-two of the principal Act are hereby repealed.

Repeals.

35 4. Section one hundred and twenty-three of the principal Act is hereby repealed, and the following section substituted:—

Fixing of charges by public body or Commissioner.

40 “123. (1) The public body owning any transport service may at any time of its own motion, and shall, when an application is made to it under section one hundred and twenty-five of this Act, or when so directed by the Charges Appeal Authority, proceed to fix, review, or alter the charges which may be made in respect of that service:

“ Provided that nothing in this subsection shall in any way affect the power of the public body under subsection *three* of this section or under subsection *seven* or subsection *eight* of section one hundred and twenty-five hereof to decide not to make an order on the application or pursuant to the direction, as the case may be. 5

“(2) The Commissioner may of his own motion, and shall, when application is made to him under section one hundred and twenty-five of this Act or when so directed 10 by the Charges Appeal Authority, proceed to fix, review, or alter the charges which may be made in respect of any service or group of services other than a service owned by a public body, or may revoke any order for the time being in force relating to any such charges: 15

“ Provided that nothing in this subsection shall in any way affect the power of the Commissioner under the *next succeeding* subsection or under subsection *five* or subsection *seven* or subsection *eight* of section one hundred and twenty-five of this Act to decide not to make 20 an order on the application or pursuant to the direction, as the case may be.

“(3) Where the Charges Appeal Authority has directed a public body or the Commissioner to fix, review, or alter the charges in respect of any service or group 25 of services, the public body or the Commissioner, as the case may be, if satisfied after investigating the matter that the circumstances are such that an order fixing, reviewing, or altering the charges should not be made, may decide not to make an order pursuant to that 30 direction. Every such decision may be appealed against as hereinafter provided.”

Orders of public
body or
Commissioner
not to be
questioned
except before
Charges Appeal
Authority.

5. Section one hundred and twenty-four of the principal Act is hereby repealed, and the following section substituted:— 35

“ 124. No proceeding of a public body or of the Commissioner under this Part of this Act shall be held bad for want of form, and no proceeding or decision of a public body or of the Commissioner under this Part of this Act relating to the charges which may be made in 40 respect of any transport service shall be liable to be challenged, reviewed, quashed, or called into question in any Court, but there shall be a right of appeal therefrom to the Charges Appeal Authority as hereinafter provided.” 45

6. Section one hundred and twenty-five of the principal Act is hereby repealed, and the following section substituted:—

Applications to
fix charges.

“ 125. (1) The following persons, and no others, may make application to the public body owning any transport service or, in the case of a service owned by any person not being a public body, to the Commissioner, to fix, review, or alter the charges for the carriage of passengers or goods or the letting of motor vehicles on hire by any transport service, or to revoke any order for the time being in force relating to any such charges, namely:—

“(a) Except in the cases provided for by paragraph (e) of this subsection, the holder of or applicant for the licence in respect of which the application is made:

“(b) Any other person whose interests are affected, being the holder of or applicant for a transport licence, the permanent head of a Government Department, a local authority, a public body of any description, or an incorporated body whose members, by reason of the class of persons to which they belong have a special interest in the type of transport to which the service belongs:

“(c) Any twenty-five or more adult residents of a locality in which the charges are or would be in force:

“(d) Any incorporated body the principal object of which is the protection of the interests of owners of transport services or of any group of owners of transport services:

“(e) All parties to a contract or proposed contract for the carriage of passengers or goods by any such service. In every such case the application shall be made by all parties to the contract or proposed contract or by any one or more of them with the consent of the other or others.

“(2) Every such application shall be in the prescribed form and shall be forwarded to the public body or to the Commissioner, as the case may require, together with the prescribed fee.

“(3) Any application to the Commissioner under paragraph (d) of subsection *one* of this section may relate to a specified service or to a specified group of services.

“(4) Subject to the *last preceding* subsection, the Commissioner may, in his discretion, treat any application to him under subsection *one* of this section in respect of any transport service as an application to fix, review, alter, or revoke the charges in respect of all or any services in the group to which that service belongs. 5 10

“(5) Where any application is made to the Commissioner under this section to fix, review, alter, or revoke the charges which may be made for the carriage of goods by any goods service, the Commissioner shall not be obliged to make an order unless he is satisfied 15 that the applicant has made reasonable endeavours to arrange agreement by the licensee or licensees of the goods services likely to be affected by the order and also by the user or users of those services. For the purposes of this subsection, agreement by or on behalf of an 20 organization which in the opinion of the Commissioner is representative of the licensees or users may be accepted by the Commissioner as agreement by the licensee or licensees or the user or users, as the case may be. 25

“(6) If the Commissioner is satisfied that the proposed order has been agreed to in terms of the *last preceding* subsection, he shall make an order in terms of that agreement.

“(7) Subject to the provisions of the *last two preceding* subsections, the public body or the Commissioner, as the case may be, shall make such investigations or inquiries with respect to every application made under this section as it or he thinks necessary in the circumstances of the case, and shall make an order refusing 30 the application or granting it either unconditionally or subject to such modifications as the public body or the Commissioner, as the case may be, thinks fit. 35

“(8) Where a public body or the Commissioner has decided of its or his own motion to fix, review, or alter 40 any charges or has been directed to do so by the Charges Appeal Authority, the public body or the Commissioner, as the case may be, shall make such investigations and

inquiries as it or he thinks necessary in the circumstances of the case, and, subject to the provisions of subsection *three* of section one hundred and twenty-three hereof, shall make an order fixing the charges, or altering or confirming or revoking any existing charges, in such manner as it or he thinks fit.

“(9) Every order fixing or altering or revoking any charges shall take effect from the date thereof, or from such other date as may be specified in the order.”

7. Section one hundred and twenty-six of the principal Act is hereby repealed, and the following section substituted:—

Notice of decisions to be given.

“(1) Notice of every decision of a public body or of the Commissioner refusing an application under the last preceding section or refusing to make an order on any such application shall forthwith be given to the applicant by the public body or by the Commissioner, as the case may be. The notice shall specify the date on or before which appeals must be lodged.

“(2) Where an order is made under section one hundred and twenty-three or section one hundred and twenty-five of this Act fixing any charges or confirming or altering or revoking any charges, or where a public body or the Commissioner has decided not to make any such order, the public body by which the decision was given or the Commissioner, as the case may be, shall, except in cases where the decision relates to a contract or proposed contract between the user of any service and the licensee thereof, forthwith give public notice thereof, specifying in the notice such of the following particulars as are applicable in the circumstances of the case:—

“(a) The name of the holder of every licence affected by the decision or a description of the group of services affected by the decision:

“(b) Particulars of the charges as fixed or altered or confirmed or revoked by the order, or a place where those particulars may be ascertained:

“(c) The date from which any order fixing any charges or altering or revoking any charges takes effect:

“(d) The date on or before which appeals must be lodged.

“(3) The public body or the Commissioner, as the case may be, shall forthwith send a copy of every notice under the *last preceding* subsection to the applicant and, where the application was made by some person other than the holder of or applicant for the licence or licences concerned, or where the decision was made by the public body or by the Commissioner of its or his own motion or pursuant to directions given by the Charges Appeal Authority, to the holder of or applicant for the licence or licences concerned. 5

“(4) Where the decision relates to a contract or proposed contract between the user of any service and the licensee thereof the Commissioner shall give written notice containing those particulars to all parties to the contract or proposed contract. 10

“(5) Where no appeal is made within the time prescribed, the decision of the public body or of the Commissioner, as the case may be, shall be final and conclusive.” 15

Consequential amendments.

8. The principal Act is hereby consequentially amended in the manner indicated in the *First Schedule* to this Act. 20

Savings.

9. (1) All charges prescribed by the Transport Charges Committee under the principal Act or of continuing effect under that Act and in force immediately before the passing of this Act shall continue in force for the period for which they were prescribed, as if they had been made by a public body or by the Commissioner, as the case may be, pursuant to the provisions of this Act, but may at any time be reviewed or altered or revoked under the provisions of the principal Act as amended by this Act. 25 30

(2) Every order of the Transport Charges Committee under the principal Act may be appealed against under the provisions of that Act as amended by this Act as if it were an order of a public body or of the Commissioner, as the case may be. 35

(3) All appeals against any order of the Transport Charges Committee duly lodged under the principal Act but not determined before the passing of this Act shall be determined by the Charges Appeal Authority as if the order had been made by a public body or the Commissioner. 40

10. Section one hundred and forty-eight of the principal Act is hereby amended by inserting, after subsection three, the following subsection:—

Provisions as to appeals from decisions of Commissioner.

5 “(3A) At the hearing of any appeal to the Charges Appeal Authority against a decision of the Commissioner the Commissioner shall be represented, and shall furnish to the Authority reasons for his decision and all available evidence on which that decision was based.”

PART II

MISCELLANEOUS

10

11. (1) Sections eight to thirteen of the principal Act are hereby repealed.

Transport Co-ordination Council abolished.

(2) Subsection one of section two of the principal Act is hereby consequentially amended by repealing the definition of the term “ Council ”.

15

12. (1) The principal Act is hereby amended by repealing the First Schedule, and substituting the new First Schedule set out in the *Second* Schedule to this Act.

Amending provisions as to fees for licensing of motor vehicles.

20 (2) Section twenty-six of the principal Act is hereby amended by omitting from subsection three the words “ five shillings ”, and substituting the words “ five shillings and sixpence ”.

(3) Subsection four of section twenty-eight of the principal Act is hereby amended as follows:

25

(a) By omitting from paragraph (a) the words “ ten shillings ”, and substituting the words “ eleven shillings ”:

(b) By omitting from paragraph (b) the words “ two pounds ”, and substituting the words “ two pounds one shilling ”.

30

(4) Subsection two of section thirty-four of the principal Act is hereby amended by repealing paragraphs (c) and (d), and substituting the following paragraph:—

35

“ (c) In respect of administration expenses, such amount out of the moneys received in respect of every licence for a motor vehicle issued under this Part of this Act or in respect of every notice of change of ownership of a motor vehicle received by a Deputy Registrar under this Part of this Act as may be approved by the Minister of Finance.”

40

Dealers' plates may be used on motor vehicles held for purposes of servicing or repair.

Disqualified persons may apply for removal of disqualification.

13. Section twenty-eight of the principal Act is hereby amended by inserting in paragraph (a) of subsection six, after the words "as a dealer", the words "or for the purpose of being serviced or repaired".

14. Section thirty-one of the principal Act is hereby amended by adding the following subsections:—

"(7) 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, after the expiration of six months from the date of the order, 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.

"(8) If the Court orders a disqualification or suspension to be removed under the *last preceding* subsection, the Court shall cause particulars of the order and of every condition imposed by the Court to be endorsed on the licence (if any) previously held by the applicant and may cause those particulars to be endorsed on any motor driver's licence that may thereafter be issued to him within the next succeeding period of three years, and may cause a copy of those particulars to be

sent to the Commissioner, where the applicant at the date of the conviction did not hold a licence, or, as the case may be, to the local authority which granted the licence held by the applicant at the date of the conviction.

5 “(9) Every person commits an offence against this Act who, being the holder of a motor driver’s licence which is subject to any condition imposed under an order made pursuant to subsection *seven* of this section, commits a breach of any such condition. The provisions
10 of this section relating to the disqualification of convicted persons and to the suspension and endorsement of licences shall apply with respect to every offence committed under this subsection.”

15 **15.** Subsection one of section thirty-one of the principal Act is hereby amended as follows:—

Amending provisions as to endorsement of drivers’ licences.

(a) By omitting from paragraph (b) the words “ the Registrar ”, and substituting the words “ the Commissioner ”:

20 (b) By omitting from paragraph (c) the words “ the Registrar ”, and substituting the words “ the local authority by which the licence so endorsed was granted ”.

25 **16.** Section thirty-five of the principal Act is hereby amended by inserting, after paragraph (f), the following paragraph:—

Issue of drivers’ licences to members of armed forces.

“*(ff)* Providing, notwithstanding anything contained in this Part of this Act, for the issue by the Commissioner at a fee of one shilling of motor drivers’ licences to any member of the armed forces who is required for the purposes of any of those forces to drive motor vehicles, and applying to those licences any of the provisions of this Part of this Act or of any regulations made pursuant to any other provision of this section:”

35 **17.** Section thirty-nine of the principal Act is hereby repealed, and the following section substituted:—

Offence to cause bodily injury or death through reckless driving or driving while intoxicated.

40 “ 39. (1) Every person commits an offence who recklessly or negligently drives any motor vehicle and thereby causes bodily injury to or the death of any person.

45 “(2) Every person commits a crime who, while in a state of intoxication, is in charge of a motor vehicle and by an act or omission in relation thereto causes bodily injury to or the death of any person.

See Reprint
of Statutes,
Vol. II, p. 469

“(3) Where in respect of an offence against subsection *one* of this section an information is laid in the Form No. 4 in the First Schedule to the Justices of the Peace Act, 1927 (as for a matter determinable summarily), the matter shall be dealt with summarily by a Magistrate alone, but the Magistrate may, at any time during the hearing, decline to deal summarily with the offence and may endorse on the information a certificate to that effect, and thereupon the Magistrate shall deal with the case in all respects as if the accused was charged with an indictable offence and not with an offence punishable under this section on summary conviction. 5 10

“(4) Where in respect of an offence against subsection *one* of this section an information is laid in the Form No. 31 in the First Schedule to the Justices of the Peace Act, 1927, the matter shall be dealt with on indictment. 15

“(5) Every person who commits an offence against this section shall be liable,—

“(a) On conviction on indictment, to imprisonment for a term not exceeding five years, or to a fine not exceeding five hundred pounds: 20

“(b) On summary conviction for an offence against subsection *one* of this section, to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds. 25

“(6) It shall be no defence to an indictment for the crime of manslaughter that the guilty act or omission proved against the person charged upon the indictment is an act or omission constituting an offence or a crime under this section.” 30

Increasing limit
of weight of
motor vehicles.

18. Section fifty of the principal Act is hereby amended as follows:—

(a) By omitting from subsection one the words “ ten tons ”, and substituting the words “ twelve tons or, if the weight transmitted to the road surface by the wheel or wheels on any one axle of the vehicle exceeds eight tons,”: 35

(b) By adding to subsection two the words “ or, in the case of any axle which is eight feet or more distant from any other axle, seven tons ”: 40

(c) By inserting, after subsection two, the following subsection:—

“(2A) For the purposes of this section, 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, then the two axles shall be deemed to be one (in this subsection referred to as a dual axle). For the purpose 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.”

19. Section fifty-four of the principal Act is hereby amended by inserting in subsection one, after paragraph (t), the following paragraph:—

By-laws may prohibit stopping of vehicles.

“(tt) Prohibiting or restricting, subject to the erection of the prescribed signs, the stopping of vehicles on any specified street:”

20. Section sixty-two of the principal Act is hereby amended by adding the following subsection:—

Refunds of duty on motor spirits used in Cook Islands.

“(10) This section shall be in force in the Cook Islands.”

21. Section sixty-three of the principal Act is hereby amended by omitting the words “the Minister”, and substituting the words “the Minister of Customs”.

Amending section 63 of principal Act.

22. Section sixty-four of the principal Act is hereby amended by omitting from subsection three the words “the Minister of Customs”, and substituting the words “the Minister of Transport”.

Minister of Transport to determine allocation of motor spirits tax to Borough Councils.

23. Section sixty-six of the principal Act is hereby amended by omitting from subsection three the words “seventh day”, and substituting the words “fourteenth day”.

Extending time for making returns for mileage tax purposes.

24. (1) Section seventy of the principal Act is hereby amended as follows:—

Increasing maximum liability of insurance companies under third party risks insurance.

(a) By omitting from subsection two the words “two thousand pounds”, and substituting the words “five thousand pounds”:

(b) By omitting from the same subsection the words "twenty thousand pounds"; and substituting the words "fifty thousand pounds".

(2) This section shall come into force on the first day of July, nineteen hundred and fifty-one.

Proceedings before Metropolitan Authorities not to be questioned except before Licensing Appeal Authority.

25. The principal Act is hereby amended by inserting, after section ninety-three, the following new section:—

“93A. No proceeding of a Metropolitan Authority under this Part of this Act shall be held bad for want of form, and no proceeding or decision of a Metropolitan Authority under this Part of this Act shall be liable to be challenged, reviewed, quashed, or called into question in any Court, but there shall be a right of appeal from the decision to the Licensing Appeal Authority as hereinafter provided.”

Applications to Metropolitan Authorities for taxicab service licences, and appeals thereon.

26. (1) The principal Act is hereby amended by inserting, after section one hundred and one, the following new section:—

“101A. On receipt by a Metropolitan Authority of an application for a taxicab service licence, the Authority may, after making such investigations or inquiries with respect thereto as the Authority thinks necessary in the circumstances of the case, grant or refuse the licence.”

(2) Section one hundred and one of the principal Act is hereby consequentially amended by inserting in subsection one, after the words “temporary licence”, the words “or an application to a Metropolitan Authority for a taxicab service licence.”

(3) Section one hundred and forty-eight of the principal Act is hereby amended by inserting, after subsection one, the following subsection:—

“(1A) Every appeal to the Licensing Appeal Authority from a decision of a Metropolitan Authority in relation to an application for a taxicab service licence shall be dealt with at a public sitting of the Licensing Appeal Authority. The provisions of sections one hundred and one and one hundred and two of this Act shall, as far as they are applicable and with the necessary modifications, apply to every such appeal as if it were an application for a transport licence to which those sections apply. Every such appeal shall be dealt with by

5
10
15
20
25
30
35
40

the Licensing Appeal Authority as if no decision had been made by the Metropolitan Authority on the application which is the subject of the appeal proceedings.”

5 (4) Section one hundred and forty-eight of the principal Act is hereby further amended by inserting in subsection one, after the words “any appeal”, the words “not being an appeal from a decision of a Metropolitan Authority in relation to an application for
10 a taxicab service licence”.

27. Section one hundred and two of the principal Act is hereby amended by inserting in subsection one, after paragraph (a), the following paragraph:—

Matters to be considered before determining applications for licences.

15 “(aa) The extent to which an improved standard of transport service in the district is necessary or desirable in the public interest; and”.

28. (1) Section one hundred and ten of the principal Act is hereby amended by omitting from subsection one
20 the words “three years” wherever they occur, and substituting in each case the words “five years”.

Extending duration of road transport licences.

(2) Section one hundred and eleven of the principal Act is hereby amended by omitting from subsection four
25 the words “three years”, and substituting the words “five years”.

(3) The expiry date of every transport licence (not being a harbour ferry service licence) in force at the passing of this Act which is expressed to expire on a
30 date three years from the date of issue thereof or, as the case may be, three years from the quarter day immediately preceding the date of issue, or, in the case of a renewal licence, three years from the date of expiry of the renewed licence, shall be deemed to be extended by a
35 period of two years from the date of expiry as specified in the licence, but nothing in this subsection shall affect any power under the principal Act to amend, revoke, suspend, or review any such licence.

29. (1) Section one hundred and forty-four of the principal Act is hereby amended by adding to para-
40 graph (d) of subsection two the words “or an incorporated body whose members, by reason of the class of persons to which they belong, have a special interest in the type of transport to which the service belongs”.

Amending provisions as to persons entitled to appeal to Licensing Appeal Authority.

(2) The said section one hundred and forty-four is hereby further amended by inserting in subsection two, after paragraph (d), the following paragraph:—

“(dd) Any incorporated body the principal object of which is the protection of the interests of owners of transport services or of any group of owners of transport services:”.

Rights of licensee pending determination of appeal.

30. (1) Section one hundred and forty-seven of the principal Act is hereby repealed, and the following section substituted:—

“147. (1) Pending the determination of any appeal to the Licensing Appeal Authority against a decision of a Licensing Authority, the licensee may carry on the service to which the appeal relates in the manner in which and to the extent to which he was lawfully carrying it on at the time when the decision of the Licensing Authority was given or, in the case of a decision granting a new licence to him or extending the provisions of his existing licence, in accordance with the terms of that decision.

“(2) Every decision of a public body or of the Commissioner against which an appeal to the Charges Appeal Authority is lodged shall continue in force and have effect according to its tenor pending the determination of the appeal.”

(2) Subsection three of section one hundred and forty-nine of the principal Act is hereby amended by inserting after the words “granting a new licence to him”, the words “or extending the provisions of his existing licence”.

(3) Section one hundred and forty-nine of the principal Act is hereby amended by repealing subsection four, and substituting the following subsection:—

“(4) The provisions of subsection two of section one hundred and forty-seven of this Act shall apply with respect to every decision which is the subject of an appeal to the Charges Appeal Authority and which is referred by that Authority for reconsideration by a public body or by the Commissioner.”

Licensing Authority to give effect to decisions of Licensing Appeal Authority.

31. Section one hundred and fifty of the principal Act is hereby amended by adding to subsection one the words “and the Licensing Authority shall forthwith take all necessary steps to carry into effect the decision of the Licensing Appeal Authority”.

SCHEDULES

Schedules.

FIRST SCHEDULE

Section 8

CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT

Section of Principal Act Affected.	Nature of Amendment.
Section 2 ..	By repealing the definition of the term "Committee" in subsection (1).
Section 127 ..	By omitting from subsection (2) the words "by the Committee, or, in the event of an appeal from the decision of the Committee", and substituting the words "where the promoters are a public body, by that body, and in every other case by the Commissioner, or, in the event of an appeal from the decision of the public body or of the Commissioner, as the case may be,".
Section 128 ..	By omitting from subsection (1) the words "by the Committee, or, in the event of an appeal from the decision of the Committee", and substituting the words "where the owner of that service is a public body, by that body, and in every other case by the Commissioner, or, in the event of an appeal from the decision of the public body or of the Commissioner, as the case may be,".
Section 129 ..	By omitting the words "the Committee", and substituting the words "the public body or the Commissioner".
Section 130 ..	By omitting the words "the Committee", and substituting the words "the Commissioner".
Section 131 ..	By omitting from subsection (1) the words "the Committee", and substituting the words "a public body or of the Commissioner"; by omitting from subsection (2) the words "the Committee", and substituting the words "a public body or by the Commissioner".
Section 134 ..	By omitting the words "the Committee", and substituting the words "the Commissioner".
Section 140 ..	By omitting from subsection (1) the words "the Committee", and substituting the words "a public body or of the Commissioner under this Part of this Act"; by omitting from subsection (2) the words "the Committee", and substituting the words "the appropriate public body or the Commissioner, as the case may require,".
Section 145 ..	By omitting the words "the Committee", where they first occur, and substituting the words "a public body or of the Commissioner under this Part of this Act"; by omitting the words "the Committee", where they subsequently occur, and substituting in each case the words "the public body or of the Commissioner"; by omitting the words "subsection three", and substituting the words "subsection four".
Section 146 ..	By omitting from subsection (3) the words "the Committee" wherever they occur, and substituting in each case the words "the public body or the Commissioner".
Section 148 ..	By omitting from subsection (4) the words "the Committee", and substituting the words "the public body or the Commissioner, as the case may be".

FIRST SCHEDULE—continued

CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT—continued

Section of Principal Act Affected.	Nature of Amendment.
Section 149 ..	By omitting from subsection (1) and also from subsection (2) the words "the Committee" wherever they occur, and substituting in each case the words "the public body or the Commissioner"; by repealing subsection (5), and substituting the following subsection :— " (5) Whenever the Licensing Appeal Authority or the Charges Appeal Authority directs a Licensing Authority or a public body or the Commissioner to reconsider a matter, the Licensing Appeal Authority or the Charges Appeal Authority, as the case may be, shall advise the Licensing Authority or the public body or the Commissioner, as the case may be, of his reasons for so doing, and the Licensing Authority or the public body or the Commissioner, as the case may be, in reconsidering the matter shall have regard to those reasons."
Section 153 ..	By omitting the words "the Committee", and substituting the words "the public body, or the Commissioner,".
Section 157 ..	By omitting from paragraph (d) the words "or of the Transport Charges Committee".
Section 159 ..	By inserting after the words "section eighty-five of this Act", the words "or in the next succeeding subsection"; by adding the following new subsection as subsection (2) thereof :— " (2) All fees in respect of an application to a public body to fix, review, or alter any charges payable in respect of a transport service shall be paid to that body and form part of its general fund or account. All expenses incurred by any public body in carrying out the provisions of this Part of this Act relating to transport charges shall be paid out of its general fund or account."

SECOND SCHEDULE

Section 13 (1)

NEW FIRST SCHEDULE TO PRINCIPAL ACT

" FIRST SCHEDULE

" ANNUAL LICENCE FEES

	£	s.	d.
"(1) For every motor cycle	0	11	0
"(2) For every motor car	2	1	0
"(3) For every motor vehicle designed exclusively or principally for the carriage of persons exceeding nine in number inclusive of the driver	3	1	0
"(4) For every motor vehicle (other than a tractor or a trailer) not having pneumatic tires on all its wheels	3	1	0
"(5) For every trailer with two or more axles	3	1	0
"(6) For every other trailer	1	1	0
"(7) For every traction engine	5	1	0
"(8) For every other motor vehicle	2	1	0"

By Authority: R. E. OWEN, Government Printer, Wellington.—1950.