

TRANSPORT AMENDMENT BILL

EXPLANATORY NOTE

Clause 1 relates to the Short Title and commencement. The commencement date is 1 December 1981.

PART I

Breath-Alcohol and Blood-Alcohol Offences

Clause 2 substitutes a new section 58E in the Act.

The proposed *subsection (1)* provides that it is not a defence to charges under certain provisions of the Act relating to breath-alcohol and blood-alcohol tests if specified provisions are not complied with, unless the Court finds that the non-compliance has resulted in a reasonable likelihood of a material error in the result of a breath test or analysis of a blood specimen, or that the blood specimen was not taken from the defendant.

The specific changes are:

- (a) The provision applies to charges under sections 58A (5) and 58B (13) as well as sections 58 (1) (a) and (b) and 58c (1) and (2), to which section 58E at present applies:
- (b) It applies to non-compliance with—
 - (i) Sections 57A or 58A so far as they relate to breath tests:
 - (ii) Sections 57A and 58B (1) to (6) and (9) so far as they relate to blood specimens:
 - (iii) Section 58 (4):
 - (iv) Subsections (2) to (4) of section 58D and section 58D (5) so far as it relates to subsections (3) to (6) and (9) of section 58D.
 - (v) Any notice given under section 57A by the Minister:The present section 58E applies to an absence of strict compliance, or compliance at all, with sections 58A, 58B, or 58D:
- (c) The proposed *section 58E* provides that non-compliance with the sections specified in paragraph (b) is not a defence to a charge specified in paragraph (a) unless the Court is satisfied that the non-compliance results in a reasonable likelihood of error in the result of the evidential breath test or blood specimen analysis, or a reasonable likelihood that the blood specimen was not taken from the defendant.

The present section 58E provides that non-compliance with sections 58A, 58B, or 58D does not constitute a defence to a charge under the provision to which it relates so long as there has been reasonable compliance with the appropriate provisions.

The proposed *subsection (2)* provides that it is not a defence to a charge under section 58 (1) (b) (which is a charge based on a blood specimen) that there is a reasonable likelihood of a material error in the result of an evidential breath test.

The proposed *subsection (3)* provides that it is not a defence to a charge under sections 58 (1) (a) or (b), 58A (5), 58B (13), or 58 (1) or (2) that any provision in sections 57A to 58D to which the proposed *subsection (1)* does not apply has not been complied with, unless the Court finds that the non-compliance has resulted in a miscarriage of justice.

Clause 3 provides that, where an offence under the provisions to which *clause 2* applies, is alleged to have been committed before 1 December 1981, the Act is to be read as if *clause 2* had not been passed.

PART II

TRANSPORT LICENSING AND RELATED OFFENCES

Clause 4 substitutes new sections 108 to 113A in the Act.

The proposed *section 108 (1) and (2)* are similar to the existing section 108 (1) but make it clear that there are 2 separate offences; one of carrying on a service without the authority of a licence, and one of carrying on a service other than in conformity with the terms of a licence. The maximum fine on conviction for an offence against the section is increased from \$2,000 to \$10,000.

The proposed *section 108A* re-enacts the present section 109 without material change.

The proposed *section 109* is the substantive provision that restricts the carriage of goods by road where rail carriage is available. The principal changes from the existing situation are:

- (a) The rail restriction is brought from regulation 24 of the Transport Licensing Regulations 1963 into the Act and becomes a substantive offence provision. It is no longer merely a condition implied in all goods service licences:
- (b) The use of intermediate stopping places in the carriage of goods by road does not affect the application of the restrictions unless the Court is satisfied that the goods were held or stored at those places for business purposes unrelated to the avoidance of the restrictions:
- (c) The categories of goods to which the restrictions do not apply are extended by the addition of the following:
 - (i) Unglazed earthenware field tiles:
 - (ii) Unreinforced concrete products:
 - (iii) Fully assembled electrical switchboards:
 - (iv) Original and unique paintings and sculptures:
 - (v) Plants under cultivation:
 - (vi) Cut flowers:
 - (vii) Whole eggs:
 - (viii) Bread:
 - (ix) Bulk blended livestock food or poultry food being delivered direct to the farm on which it is to be consumed:
 - (x) Unprocessed green hides and skins:
 - (xi) Long run roofing materials in lengths exceeding 13 metres:
 - (xii) Burnt lime for roadmaking being delivered direct to the road construction site on which it is to be used:

- (xiii) Sterilised soil in bulk:
 - (xiv) Notes and coins, bullion, and valuable documents being carried in a vehicle adapted for that specific purpose:
 - (xv) Pre-assembled joinery for use in the construction of dwelling-houses:
- (d) The maximum fine on conviction for an offence against this section is increased from \$2,000 to \$10,000.

The proposed *section 110* deals with the computation of rail distances for the purposes of the rail restriction. *Subsection (1)* provides that the length of railway between any places is deemed to be the distance as set out in the New Zealand Government Railways Department timetables.

The proposed *subsection (2)* introduces a new concept that involves disregarding certain lengths of railway line in calculating the length of open railway available for the carriage of goods. The provision applies only where the railway station to or from which the goods would otherwise have to be carried is on that length of railway line.

The proposed *subsection (3)* sets out the lengths of railway line to which the proposed *subsection (2)* applies.

The proposed *section 111* is a re-enactment without significant change in effect of section 110 (2) and (2A) of the Act.

The proposed *section 112* is materially similar to regulation 24 (6) of the Transport Licensing Regulations 1963.

The proposed *section 113* permits the Governor-General, by Order in Council, to vary the distance of open Government railway specified in the proposed *sections 108A (1) (a) and 109 (1)* (currently 150 kilometres).

Changes may be made in a similar manner to the list of goods specified in the proposed *section 109 (6) (c)* which sets out the types of goods not subject to the rail restriction.

Where an Order in Council varies the distance of open Government railway specified in *sections 108 (1) (a) and 109 (1)* that Order in Council must subsequently be validated or confirmed by Parliament.

The proposed *section 113A* re-enacts the existing section 109A, but with some changes. The principal changes are:

- (a) An extension of the offence provisions to make it clear that there are separate offences relating to a waybill that is false and a waybill that omits a material particular:
- (b) A specific defence is created where reasonable precautions have been taken to prevent a false waybill or waybill that omits a material particular from being carried and the false statement or omission is rectified immediately upon it being pointed out by a traffic officer:
- (c) The maximum fine on conviction for an offence against the section is increased from \$2,000 to \$10,000.

Clause 5 provides for the making of regulations exempting specified services or a specified class or classes of services from licensing under Part VII of the Act.

At present this power exists in section 113 (2) of the Act, and, in addition, there are lists of exempted services in section 113 (1) of the Act and regulation 28 of the Transport Licensing Regulations 1963. In the future there will be one list only, set out in the regulations.

Clause 6 makes amendments consequential upon *clause 4* and deals with repeals and revocations.

Section 112 of the Act (which relates to the payment of rail freight rates by a defendant convicted of certain offences) is not carried forward in this Bill.

Proceedings for Offences

Clause 7 removes the powers of a constable to lay an information for an offence against Part VII of the Act, and confers that power on traffic officers.

Clause 8 amends section 183 of the Act which deals with presumptions relating to evidence.

Subclause (1) provides that a certificate signed by a Chief Surveyor of Lands that a specified road is the shortest road route between 2 places is sufficient evidence of that fact until the contrary is proved. Where such a certificate has been admitted in evidence it is sufficient evidence that the road is open and available for the carriage of goods until the contrary is proved.

It also provides that a certificate signed by an officer of the New Zealand Government Railways Department stating that a specified length of railway line was open at a specified time and that specified train services and facilities were available is sufficient evidence of those facts until the contrary is proved.

Subclause (2) provides that the certificates of the Chief Surveyor and officers of the New Zealand Government Railways Department are only admissible if 28 days notice of the intention to use the certificate in evidence has been given to the defendant.

The defendant has the right to apply to the Court to have the person who signed the certificate called as a witness.

Clause 9 provides that a statement made by the driver of a heavy goods vehicle to a traffic officer concerning the identity of the driver's employer or any matter that is or ought to be specified in a waybill is admissible in any proceedings for an offence against Part VII of the Act.

Clause 10 empowers a traffic officer to mark or otherwise identify goods on any heavy motor vehicle for the enforcement of the requirements of Part VII of the Act.

The marks or identification may be placed on the goods without advising the owner, and against his wishes.

Evidence of such marks or identification is admissible in proceedings for an offence against Part VII of the Act.

Clause 11 provides that any statement made by a consignor or consignee of goods or his agent or employee in any proceedings for an offence against Part VII of the Act is not admissible in any other criminal proceedings against the maker of the statement.

The privilege does not extend to a subsequent charge of perjury against the maker of the statement.

Clause 12 provides that where an offence against Part VII of the Act is alleged to have been committed before 1 December 1981 the Act is to be read as if *clauses 4 to 11* had not been passed.

PART III

MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

Clause 13 exempts trailers attached to or being drawn by certain exempted vehicles from the registration and licensing provisions of the Act.

Clause 14 deals with the jurisdiction of traffic officers. The principal change is that the jurisdiction of traffic officers appointed by a territorial authority is extended to any road. At present the jurisdiction is only extended beyond the area of the territorial authority that appointed the traffic officer in limited situations.

Clause 15 deals with the inquiry into the conduct of a licensed transport service. The principal changes are:

- (a) The addition of non-compliance with Part VII of the Act as a ground for the conduct of such an inquiry and the altering or revoking of a licence:
- (b) Provision that only a general description need be given of the method or methods of carrying on the service that is or are alleged to be in contravention of the Acts or the licence.

Clause 16 converts a reference in the First Schedule to the Act into metrics.

Hon. Mr McLachlan

TRANSPORT AMENDMENT

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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, as follows: 5

1. Short Title and commencement—(1) This Act may be cited as the Transport Amendment Act 1981, and shall be read together with and deemed part of the Transport Act 1962* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of December 1981. 10

PART I

BREATH-ALCOHOL AND BLOOD-ALCOHOL OFFENCES

2. Defences based on failure to prove compliance with certain provisions—The principal Act is hereby amended by 15
repealing section 58E (as substituted by section 7 of the Transport Amendment Act (No. 3) 1978), and substituting the following section:

“58E. (1) It shall not be a defence to a charge under—

“(a) Paragraph (a) or paragraph (b) of section 58 (1); 20
or

“(b) Section 58A (5); or

“(c) Section 58B (13); or

“(d) Subsection (1) or subsection (2) of section 58c— 25
of this Act that any provision or provisions of—

“(e) Section 57A or section 58A of this Act so far as they provide for or relate to a breath screening test or an evidential breath test; or

“(f) Section 57A or subsections (1) to (6) and (9) of section 58B of this Act so far as they prescribe or 30
relate to a blood specimen or blood specimens; or

“(g) Section 58 (4); or

“(h) Subsections (2) to (4) of section 58D of this Act, and subsection (5) of that section so far as it relates to subsections (3) to (6) and (9) of section 58B 35
of this Act; or

“(i) Any notice given by the Minister under section 57A of this Act—

*Reprinted 1974, Vol. 3, p. 2489

Amendments: 1975, Nos. 4, 106; 1976, Nos. 123, 152; 1977, Nos. 3, 27; 1978, Nos. 3, 25, 46; 1979, Nos. 17, 120; 1980, No. 96

have not been complied with, unless the Court is satisfied that there has been such non-compliance and is satisfied, in the circumstances of the particular case, that the non-compliance has resulted in a reasonable likelihood—

- 5 “(j) Of a material error in the result of an evidential breath test; or
 “(k) Of a material error in the result of the analysis of a blood specimen; or
 10 “(1) That a particular blood specimen was not taken from the defendant.
 “(2) It shall not be a defence to a charge under section 58 (1) (b) of this Act that the Court has, under subsection (1) of this section, found that there is a reasonable likelihood of a material error in the result of an evidential breath test.
 15 “(3) It shall not be a defence to a charge under—
 “(a) Paragraph (a) or paragraph (b) of section 58 (1); or
 “(b) Section 58A (5); or
 “(c) Section 58B (13); or
 20 “(d) Subsection (1) or subsection (2) of section 58c—
 of this Act that any provision or provisions of any of sections 57A to 58D of this Act that are provisions to which paragraphs (e) to (i) of subsection (1) of this section do not apply have not been complied with, unless the Court is satisfied that the
 25 non-compliance has resulted in a miscarriage of justice.”

3. Application of section 2 of this Act—Where an offence under—

- (a) Paragraph (a) or paragraph (b) of section 58 (1); or
 (b) Section 58A (5); or
 30 (c) Section 58B (13); or
 (d) Subsection (1) or subsection (2) of section 58c—
 of the principal Act is alleged to have been committed before the 1st day of December 1981, the principal Act shall be read in relation to that offence as if section 2 of this Act had not
 35 been passed.

PART II

TRANSPORT LICENSING AND RELATED OFFENCES

Passenger Services, Taxicab Services, Goods Services, Rental Services, and Harbour-ferry Services

- 40 **4. New sections relating to transport licensing substituted**—The principal Act is hereby amended by repealing sections 108 to 113, and substituting the following sections:

“108. Passenger services, taxicab services, goods services, rental services, and harbour-ferry services to be licensed—

(1) Except as provided in this Part of this Act, every person commits an offence who carries on any passenger service or taxicab service or rental service or goods service or, within a harbour-ferry service district, any harbour-ferry service, otherwise than under the authority of a passenger-service licence or a taxicab-service licence or a rental-service licence or a goods-service licence or a harbour-ferry service licence, as the case may be, granted under this Part of this Act. 5 10

“(2) Except as provided in this Part of this Act, every person commits an offence who carries on any passenger service or taxicab service or rental service or goods service or, within a harbour-ferry service district, any harbour-ferry service, otherwise than in conformity with the terms of a passenger-service licence or a taxicab-service licence or a rental-service licence or a goods-service licence or a harbour-ferry service licence, as the case may be, granted under this Part of this Act. 15

“(3) Every person commits an offence who does any act in any capacity as agent for any transport service that may be lawfully carried on only pursuant to a licence under this Part of this Act, if at the time of his doing that act such a licence is not in force in respect of the service. 20

“(4) Every person who is convicted of an offence against this section is liable to a fine not exceeding \$10,000. 25

Cf. 1962, No. 135, s. 108

“108A. Certain services declared to be goods services—

(1) Subject to this section, and without limiting the meaning of the expression ‘goods service’ in section 2 (1) of this Act, the carriage of any goods (whether for hire or reward or not) by any goods-service vehicle the weight of which exceeds 3500 kilograms shall be deemed for the purposes of this Part of this Act to be a goods service within the meaning of this Act, if there is available for the carriage of those goods— 30 35

“(a) A route that includes not less than 150 kilometres of open Government railway:

“(b) A route that includes the Murupara-Kawerau Railway; but only if the goods are logs.

“(2) Subsection (1) of this section shall not apply where the owner of the motor vehicle is carrying on business as a farmer and the goods are carried in connection with that business of the owner. 40

“(3) Subject to this section, and without limiting the meaning of the expression ‘goods service’ in section 2 (1) of this Act, the carriage by any goods-service vehicle which is owned by a person carrying on business as a farmer of any
5 goods (other than lime) owned by him and carried in connection with that business shall, if the weight of the load carried on the vehicle exceeds 5000 kilograms, be deemed for the purposes of this Part of this Act to be a goods service within the meaning of this Act, if there is available for their carriage
10 a route that includes not less than 150 kilometres of open Government railway.

“(4) The foregoing provisions of this section shall not apply—

15 “(a) Where the route that includes the railway is longer by more than one-third than the shortest road route available for the carriage of goods; or

“(b) Where the owner of the motor vehicle is the Crown; or

20 “(c) Where the owner of the motor vehicle is a local authority or a public body and the goods are loaded on the motor vehicle at a place within the district of the local authority or public body and carried to another place within that district; or

“(d) To the carriage of livestock.

25 “(5) For the purposes of subsections (1) and (3) of this section, the term ‘weight’, in relation to any goods-service vehicle, means the total weight of the vehicle, its load, any trailer or trailers drawn thereby, and the load on that trailer or those trailers, and, in relation to the load carried on any
30 goods-service vehicle, means the total weight of the load on the vehicle together with the load on any trailer or trailers drawn thereby.

Cf. 1962, No. 135, s. 109; 1977, No. 27, s. 2 (1)

35 “109. **Restrictions on road carriage of goods where rail available**—(1) Where there is available for the carriage of goods between places a route that includes not less than 150 kilometres of open Government railway, every person who carries goods by road between those places, and every person who carries goods by road for part of a journey in which they
40 are carried by road between those places, for further than is necessary to permit their carriage by rail, commits an offence.

“(2) Where the Murupara-Kawerau railway is available for the carriage of logs every person who carries logs by road between Murupara and Kawerau, and every person who
45 carries logs by road for part of a journey in which they are carried between those places commits an offence.

“(3) Subsections (1) and (2) of this section shall apply notwithstanding that during the carriage of the goods by road between places specified in an information laid in respect of an offence against this section the goods were held or stored at one or more intermediate stopping places, unless the Court is satisfied that the goods were held or stored at such intermediate stopping place or stopping places for business purposes unrelated to the avoidance of the restrictions on the carriage of goods by road set out in this Part of this Act. 5 10

“(4) Nothing in subsection (1) or subsection (2) of this section shall apply to the carriage of goods between places where the route that includes:

“(a) The distance of open Government railway specified in or for the purposes of subsection (1) of this section at the time when the goods are carried; or 15

“(b) The railway specified in subsection (2) of this section—

is longer by more than one-third than the shortest road route between those places. 20

“(5) For the purposes of subsection (4) of this section the road route over which goods were actually carried shall be deemed to be the shortest road route between the places concerned.

“(6) It shall be a defence to a charge under subsection (1) or subsection (2) of this section if the Court is satisfied that— 25

“(a) The carriage of goods was other than for hire or reward and in a goods-service vehicle the weight of which did not exceed 3500 kilograms; or

“(b) The goods were— 30

“(i) Livestock:

“(ii) Household effects and furniture (including personal belongings) arising from a change of residence of the owner:

“(iii) Perishable goods expressly defined as such in a goods-service licence: 35

“(iv) Fresh meat, fresh poultry, or fresh fish:

“(v) Hay or straw:

“(vi) Bulk milling wheat that, by reason of its moisture content, requires urgent transport direct from the paddock to the nearest available drier immediately after harvesting: 40

- 5 “(vii) Fresh fruit or fresh vegetables, and on return journeys used empty fresh fruit or fresh vegetable pallets or boxes where fresh fruit or fresh vegetables have been carried on the inward journey:
- “(viii) Caravans (being only trailers designed for use as human abodes) or boats:
- 10 “(ix) Fully assembled tables, seats, wardrobes, desks, beds, and other similar articles:
- “(x) Fully assembled implements or machinery designed and intended for use exclusively on farms:
- “(xi) Liquid oxygen or liquid nitrogen in bulk by a road tanker designed exclusively for that purpose:
- 15 “(xii) Unglazed earthenware field tiles:
- “(xiii) Unreinforced concrete items:
- “(xiv) Fully assembled electrical switchboards:
- “(xv) Original and unique paintings and sculptures:
- 20 “(xvi) Plants under cultivation:
- “(xvii) Cut flowers:
- “(xviii) Whole eggs:
- “(xix) Bread:
- 25 “(xx) Bulk blended livestock food or poultry food being delivered direct to the farm on which it is to be consumed:
- “(xxi) Unprocessed green hides and skins:
- “(xxii) Soft natural building stone in blocks:
- 30 “(xxiii) Long run roofing materials in lengths exceeding 13 metres:
- “(xxiv) Burnt lime for road making being delivered direct to the road construction site on which it is to be used:
- “(xxv) Sterilised soil in bulk :
- 35 “(xxvi) Notes and coins, bullion, and valuable documents being carried in a vehicle adapted for that specific purpose:
- “(xxvii) Pre-assembled joinery for use in the construction of dwellinghouses; or
- 40 “(c) The carriage of goods is in conformity with those terms of a goods-service licence that specifically exempt the licensee from the whole or a part of the restrictions set out in subsections (1) and (2) of this

section or the restrictions formerly contained in regulation 24 of the Transport Licensing Regulations 1963; or

“(d) The carriage of goods was in conformity with those terms of a goods-service licence that specify a route over which certain goods may be carried or that specify the terminal points between which certain goods may be carried. 5

“(7) For the purposes of subsection (4) (a) of this section, the term ‘weight’, in relation to any goods-service vehicle, means the total weight of the vehicle, its load, any trailer or trailers drawn thereby, and the load on that trailer or those trailers. 10

“(8) Every person who is convicted of an offence against this section shall be liable to a fine not exceeding \$10,000. 15

Cf. 1962, No. 135, s. 111 (1), (2); 1978, No. 46, s. 9; S.R. 1963/58, reg. 24 (1)–(3)

“110. **Computation of rail distances**—(1) Subject to subsection (2) of this section, for the purposes of sections 108A and 109 of this Act the length of any railway between any places shall be deemed to be the distance between those places as set out in the current New Zealand Government Railways Department working timetables, and each place referred to in those timetables shall be deemed to include all railway sidings in the vicinity of that place. 20 25

“(2) Wherever the railway station to or from which goods are or would be required to be carried by rail in order to avoid committing an offence against section 109 of this Act is one of the railway stations specified in subsection (3) of this section, the distance of railway line running between that station and any other station specified in the same paragraph of that subsection, being a station along the route over which the goods are or would be carried, shall be disregarded in calculating for the purposes of sections 108A and 109 of this Act the length of open Government railway available for the carriage of those goods. 30 35

“(3) For the purposes of subsection (2) of this section, the specified railway stations are:

“(a) All stations between and including Henderson Railway Station and Papakura Railway Station: 40

“(b) All stations between and including Porirua Railway Station and Upper Hutt Railway Station via Wellington Railway Station:

“(c) All stations between and including Belfast Railway Station and Rolleston Railway Station:

“(d) All stations between and including Port Chalmers Railway Station and Wingatui Railway Station (in relation to the Otago Central Line):

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“(e) All stations between and including Port Chalmers Railway Station and Mosgiel Railway Station (other than in relation to the Otago Central Line).

Cf. 1962, No. 135, s. 110 (1); 1977, No. 27, s. 3

10 “111. **Circumstances in which route for carriage of goods by rail deemed to be available**—For the purposes of sections 108 to 110 of this Act—

“(a) A route including the lengths of railway referred to in those sections shall be deemed to be available for the carriage of goods notwithstanding that in order to permit their carriage by rail it is necessary to carry the goods by road for any distance at either or both ends of the rail journey; and

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“(b) A route including the lengths of railway referred to in those sections shall be deemed to be available for the carriage of goods notwithstanding that the stations at either or both ends of the rail journey are not the nearest stations to the places where the carriage of the goods by road begins or ends.

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25 Cf. 1962, No. 135, s. 110 (2), (2A); 1965, No. 127, s. 10

“112. **Carriage of goods by road in certain urban areas**—
(1) Notwithstanding the provisions of section 109 of this Act, where in order to avoid committing an offence against that section goods are required to be carried by rail to or from any railway station in the Auckland Area, Wellington Area, Christchurch Area, or Dunedin Area, those goods may be carried by road to or from any railway station in that area whether or not that railway station is the station nearest to the places where the carriage of the goods by road begins or ends.

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“(2) Nothing in subsection (1) of this section shall be construed as authorising the carriage of any goods by road outside any area specified in that subsection for a distance greater than would be authorised if that subsection had not been enacted.

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“(3) For the purposes of subsection (1) of this section—

“(a) The Auckland Area comprises every railway station between and including Papakura Railway Station, Onehunga Railway Station, and Henderson Railway Station: 5

“(b) The Wellington Area comprises every railway station between and including Upper Hutt Railway Station, Porirua Railway Station, Johnsonville Railway Station, and Wellington Railway Station: 10

“(c) The Christchurch Area comprises every railway station between and including Lyttelton Railway Station, Rolleston Railway Station, and Belfast Railway Station:

“(d) The Dunedin Area comprises every railway station between and including Port Chalmers Railway Station and Mosgiel Railway Station. 15

Cf. S.R. 1963/58, reg. 24 (6)

“113. **Distance limits and list of exempted goods may be altered by Order in Council**—(1) The Governor-General may from time to time, by Order in Council,— 20

“(a) Amend section 108A (1) (a) or section 109 (1) of this Act by substituting a greater or lesser distance of open Government railway for the time being specified in or for the purposes of those sections: 25

“(b) Amend section 109 (6) (c) of this Act by altering the description of any goods set out in that section or adding to or removing from that section the description of any goods.

“(2) Every Order in Council made under subsection (1) (a) of this section and laid before Parliament in any session pursuant to the Regulations Act 1936 (as amended by the Regulations Amendment Act 1962) shall— 30

“(a) Where the Order in Council is made on or before the 30th day of June in any calendar year, expire on the close of the last day of that session except so far as it is expressly validated or confirmed by an Act of the General Assembly passed during that session; and 35

“(b) Where the Order in Council is made on or after the 1st day of July in any calendar year, expire on the close of the last day of the last session of Parlia- 40

ment in the following calendar year except so far as it is expressly validated or confirmed by an Act of the General Assembly passed during that session or a preceding session.

- 5 “(3) If any Order in Council or any provision of any Order in Council expires by virtue of subsection (2) of this section, the section or sections altered by that Order in Council or provision shall, from the expiry of that Order in Council or provision and until it is or they are again altered,
10 be the same as it was or they were immediately before that Order in Council or provision came into force.

“113A. **Waybill to be carried in heavy motor vehicle carrying goods**—(1) Except as otherwise provided by the Secretary by notice under subsection (2) of this section, where goods
15 are carried by road in a heavy motor vehicle or in a succession of heavy motor vehicles there shall be carried with the goods a waybill as defined in this section, and that waybill shall be produced by the driver on demand by any traffic officer.

20 “(2) The Secretary may from time to time by notice in the *Gazette* exempt from the requirements of this section any vehicles or classes of vehicles, or vehicles carrying any specified classes of goods, or vehicles or classes of vehicles operating in specified areas.

25 “(3) Every notice given by the Secretary under subsection (2) of this section shall be deemed to be a regulation for the purposes of the Regulations Act 1936 and the Acts Interpretation Act 1924.

30 “(4) Every person commits an offence who carries goods by road in a heavy motor vehicle and—

- “ (a) On demand by a traffic officer fails to produce a waybill for those goods; or
“ (b) On demand by a traffic officer produces to him a waybill relating or purporting to relate to those goods
35 that is false in a material particular; or
“ (c) On demand by a traffic officer produces to him a waybill relating or purporting to relate to those goods that omits a material particular.

“ (5) Every person commits an offence who—

- 40 “ (a) Makes or causes to be made any false statement in a waybill; or
“ (b) Causes or permits a heavy motor vehicle to be used for the carriage of goods on any road and—
“ (i) A waybill is not carried with the goods; or

“(ii) The waybill carried with the goods is false in a material particular; or

“(iii) The waybill carried with the goods omits a material particular.

“(6) Every person who is convicted of an offence against subsection (4) or subsection (5) of this section is liable to a fine not exceeding \$10,000. 5

“(7) It shall be a defence to a charge under subsection (4) or subsection (5) of this section if the Court is satisfied that the proceedings relate to a heavy motor vehicle that has been exempted from the requirements of this section by a notice given under subsection (2) of this section. 10

“(8) It shall be a defence to a charge under subparagraph (ii) or subparagraph (iii) of subsection (5) (b) of this section if the Court is satisfied that— 15

“(a) Reasonable precautions were taken by the defendant to prevent the false statement or material omission in the waybill carried on the heavy motor vehicle; and

“(b) As soon as the false statement or material omission was drawn to his attention by a traffic officer he produced to the traffic officer a further waybill containing no false statement or material omission. 20

“(9) In proceedings in respect of an offence against subsection (4) or subsection (5) of this section, evidence given by a traffic officer or any person who was a traffic officer at the time when the alleged offence was committed as to the contents of any waybill as seen and recorded by him at the time it was produced to him pursuant to subsection (1) or paragraph (b) of subsection (8) of this section, shall be conclusive evidence of the contents of that waybill until the contrary is proved by the production to the Court of the waybill or of a duplicate copy of the waybill made simultaneously with the original waybill. 25 30

“(10) In proceedings for an offence against this Part of this Act relating to the carriage of goods by road on a heavy motor vehicle or a succession of heavy motor vehicles, evidence given by a traffic officer or any person who was a traffic officer at the time when the alleged offence was committed as to the contents of any waybill as seen and recorded by him at the time it was produced to him pursuant to subsection (1) or paragraph (b) of subsection (8) of this section, shall be conclusive evidence against the defendant only— 35 40

“(a) Of the contents of that waybill unless the contrary is proved by the production to the Court of the waybill or of a duplicate copy of the waybill made simultaneously with the original; and

5 “(b) That the goods were being carried and would continue to be carried in accordance with the provisions of the waybill unless the Court is satisfied to the contrary.

“(11) In this section—

10 “(a) The term ‘person or persons carrying the goods’ means—

“(i) In the case of carriage by the holder of a goods service licence, the licensee:

15 “(ii) In the case of carriage under a contract of carriage within the meaning of the Carriage of Goods Act 1979, the actual carrier within the meaning of that Act:

“(iii) In any other case, the owner of the vehicle in which the goods are carried:

20 “(b) The term ‘succession of heavy motor vehicles’ in relation to the carriage of any goods means the carriage of goods by a heavy motor vehicle when the goods have been carried or are intended to be carried further in another heavy motor vehicle or other heavy motor vehicles:

25 “(c) The term ‘waybill’ means a document specifying or purporting to specify—

“(i) The goods; and

30 “(ii) The person carrying the goods, or in the case of carriage in a succession of heavy motor vehicles, the persons carrying the goods; and

35 “(iii) In sufficient detail to permit ready measurement of road distances for the purposes of sections 108A and 109 of this Act, the place at which the goods were first uplifted for the purposes of carriage and the place at which their carriage is intended to end; and for the purposes of any proceedings for an offence against subsection (4) or subsection (5) of this section includes any document that is presented to a traffic officer in response to a demand by him for the production of a waybill.”

Cf. 1962, No. 135, s. 109A

5. Regulations as to exemptions from licensing under Part VII of principal Act—Section 186 of the principal Act is hereby amended by adding, after paragraph (x) (as added by section 6 of the Transport Amendment Act 1977), the following paragraph:

“(y) Exempting from licensing under this Part of this Act any specified passenger service, goods service, rental service, or harbour-ferry service or any specified class or classes of such services.”

Cf. 1962, No. 135, s. 113 (2)

6. Amendments, repeals, and revocations consequential upon section 4 of this Act—(1) Section 2 of the principal Act is hereby amended by omitting the definition of the term “waybill”, and substituting the following definition:

“‘Waybill’ means a waybill as defined in and for the purposes of section 113A of this Act:”

(2) Section 30 of the principal Act is hereby amended by omitting subsection (3B) (as inserted by section 3 (2) of the Transport Amendment Act (No. 3) 1978), and substituting the following subsection:

“(3B) Except as provided in sections 108 (3), 109 (8), and 113A (6) of this Act, every person who commits an offence against Part VII of this Act is liable to a fine not exceeding \$2,000.”

(3) The enactments specified in Part I of the Schedule to this Act are hereby consequentially repealed.

(4) The regulations and notice specified in Part II of the Schedule to this Act are hereby consequentially revoked.

Proceedings for Offences

7. Traffic officer may lay information—Section 182 (1) of the principal Act is hereby amended by omitting the word “constable”, and substituting the words “traffic officer”.

8. Evidence and proof—(1) Section 183 of the principal Act is hereby amended by repealing paragraph (f), and substituting the following paragraphs:

“(f) Subject to subsection (2) of this section, a certificate purporting to be signed by or on behalf of a Chief Surveyor appointed under the Land Act 1948 and stating—

“(i) The length of any specified road; and

“(ii) That the length of specified road is the shortest road route between any places; and

“(iii) That the matters so stated have been determined from a map published by the Department of Lands and Survey—

shall be sufficient evidence of the facts so stated until the contrary is proved:

“(g) Subject to subsection (2) of this section a certificate purporting to be signed by an officer of the New Zealand Government Railways Department and stating—

“(i) That a specified length of railway line was open on a specified day or days or between specified days; and

“(ii) That specified train services and facilities could have been made available for the carriage of specified goods on that line on that day or those days—

shall be sufficient evidence of the facts stated until the contrary is proved:

“(h) A certificate under paragraph (f) of this subsection that has been admitted in evidence shall be sufficient evidence that the road was open and available for the carriage of any goods specified in an information laid in respect of an offence against this Part of this Act until the contrary is proved.”

(2) Section 183 of the principal Act is hereby amended by adding the following subsection:

“(2) A certificate referred to in paragraph (f) or paragraph (g) of subsection (1) of this section shall be admissible in evidence only if—

“(a) At least 28 clear days before the hearing at which the certificate is tendered, a copy of that certificate is served, by or on behalf of the prosecutor, on the defendant, and the defendant is, at the same time, informed in writing that the prosecutor does not propose to call the person who signed the certificate as a witness at the hearing; and

“(b) The Court has not, on the application of the defendant made not less than 14 clear days before the hearing, ordered, not less than 7 clear days before the hearing or such lesser period as the Court in the special circumstances of the case thinks fit, that

the person who signed the certificate, or on whose behalf the certificate was signed, ought to appear as a witness at the hearing.”

9. Admissibility of certain statements—The principal Act is hereby amended by inserting, after section 183, the following section: 5

“183A. Notwithstanding any enactment or rule of law, any statement that is made to a traffic officer by the driver of any heavy motor vehicle that is carrying goods and that relates to— 10

“(a) The identity of the employer of that driver; or

“(b) Any matter that is or ought to be specified in any waybill—

shall be admissible in evidence in any proceedings for an offence against this Part of this Act.” 15

10. Marking and identification of goods—The principal Act is hereby amended by inserting, after section 183A (as inserted by section 9 of this Act), the following section:

“183B. (1) Notwithstanding any enactment or rule of law, a traffic officer may mark or otherwise identify for the enforcement of the requirements of this Part of this Act any goods on any heavy motor vehicle in any manner that does not damage or reduce the value of those goods. 20

“(2) Any such mark or identification may be applied without advising the owner or person in apparent lawful possession of the goods or the vehicle, and against the wishes of any such person. 25

“(3) Evidence of any mark or other identification placed on any goods in accordance with this section shall be admissible in any proceedings for an offence against this Part of this Act. 30

“(4) Every person commits an offence who, with intent to impede the enforcement of the requirements of this Part of this Act, removes, alters, or obliterates any mark or identification placed on any goods under the authority of this section.” 35

11. Privilege of certain witnesses—The principal Act is hereby amended by inserting, after section 183B (as inserted by section 10 of this Act), the following section:

“183C. Any statement made by a consignor or consignee of goods or his agent or employee in any proceedings before any Court for an offence against this Part of this Act shall not be 40

admissible in evidence against the maker of that statement in any criminal proceedings other than those in which it is made or any proceedings relating to a charge of perjury in respect of that statement.”

5 **12. Application of sections 4 to 11 of this Act**—Where an offence against Part VII of the principal Act is alleged to have been committed before the 1st day of December 1981, the principal Act shall be read in relation to that offence as if sections 4 to 11 of this Act had not been passed.

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PART III

MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

15 **13. Certain trailers exempted from registration and licensing provisions**—Section 7 of the principal Act is hereby amended by inserting, after subsection (4A) (as inserted by section 6 of the Transport Amendment Act (No. 2) 1969), the following subsection:

20 “(4B) Nothing in subsection (1) of this section shall apply with respect to any trailer that is attached to or being drawn by any exempted vehicle within the meaning of section 188 of this Act.”

25 **14. Jurisdiction of traffic officers**—(1) The principal Act is hereby amended by repealing section 68D (as inserted by section 8 (1) of the Transport Amendment Act (No. 2) 1967), and substituting the following section:

30 “68D. (1) Any power or authority conferred by this Act or by any regulations or bylaws for the time being in force under this Act on any traffic officer who is an officer of the Department, or a traffic officer who is appointed as such by a territorial authority, may be exercised by that officer on any road.

35 “(2) Any power or authority conferred by this Act or by any regulations or bylaws for the time being in force under this Act on any traffic officer to whom subsection (1) of this section does not apply may be exercised by that traffic officer—

 “(a) On any road that is under the control of the authority by which he has been appointed as a traffic officer:

 “(b) On any other road—

40 “(i) Where he has good cause to suspect that an offence against section 58 of this Act has been committed by the driver or person in charge of a

motor vehicle on a road that is under the control of the authority by which he has been appointed as a traffic officer:

“(ii) For the purpose of identifying or arresting, pursuant to section 62 of this Act, the driver or person in charge of the motor vehicle or of identifying the motor vehicle or of preventing the continuance of the offence, where he has good cause to suspect that any other offence against this Act or any offence against any regulations or bylaws in force under this Act has been committed by the driver or person in charge of any motor vehicle within the area under the control of that other authority, and it is necessary for him to proceed beyond that district or area for that purpose: 5
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“(iii) In any case where he believes on reasonable grounds that it is necessary for him to exercise that power or authority in order to deal with any accident or emergency or to prevent the continuance of any danger to the public or to any person.” 20

(2) Section 10 of the Transport Amendment Act 1962 is hereby consequentially repealed.

15. Public inquiry into conduct of transport service—

(1) Section 141 of the principal Act is hereby amended by repealing subsection (1) (as amended by section 13 (a) of the Road User Charges Amendment Act 1979), and substituting the following subsection: 25

“(1) The proper Licensing Authority may at any time, and if so directed by the Minister shall, hold a public inquiry as to whether or not any transport service authorised by a licence under this Part of this Act is being or has been carried on in compliance with— 30

“(a) This Part of this Act; or

“(b) The Road User Charges Act 1977; or

“(c) The terms and conditions of the licence.” 35

(2) Section 141 of the principal Act is hereby further amended by inserting, after subsection (2), the following subsection:

“(2A) In giving notice under subsection (2) of this section of the matters proposed to be inquired into it shall be sufficient to describe in general terms the method or methods of carrying on the service that is or are alleged to be in contravention of the provisions specified in the notice.” 40

(3) Section 141 of the principal Act is hereby amended by omitting from subsection (4) (as amended by section 13 (b) of the Road User Charges Amendment Act 1979) the words “is not carrying on the service in all respects in conformity with the licence or that he has dispensed of the service to any other person, or that he has failed to comply with the Road User Charges Act 1977,”; and substituting the words “has disposed of the service to any other person, or is not carrying on or has not carried on the service in compliance with—

- 10 “(a) This Part of this Act; or
 “(b) The Road User Charges Act 1977; or
 “(c) The terms and conditions of the licence—”.

(4) Section 13 of the Road User Charges Amendment Act 1979 is hereby consequentially repealed.

- 15 **16. Metrication of First Schedule to principal Act—Part II** of the First Schedule to the principal Act (as substituted by section 3 (1) of the Transport Amendment Act 1977) is hereby amended by omitting from clause 4 the expression “2 tons”, and substituting the expression “2000 kilograms”.
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SCHEDULE

Section 6 (2), (3)

PART I

ENACTMENTS REPEALED

- 1977, No. 27—The Transport Amendment Act (No. 2) 1977; Sections 2, 3, and 4.
 1978, No. 46—The Transport Amendment Act (No. 3) 1978; Section 9.
 1979, No. 59—The Local Government Amendment Act 1979; So much of Part III of the Third Schedule as relates to section 111 of the principal Act (R.S. Vol. 5, p. 683).

PART II

REGULATIONS AND NOTICE REVOKED

Title	Reference
The Transport Licensing Regulations 1963; Regulations 24 and 28	S.R. 1963/58
The Transport Licensing Regulations 1963, Amendment No. 2; Regulations 3 and 4	S.R. 1965/61
The Transport Licensing Regulations 1963, Amendment No. 9	S.R. 1968/205
The Transport Licensing Regulations 1963, Amendment No. 10	S.R. 1969/243
The Transport Licensing Regulations 1963, Amendment No. 12; Regulations 2 and 3	S.R. 1970/192
The Transport (Waybill) Regulations 1970	S.R. 1970/231
The Transport Licensing Regulations 1963, Amendment No. 16; Regulation 2	S.R. 1971/255
The Transport Licensing Regulations 1963, Amendment No. 19; Regulations 2 and 3	S.R. 1975/87
The Transport Licensing Regulations 1963, Amendment No. 20; Regulation 3	S.R. 1976/37
The Transport Licensing Regulations 1963, Amendment No. 21	S.R. 1976/155
The Transport Licensing Regulations 1963, Amendment No. 22; Regulations 2 and 4	S.R. 1977/262
The Transport Licensing Regulations 1963, Amendment No. 23; Regulation 2	S.R. 1978/148
The Transport Licensing Regulations 1963, Amendment No. 24; Regulation 2	S.R. 1979/113
The Transport (Waybill Exemption) Notice 1979	<i>Gazette</i> 1979, p. 2698