

TRANSPORT AMENDMENT BILL (NO. 3)

EXPLANATORY NOTE

THIS Bill amends the Transport Act 1962 so far as it relates to duty on motor spirits and sales tax on compressed natural gas and liquefied petroleum gas.

Clause 1 relates to the Short Title and commencement. The Act is to come into force on 6 August 1982.

Clause 2 substitutes a new Part VIII in the principal Act (sections 187 to 191). The principal changes are:

- (a) Changes in the allocation of motor spirits duty between the Consolidated Account and the National Roads Fund (proposed section 188 (2)).

At present, 9.36 cents of the duty on each litre of aviation fuel and 6.7 cents of the duty on other motor spirits is credited to the Consolidated Account and the balance is credited to the National Roads Fund. The amounts credited to the Consolidated Account are increased as follows:

(i) All the duty on each litre of aviation fuel will be credited to the Consolidated Account as at present. Following the passing of the Customs Acts Amendment Bill (No. 2) amending section 10 of the Motor Spirits Duty Act 1961 that duty will be 11.2 cents per litre:

(ii) 9.3 cents of the duty on regular grade petroleum will be credited to the Consolidated Account:

(iii) 9.8 cents of the duty on all other motor spirits will be credited to the Consolidated Account.

All sales tax paid on compressed natural gas will continue to be credited to the National Roads Fund.

The amounts to be credited to the National Roads Fund will increase as a consequence of the increases in motor spirits duty from 6 August 1982 and 1 October 1982 and sales tax on compressed natural gas from 1 October 1982 provided for in the Customs Acts Amendment Bill (No. 2):

- (b) Abolition of refunds of motor spirits duty in respect of aviation fuel (formerly section 188 (5)):

- (c) Changes in the refunds of motor spirits duty for certain uses of motor spirits (proposed Third Schedule).

The refund per litre of motor spirits used as fuel in an exempted vehicle or commercial vessel is reduced from 11.7 cents to 8.5 cents, then increased to 8.9 cents on and after 1 October 1982.

The refund per litre of motor spirits used as fuel in a licensed vehicle or for commercial purposes other than as fuel in a motor vehicle, vessel, or aircraft is reduced from 9.7 cents to 8.5 cents, then increased to 8.9 cents on and after 1 October 1982.

The refund per litre of motor spirits used as fuel in a passenger-service vehicle or goods-service vehicle is reduced from 4.7 cents to 2.5 cents.

The extent to which those refunds are payable from the Consolidated Account and the National Roads Fund are also altered. The amount of the refund payable from the National Roads Fund remains at 6 cents per litre as at present until 1 October 1982 when it rises to 6.4 cents per litre, while the amount of the refund payable from the Consolidated Account on and after 6 August 1982 varies in accordance with the changes outlined above. Refunds in respect of motor spirits used in passenger-service and goods-service vehicles continue to be paid in full from the Consolidated Account and do not increase on 1 October 1982:

- (d) The refund per gigajoule of compressed natural gas used as fuel in an exempted or licensed vehicle, or for commercial purposes other than as fuel in a vehicle, is increased to \$1.86 on and after 1 October 1982:
- (e) The introduction on and after 1 October 1982 of refunds for liquefied petroleum gas used as fuel in an exempted or licensed vehicle or for commercial purposes other than as fuel in a vehicle of 4.93 cents per litre or 9.22 cents per kilogram:
- (f) The present offence of making an application or furnishing information that is false in a material particular for the purposes of obtaining a refund of motor spirits duty or sales tax is changed to one of making such an application or furnishing such information knowing it to be false:
- (g) Informations in respect of such offences may only be laid within 3 years after the offence. At present, such informations may be laid at any time:
- (h) The power given to the Governor-General to amend refunds of motor spirits duty and sales tax is now confined to increases and reductions of those refunds and allocations of the payment of the refunds between the Consolidated Account and the National Roads Fund. It will not be possible to use this power to abolish a refund entirely.

Clause 3 is a savings provision.

Clause 4, which comes into force on 1 October 1982, substitutes a new definition of the term "petrol" in the Road User Charges Act 1977. From that date the term will include liquefied petroleum gas. The change is related to the proposal in the Customs Acts Amendment Bill (No. 2) to impose sales tax on liquefied petroleum gas on and after 1 October 1982.

Clause 5 makes consequential repeals and revocations.

Hon. Mr Gair

TRANSPORT AMENDMENT (NO. 3)

ANALYSIS

Title	189. Refund of motor spirits duty and sales tax
1. Short Title and commencement	190. Procedure for obtaining refund
2. Motor spirits duty and sales tax	191. Amount of motor spirits duty and sales tax credited to Consolidated Account, and refunds of such duty and tax, may be altered by Order in Council
“PART VIII	
“MOTOR SPIRITS DUTY AND SALES TAX	3. Savings
187. Interpretation	4. Amendment to Road User Charges Act 1977
188. Apportionment of motor spirits duty and sales tax	5. Consequential repeals and revocations Schedules

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:

- 1. Short Title and commencement**—(1) This Act may be cited as the Transport Amendment Act (No. 3) 1982, and shall be read together with and deemed part of the Transport Act 1962* (hereinafter referred to as the principal Act).
- 10 (2) Except as provided in section 4 (3) of this Act, this Act shall come into force on the 6th day of August 1982.

*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; 1981, No. 4

2. Motor spirits duty and sales tax—(1) The principal Act is hereby amended by repealing Part VIII, and substituting the following Part:

“PART VIII

“MOTOR SPIRITS DUTY AND SALES TAX

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“187. **Interpretation**—In this Part of this Act, unless the context otherwise requires,—

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

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

“ ‘Exempted vehicle’ means—

“ (a) A motor vehicle that is exempted from the 15 payment of registration fees and annual licence fees by virtue of section 13 of this Act; or

“ (b) A motor vehicle that is not required to be registered under section 7 of this Act and that is used for commercial purposes; or 20

“ (c) A motor vehicle that is of a kind declared by the Governor-General, by Order in Council, to be an exempted vehicle for the purposes of this section;—

but does not include a licensed vehicle: 25

“ ‘Goods-service vehicle’ means a motor vehicle designed exclusively or principally for carrying goods and used exclusively under a goods-service licence issued under Part VII of this Act; but does not include an exempted vehicle or a licensed 30 vehicle:

“ ‘Licensed vehicle’ means a motor vehicle that is required to be licensed under the Road User Charges Act 1977 and to which a licence within the meaning of that Act relates at all times during any 35 period in respect of which a refund is applied for under this Part of this Act:

“ ‘Motor spirits duty’ means motor spirits duty paid under the Motor Spirits Duty Act 1961; and includes the money received under the Customs 40 Tariff on goods in respect of which motor spirits duty under that Act would be payable if they were sold, used, or otherwise disposed of in New Zealand by a licensee within the meaning of that Act:

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

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

“ (b) As a contract vehicle:

10 “ (c) For the carriage to or from school of school children and their teachers;—
but does not include a taxicab, an exempted vehicle, or a licensed vehicle:

“ ‘Sales tax’ means sales tax paid under the Sales Tax Act 1974.

15 **188. Apportionment of motor spirits duty and sales tax**—(1) Subject to section 22 (4) of the National Roads Act 1953,—

20 “(a) All money received as motor spirits duty, after deducting any refunds or drawbacks of duties made under the Customs Act 1966 or made under that Act as applied by the Motor Spirits Duty Act 1961; and

25 “(b) All money received as sales tax on natural gas supplied to a compressed natural gas fuelling facility, after deducting any refunds or drawbacks of sales tax made under the Sales Tax Act 1974; and

30 “(c) All money received as sales tax on liquefied petroleum gas, after deducting any refunds or drawbacks of Sales Tax made under the Sales Tax Act 1974,—
shall be paid into the Public Account and credited in the manner provided for in subsection (2) of this section.

“ (2) The money paid into the Public Account under subsection (1) of this section shall be credited as follows:

35 “(a) In respect of aviation fuel, all the duty received in respect of each litre shall be credited to the Consolidated Account:

40 “(b) In respect of motor spirits with a Research Octane Number (RON) less than 92 (regular grade), 9.3 cents of the duty received in respect of each litre shall be credited to the Consolidated Account:

“ (c) In respect of all other motor spirits, 9.8 cents of the duty received in respect of each litre shall be credited to the Consolidated Account:

“(d) The balance of duty received in respect of each litre of motor spirits, and all sales tax received in respect of compressed natural gas and liquefied petroleum gas, shall be credited to the National Roads Fund.

“189. **Refund of motor spirits duty and sales tax—** 5

(1) Except as provided in subsection (4) of this section, this section applies to motor spirits—

“(a) In respect of which motor spirits duty has been paid; and

“(b) In respect of which no exemption from or refund of motor spirits duty has been granted under any other enactment; and

“(c) Which is used for any of the following purposes:

“(i) As fuel in an exempted vehicle:

“(ii) As fuel in a licensed vehicle: 15

“(iii) As fuel in a passenger-service vehicle:

“(iv) As fuel in a goods-service vehicle:

“(v) As fuel in a commercial vessel:

“(vi) For commercial purposes otherwise than as fuel in any motor vehicle, vessel, or aircraft. 20

“(2) Except as provided in subsection (4) of this section, this section also applies to compressed natural gas—

“(a) In respect of which sales tax has been paid; and

“(b) In respect of which no exemption from or refund of sales tax has been granted under any other 25 enactment; and

“(c) Which is used for any of the following purposes:

“(i) As fuel in an exempted vehicle:

“(ii) As fuel in a licensed vehicle:

“(iii) For commercial purposes otherwise than 30 as fuel in any motor vehicle.

“(3) Except as provided in subsection (4) of this section, this section also applies to liquefied petroleum gas—

“(a) In respect of which sales tax has been paid; and

“(b) In respect of which no exemption from or refund of 35 sales tax has been granted under any other enactment; and

“(c) Which is used for any of the following purposes:

“(i) As fuel in an exempted vehicle:

“(ii) As fuel in a licensed vehicle: 40

“(iii) For commercial purposes otherwise than as fuel in any motor vehicle.

“(4) Nothing in this section shall apply to any motor spirits, compressed natural gas, or liquefied petroleum gas used as fuel for any vehicle used principally in vehicle races or trials, or any other sporting events.

5 “(5) Persons using any motor spirits, compressed natural gas, or liquefied petroleum gas to which this section applies shall be entitled to a refund in respect of motor spirits duty or sales tax to the extent specified in subsection (7), subsection (9), or subsection (10) of this section, as the case may be.

10 “(6) All refunds of motor spirits duty under this section shall be paid out of the National Roads Fund and out of the Consolidated Account to the extent specified in subsection (7) of this section without further appropriation than this section.

“ (7) The refunds of motor spirits duty authorised by this
15 section shall be paid—

“(a) In respect of motor spirits used as described in column 1 of the appropriate table set out in Part I of the Third Schedule to this Act; and

“(b) To the extent specified in column 2 of that table; and

20 “(c) From the National Roads Fund or the Consolidated Account, or both, to the extent specified in columns 3 and 4 of that table.

“ (8) All refunds of sales tax under this section shall be paid out of the National Roads Fund without further appropriation
25 tion than this section.

“(9) The refunds of sales tax authorised by this section in respect of compressed natural gas shall be paid—

30 “(a) In respect of such gas used as described in column 1 of the appropriate table set out in Part II of the Third Schedule to this Act; and

“(b) To the extent specified in column 2 of that table.

“(10) The refunds of sales tax authorised by this section in respect of liquefied petroleum gas shall be paid—

35 “(a) In respect of such gas used as described in column 1 of the appropriate table set out in Part III of the Third Schedule to this Act; and

“(b) To the extent specified in column 2 to that table.

“(11) No refund of motor spirits duty or sales tax shall be allowed under this section unless application is made for that
40 refund in accordance with section 190 of this Act.

“(12) Where the amount of any refund of motor spirits duty or sales tax provided for in this section is increased, reduced, or varied by any Act or under section 191 of this Act,

refunds of duty or tax paid, whether before or after the coming into force of that increase, reduction, or variation in satisfaction of a liability for such duty or tax incurred before that date may be applied for and made as if the increase, reduction, or variation was not in force. 5

“190. **Procedure for obtaining refund**—(1) Every application for a refund under section 189 of this Act shall be made to the Registrar on a form to be provided by him, and shall be supported by such documentary evidence and such other information as the Registrar may require or as may be 10 prescribed by regulations made under this Act.

“(2) Applications for refunds shall be made in respect of periods ending respectively with the last day of March, June, September, and December in any year.

“(3) Except as provided in subsections (4) to (6) of this 15 section, no refund shall be allowed unless application for the refund is made within 2 years following the close of the period in respect of which it is made.

“(4) Where application for a refund is made after the expiration of 3 months from the close of the appropriate 20 period but within 2 years after the close of that period, the amount of the refund otherwise payable shall be reduced by an amount equal to 10 percent thereof.

“(5) Where application for a refund is made after the expiration of 3 months from the close of the relevant period, 25 whether or not it is made within 2 years after the close of that period, then, notwithstanding anything in subsection (4) of this section, a full refund may be allowed, in the discretion of the National Roads Board or the Secretary, as the case may require. 30

“(6) Notwithstanding anything in subsections (2) and (3) of this section, a refund may be allowed, in the discretion of the Registrar, in any special case before the close of any period in respect of motor spirits, compressed natural gas, or liquefied petroleum gas used within that period. 35

“(7) Every person commits an offence who, for the purposes of obtaining a refund under section 189 of this Act, makes any application or furnishes any information that he knows to be false in any material particular.

“(8) Notwithstanding anything in the Summary Proceed- 40 ings Act 1957, any information for an offence against this section may be laid at any time within 3 years after the date of the offence.

“191. Amount of motor spirits duty and sales tax credited to Consolidated Account, and refunds of such duty and tax, may be altered by Order in Council—

(1) The Governor-General may from time to time, by Order
5 in Council,—

“(a) Amend section 188 (2) (b) and (c) of this Act by increasing or reducing the amount of the duty received in respect of each litre of motor spirits (other than aviation fuel) that shall be credited to
10 the Consolidated Account:

“(b) Amend the Third Schedule to this Act by—

“(i) Increasing or reducing the amounts of any or all of the refunds per litre of motor spirits specified in column 2 of the table or tables set out
15 in Part I of the Third Schedule to this Act:

“(ii) Varying the extent to which the amounts of any or all of those refunds are to be met from the National Roads Fund or the Consolidated
20 Account:

“(iii) Increasing or reducing the amounts of any or all of the refunds per gigajoule of compressed natural gas specified in column 2 of the table or tables set out in Part II of that Schedule:

“(iv) Increasing or reducing the amounts of any or all of the refunds per litre or per kilogram of liquefied petroleum gas specified in the table or tables set out in Part III of that Schedule.

“(2) For the purposes of making any increase, reduction, or variation under subsection (1) (b) of this section, the
30 Governor-General may, instead of amending the Third Schedule to this Act, omit that Schedule and substitute a new Third Schedule.

“(3) Every Order in Council made under this section and laid before Parliament in any session pursuant to the
35 Regulations Act 1936 (as amended by the Regulations Amendment Act 1962) shall—

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

“(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 Parliament 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

“(4) If any Order in Council or any provision of any Order in Council expires by virtue of subsection (3) of this section, the amount or amounts 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, be the same as it was or they were immediately before that Order in Council or provision came into force.” 10

(2) The principal Act (as amended by section 3 (3) (a) of the Transport Amendment Act 1970) is hereby amended by inserting, after the Second Schedule, the Third Schedule set out in the First Schedule to this Act. 15

3. Savings—(1) Refunds under Part VIII of the principal Act (as repealed by section 2 of this Act) of motor spirits duty or sales tax paid, whether before or after the 6th day of August 1982, in satisfaction of a liability for such duty or tax incurred before that date may be applied for and made as if this Act had not been passed. 20

(2) Proceedings in respect of any offence against section 189 of the principal Act (as repealed by section 2 of this Act) that is alleged to have been committed before the 6th day of August 1982 may be commenced or continued as if this Act had not been passed. 25

4. Amendment to Road User Charges Act 1977— (1) Section 2 (1) of the Road User Charges Act 1977 is hereby amended by omitting the definition of the term “petrol” (as substituted by section 2 (1) of the Road User Charges Amendment Act 1981), and substituting the following definition: 30

“ ‘Petrol’ means—

“(a) Any motor spirits on which motor spirits duty is imposed; and

“(b) Compressed natural gas and liquefied petroleum gas on which sales tax is imposed;— 40
but does not include diesel or electricity.”

(2) Section 2 (1) of the Road User Charges Act 1981 is hereby consequentially repealed.

(3) This section shall come into force on the 1st day of October 1982.

5 5. Consequential repeals and revocations—(1) The enactments specified in Part I of the Second Schedule to this Act are hereby consequentially repealed.

(2) The orders specified in Part II of the Second Schedule to this Act are hereby consequentially revoked.

SCHEDULES

FIRST SCHEDULE

Section 2 (2)

NEW THIRD SCHEDULE TO PRINCIPAL ACT

“THIRD SCHEDULE

Section 189 (6), (8)

“REFUNDS OF MOTOR SPIRITS DUTY AND SALES TAX

“PART I

“REFUNDS OF MOTOR SPIRITS DUTY

“TABLE A

“In respect of period commencing with 6 August 1982 and ending with 30 September 1982

Column 1	Column 2	Column 3	Column 4
Use of Motor Spirits Entitling Refund of Motor Spirits Duty	Amount of Refund per Litre of Motor Spirits	Amount of Refund per Litre of Motor Spirits Payable from National Roads Fund	Amount of Refund per Litre of Motor Spirits Payable from Consolidated Account
	c	c	c
1. As fuel in an exempted vehicle	8.5	6.0	2.5
2. As fuel in a licensed vehicle	8.5	6.0	2.5
3. As fuel in a passenger-service vehicle	2.5	—	2.5
4. As fuel in a goods-service vehicle	2.5	—	2.5
5. As fuel in a commercial vessel	8.5	6.0	2.5
6. For commercial purposes otherwise than as fuel in any motor vehicle, vessel, or aircraft	8.5	6.0	2.5

FIRST SCHEDULE—*continued*

"TABLE B

"In respect of period commencing with 1 October 1982

Column 1	Column 2	Column 3	Column 4
Use of Motor Spirits Entitling Refund of Motor Spirits Duty	Amount of Refund per Litre of Motor Spirits	Amount of Refund per Litre of Motor Spirits Payable from National Roads Fund	Amount of Refund per Litre of Motor Spirits Payable from Consolidated Account
	c	c	c
1. As fuel in an exempted vehicle	8.9	6.4	2.5
2. As fuel in a licensed vehicle	8.9	6.4	2.5
3. As fuel in a passenger-service vehicle	2.5	—	2.5
4. As fuel in a goods-service vehicle	2.5	—	2.5
5. As fuel in a commercial vessel	8.9	6.4	2.5
6. For commercial purposes otherwise than as fuel in any motor vehicle, vessel, or aircraft	8.9	6.4	2.5

"PART II

"REFUNDS OF SALES TAX

"TABLE A

"In respect of period commencing with 6 August 1982 and ending with 30 September 1982

Column 1	Column 2
Use of Compressed Natural Gas Entitling Refund of Sales Tax	Amount of Refund per gigajoule of compressed natural gas
	\$
1. As fuel in an exempted vehicle	1.74
2. As fuel in a licensed vehicle	1.74
3. For commercial purposes other than as fuel in any vehicle	1.74

FIRST SCHEDULE—*continued*

“TABLE B

“In respect of period commencing with 1 October 1982

Column 1 Use of Compressed Natural Gas Entitling Refund of Sales Tax	Column 2 Amount of Refund per gigajoule of compressed natural gas
	\$
1. As fuel in an exempted vehicle	1.86
2. As fuel in a licensed vehicle... ..	1.86
3. For commercial purposes other than as fuel in any vehicle	1.86

“PART III

“REFUNDS OF SALES TAX ON LIQUEFIED PETROLEUM GAS

“In respect of period commencing with 1 October 1982

Column 1 Use of Liquefied Petroleum Gas Entitling Refund of Sales Tax	Column 2 Amount of Refund
1. As fuel in an exempted vehicle	4.93 cents per litre.
2. As fuel in a licensed vehicle	4.93 cents per litre.
3. For commercial purposes other than as fuel in any vehicle	4.93 cents per litre, or 9.22 cents per kilogram.

SECOND SCHEDULE

Section 5

PART I

ENACTMENTS REPEALED

- 1969, No. 137—The Transport Amendment Act (No. 2) 1969: Part II.
- 1970, No. 136—The Transport Amendment Act 1970: So much of the
Schedule as relates to section 189 of the principal Act.
- 1975, No. 4—The Transport Amendment Act 1975.
- 1977, No. 124—The Road User Charges Act 1977: Sections 27, 28, and
29.
- 1978, No. 3—The Transport Amendment Act 1978.
- 1981, No. 29—The Road User Charges Amendment Act 1981: Sections
6, 7, 8, and 9.

SECOND SCHEDULE—*continued*

PART II

ORDERS REVOKED

Order	Reference
The Transport (Allocation of Motor Spirits Duty) Order 1979... ..	S.R. 1979/61
The Transport (Allocation of Motor Spirits Duty) Order 1980... ..	S.R. 1980/40