

House of Representatives

Supplementary Order Paper

Tuesday, 1 August 2017

Land Transport Amendment Bill (No 2)

Proposed amendments

Hon Simon Bridges, in Committee, to move the following amendments:

Clause 55

In *clause 55(7)*, after the definition of **large passenger service licence** (page 35, after line 24), insert:

representative means an agent authorised by a small passenger service operator to—

- (a) engage with the Agency on matters relating to the operator's compliance with the relevant requirements of this Act, the regulations, and the rules; and
- (b) accept service of legal documents on behalf of the operator

Clause 62

In *clause 62(1)*, after *new section 30L(1)(b)* (page 37, after line 17), insert:

- (ba) any representative meeting the requirements of **subsection (1A)(b)** is a fit and proper person to be a representative; and

In *clause 62*, replace *new section 30L(1A)* (page 37, lines 24 to 26) with:

- (1A) The Agency may grant a small passenger service licence only if the Agency is satisfied that—
 - (a) a person who is to have control of the small passenger service in New Zealand lives in New Zealand; or
 - (b) the small passenger service operator has a representative who lives in New Zealand.

Replace *clause 62(2)* (page 37, lines 27 and 28) with:

- (2) In section 30L(2), replace “to operate, control, or have an involvement in, a transport service” with “in relation to any transport service”.

Clause 65

In *clause 65(1)*, replace *new section 30S(1)(c)* (page 38, line 20) with:

- (c) any representative who lives in New Zealand is not a fit and proper person to be a representative; or
- (d) any driver is not a fit and proper person.

Clause 67

In *clause 67*, replace *new section 30U(1)(c)* (page 39, lines 1 and 2) with:

- (c) the holder of a small passenger service licence does not have—
 - (i) a person with control of the service in New Zealand who lives in New Zealand; or
 - (ii) a representative who lives in New Zealand.

Clause 96

In *clause 96(3)*, replace *new clause 6(1) of Schedule 1* (page 50, lines 17 to 19) with:

- (1) Before the close of the 28th day after the commencement of this clause,—
 - (a) **section 30J(d)** does not apply to a small passenger service operator who is facilitating a small passenger service; and
 - (b) **section 30U(1)(c)** does not apply to a small passenger service operator.

In *clause 96(3)*, replace *new clause 6(3) of Schedule 1* (page 51, lines 1 to 11) with:

- (3) A small passenger service operator whose licence may be suspended under **section 30U(1)(c)** must, before the close of the 28th day after the commencement of this clause,—
 - (a) ensure that—
 - (i) a person with control of the service in New Zealand lives in New Zealand; or
 - (ii) the operator has a representative who lives in New Zealand; and
 - (b) in the manner required by the Agency, notify the Agency—
 - (i) that the operator meets the requirements of **paragraph (a)**; and
 - (ii) of any address information required under the rules in relation to that person or representative.

Explanatory note

This Supplementary Order Paper amends the Land Transport Amendment Bill (No 2) (the **Bill**).

The amendment to *clause 62* provides that the New Zealand Transport Agency (the **Agency**) may grant a small passenger service licence if a small passenger service operator has a representative who lives in New Zealand or a person with control of the small passenger service in New Zealand who lives in New Zealand. The Bill as introduced required the latter only.

This amendment has the effect of enabling an applicant for a small passenger service licence who is based overseas to obtain a licence if the applicant has a representative living in New Zealand. Representative is defined in a new amendment inserted into *clause 55* as an agent who is authorised to engage with the Agency on matters relating to the operator's compliance with the relevant legislation and who is also authorised to accept service of legal documents on behalf of the operator. The representative must meet the fit and proper tests set out in sections 30C and 30D of the Land Transport Act 1998.

If a licence holder has such a representative, but the Agency becomes satisfied that the representative is not fit and proper, *clause 65's* amendment to *new section 30S(1)* enables the Agency to revoke the small passenger service licence.

Clause 67's amendment to *new section 30U(1)* provides that the Agency may suspend a small passenger service licence if the licence holder does not have either a representative who lives in New Zealand or a person in control of the service in New Zealand who lives in New Zealand. The Bill as introduced allowed suspension for the latter only.

The amendments to *clauses 65 and 67* have the effect of requiring a small passenger service licence holder who is based overseas to continue to have a fit and proper representative living in New Zealand.

Schedule 1 contains transitional provisions, which are amended to reflect the Supplementary Order Paper's amendments. *Clause 6 of Schedule 1* currently requires a small passenger service operator who does not have a person with control of the service living in New Zealand to ensure that such a person lives in New Zealand. The operator has 28 days from the commencement of *Schedule 1* to comply. (*Clause 2* of the Bill enables commencement of *clause 96*, which brings *Schedule 1* into force, by Order in Council with a default date for commencement if no order is made. The Bill's original default date of commencement of 1 July 2017 is being sought to be amended by Supplementary Order Paper No 328 to 1 October 2017.)

The amendments in this Supplementary Order Paper enable the operator to fulfil licensing requirements if, within the 28 days, the operator has a representative who lives in New Zealand and the operator supplies the representative's address details to the Agency.

Departmental disclosure statement

The Ministry of Transport considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.