



NEW ZEALAND

ANALYSIS

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| <p style="text-align: center;">Title.</p> <p>1. Short Title.</p> <p style="text-align: center;">PART I</p> <p style="text-align: center;">TRANSPORT LICENSING</p> <p>2. This Part to be read with Transport Licensing Act, 1931.</p> <p>3. Interpretation.</p> <p style="text-align: center;"><i>Harbour-ferry Services</i></p> <p>4. Application of Part II of the principal Act to harbour-ferry services.</p> <p>5. Provisions as to granting or renewing harbour-ferry licences.</p> <p style="text-align: center;"><i>Transport Co-ordination Council</i></p> <p>6. Transport Co-ordination Council.</p> <p>7. Extraordinary vacancies.</p> <p>8. Co-opting of additional members.</p> <p>9. Meetings of the Council.</p> <p>10. Functions of the Council.</p> <p>11. Council to be a Commission of Inquiry.</p> | <p style="text-align: center;"><i>Transport Charges Committee</i></p> <p>12. Transport Charges Committee.</p> <p>13. Sittings of the Committee.</p> <p>14. Functions of the Committee.</p> <p>15. Committee to be subject to general jurisdiction of Transport Charges Appeal Authority.</p> <p>16. Proceedings before Committee not to be questioned except before Transport Charges Appeal Authority.</p> <p style="text-align: center;"><i>Transport Charges Appeal Authority</i></p> <p>17. Transport Charges Appeal Authority.</p> <p>18. Seal.</p> <p>19. Sittings of the Appeal Authority.</p> <p>20. Functions of the Appeal Authority.</p> <p>21. Evidence in proceedings before Appeal Authority.</p> <p>22. Proceedings before Appeal Authority not to be questioned for want of form or appealed against.</p> |
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| <p><i>Applications to fix Road and Ferry Charges</i></p> <p>23. Applications to fix charges.</p> <p>24. Public notice to be given of decisions of Committee.</p> <p><i>Appeals to Transport Charges Appeal Authority</i></p> <p>25. Appeal from order of Committee.</p> <p>26. Operation of orders of Committee pending determination of appeal.</p> <p>27. Hearing of appeal.</p> <p>28. Public notice of decisions of the Appeal Authority.</p> <p><i>General Provisions as to fixing of Charges by Committee or Appeal Authority</i></p> <p>29. Principles to be observed by Committee and Appeal Authority.</p> <p>30. Effect of decisions relating to group of transport services.</p> <p>31. Charges in respect of any service to be fixed under this Act.</p> <p>32. Provisions as to charges on renewal of licences.</p> <p>33. Charges payable under temporary licences.</p> <p>34. Committee and Appeal Authority not to fix certain charges.</p> <p>35. Repeals, amendments, and savings.</p> <p><i>Miscellaneous Provisions</i></p> <p>36. Additional matters to be considered by authority dealing with any application.</p> <p>37. Amending definition of terms "goods-service", "passenger-service", and "passenger service vehicle". Repeals.</p> | <p>38. Goods-service vehicles to carry certificate of fitness.</p> <p>39. Licensing Authority may prescribe additional conditions in granting taxicab licences and passenger-service licences.</p> <p>40. Amending provisions as to altering terms and conditions of licences.</p> <p>41. Extending power to make regulations.</p> <p>42. Amending provisions as to appeals.</p> <p>43. Director of Stabilization and Director of Rehabilitation may appeal against decision of Licensing Authority.</p> <p>44. Certain provisions of this Part to be deemed part of Part II of principal Act.</p> <p style="text-align: center;">PART II</p> <p style="text-align: center;">MOTOR-VEHICLES</p> <p>45. This Part to be read with Motor-vehicles Act, 1924.</p> <p>46. Amending definition of terms "motor-vehicle" and "trailer".</p> <p>47. Amending provisions as to driving by unlicensed persons.</p> <p>48. Penalty for driving motor-vehicle while disqualified.</p> <p>49. Licences of mentally defective persons to be revoked.</p> <p>50. Amending provisions as to duties of motor-drivers in cases of accidents.</p> <p>51. Power to make regulations for fixing temporary speed-limits where risk of injury or damage.</p> <p>52. Amending provisions as to regulations governing pedestrian and other traffic.</p> <p>53. Traffic Inspector may prosecute in traffic cases.</p> |
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1948, No. 47

AN ACT to amend the Law relating to Transport Title.
Licensing and Motor-vehicles. [19th November, 1948]

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

1. This Act may be cited as the Transport Law Short Title.
Amendment Act, 1948.

PART I

TRANSPORT LICENSING

This Part to be read with Transport Licensing Act, 1931.

See Reprint of Statutes. Vol. VIII, p. 832

Interpretation.

2. This Part of this Act shall be read together with and deemed part of the Transport Licensing Act, 1931 (in this Part referred to as the principal Act).

3. For the purposes of the principal Act and of this Act, unless the context otherwise requires,—

“Appeal Authority” means the Transport Charges Appeal Authority appointed under this Act:

“Committee” means the Transport Charges Committee established under this Act:

“Council” means the Transport Co-ordination Council established under this Act:

“Harbour” means a harbour as defined in section five of the Harbours Act, 1923, which is for the time being within the jurisdiction of a Harbour Board or within the jurisdiction of a local authority or of the Governor-General in any case where the powers and duties of a Harbour Board are vested in any such authority or are exercisable by the Governor-General; and includes all tidal waters distant not more than thirty miles from the limits of any such harbour:

“Harbour ferry” means a vessel which engages within the limits of any harbour in the carriage for hire or reward of passengers or of goods (including mails):

“Harbour-ferry service” means a service for the carriage for hire or reward of passengers or of goods (including mails) by means of a harbour ferry:

“Service” or “transport service” means a passenger-service or other service to which the principal Act applies, whether by virtue of the principal Act or any amendment thereof (including this Act), or by virtue of any Order in Council made pursuant thereto.

Ibid., Vol. III. p. 569

Harbour-ferry Services

4. (1) The Governor-General may from time to time, by Order in Council, apply to any harbour or to any part or parts thereof, from a date specified in the Order, such of the provisions of Part II of the principal Act, with such modifications, as he thinks fit, but in every such case the provisions of section twelve of the Transport Licensing Amendment Act, 1936, shall, with the necessary modifications, be applied.

Application of Part II of the principal Act to harbour-ferry services.

1936, No. 9

(2) All provisions of Part II of the principal Act so applied as aforesaid to any harbour shall thereupon be read and have effect as if the references therein to passenger-services and passenger-service licences were references to harbour-ferry services and harbour-ferry service licences respectively, and shall be read with such modifications as may be necessary from the fact that as so applied they are dealing with harbour-ferry services instead of passenger-services, and as if references therein to the appointed day were references to the date on which the Order in Council took effect.

(3) Any such Order in Council, instead of applying provisions of Part II of the principal Act generally with respect to any harbour or to any specified part or parts of any harbour, may apply those provisions with respect only to harbour-ferry services of a particular class or classes or to a specified harbour-ferry service or services.

(4) On the coming into force of an Order in Council under subsection one of this section any person who was carrying on a harbour-ferry service at the commencement of this Act and who continued to carry it on until the date of the coming into force of the said Order shall, subject to the provisions of the next succeeding section, be entitled as of right to a licence for the service so carried on.

(5) The proper Licensing Authority to grant a harbour-ferry service licence or otherwise to exercise jurisdiction in respect of any such licence shall be the Licensing Authority of the transport district to which the said harbour is contiguous, but where the harbour is contiguous to more than one such district shall be such one of the Licensing Authorities for those districts as may be specified in the Order in Council.

Provisions as to granting or renewing harbour-ferry licences.

5. The Licensing Authority, before granting any harbour-ferry licence or a renewal of a harbour-ferry licence,—

- (a) May call upon the applicant therefor (whether or not at the time of making the application he was actually carrying on the service to which it relates) to furnish to the satisfaction of the Licensing Authority proof that his liability in respect of death or injury to any passenger, or of loss of or damage to any goods that may be conveyed by the service, is covered by insurance or otherwise to such extent as the Licensing Authority deems reasonable, having regard to the nature and extent of the service; and
- (b) May require the applicant to produce proof that he has paid all licence and other fees then due and payable under any Act, or regulation, or by-law in respect of the harbour ferries to be used in the harbour-ferry service and that there are then current all appropriate certificates required by the Shipping and Seamen Act, 1908, in respect of those harbour ferries to enable them to carry passengers or goods for hire, as the case may be, within the limits of the harbour within which the service is to be carried on.

See Reprint of Statutes, Vol. VIII, p. 249

Transport Co-ordination Council

Transport Co-ordination Council.

6. (1) For the purposes of the principal Act and of this Act there is hereby established a Council to be called the Transport Co-ordination Council, consisting of—

- (a) The Commissioner of Transport, who shall be the Chairman of the Council:
- (b) The General Manager of Railways:
- (c) The Secretary to the Marine Department:
- (d) The Air Secretary:
- (e) The Commissioner of Police:
- (f) The Chairman of Directors of the New Zealand National Airways Corporation established under the New Zealand National Airways Corporation Act, 1945:

- (g) A person to be appointed by the Minister on the nomination of the New Zealand Ship-owners' Federation:
- (h) A person to be appointed by the Minister to represent local authorities and public bodies who are owners of transport services:
- (i) A person to be appointed by the Minister to represent the owners (other than local authorities or public bodies) of passenger transport services:
- (j) A person to be appointed by the Minister to represent the owners (other than local authorities or public bodies) of goods transport services:
- (k) A person to be appointed by the Minister on the nomination of the Federated Farmers of New Zealand, Incorporated:
- (l) A person to be appointed by the Minister to represent the Amalgamated Society of Railway Servants, the Engine-drivers, Firemen, and Cleaners' Association, the New Zealand Railway Tradesmen's Association, and the Railway Officers' Institute:
- (m) A person to be appointed by the Minister to represent the Federated Seamen's Union of New Zealand Industrial Association of Workers, the Federated Cooks and Stewards of New Zealand Industrial Association of Workers, the New Zealand Merchant Service Guild Industrial Union of Workers, and the New Zealand Institute of Marine and Power Engineers:
- (n) A person to be appointed by the Minister to represent the New Zealand Tramways Authorities Employees' Industrial Union of Workers:
- (o) A person to be appointed by the Minister to represent the New Zealand Road Transport and Motor and Horse Drivers and their Assistants' Industrial Association of Workers:
- (p) A person to be appointed by the Minister to represent the persons employed in the air-transport industry.

(2) Before appointing any member of the Council to represent any organization, local authority, public body, or body of persons referred to in the last preceding subsection, the Minister shall consult and shall have due regard to any representations made by the organization, local authority, public body, or body of persons concerned, or any organization, committee, or other body which in his opinion represents a group of any such local authorities, public bodies, or bodies of persons.

(3) In the absence from any meeting of the Council of the Chairman of Directors of the New Zealand National Airways Corporation or of any member being an officer of any Department of State, the said Chairman of Directors or the said member, as the case may be, may authorize any other officer of the Corporation or of that Department, as the case may be, to attend the meeting in his stead. In the absence from any meeting of the Council of any other member, any person nominated by him and approved by the Minister may attend the meeting in his stead. While any person attends any meeting under this subsection he shall be deemed for all purposes to be a member of the Council.

(4) The fact that any person attends pursuant to the last preceding subsection and acts as a member of the Council shall be conclusive proof of his authority to do so.

(5) The powers of the Council shall not be affected by any vacancy in the membership thereof.

(6) Every appointed member of the Council shall be appointed for such period as the Minister in each case determines.

(7) There may be paid out of moneys appropriated by Parliament for the purpose to the members of the Council, and to persons co-opted to assist the Council under section eight of this Act, such travelling expenses and allowances as may from time to time be prescribed by regulations under the principal Act.

Extraordinary
vacancies.

7. (1) Any appointed member of the Council may at any time resign his office by writing addressed to the Minister or may be removed from office by the Minister for inability or misconduct.

(2) If any appointed member of the Council dies, or resigns his office, or is removed from office by the Minister, the vacancy shall as soon as possible thereafter be filled by the appointment of a new member in the manner in which the vacating member was appointed.

8. The Council may from time to time, if and when it thinks fit, co-opt additional persons to assist the Council on any inquiry being held by it. Co-opting of additional members.

9. (1) Meetings of the Council shall be held at such times and places as it determines. Meetings of the Council.

(2) The Minister or the Commissioner may at any time call a meeting of the Council, and any three members of the Council may at any time, by notice in writing, request the Commissioner to call a meeting of the Council, and thereupon the Commissioner shall call a meeting of the Council, to be held not later than one month after the day he received the notice.

(3) All members for the time being in New Zealand shall be given at least seven clear days' notice in writing of any meeting of the Council.

(4) At any meeting of the Council a majority of the members shall form a quorum.

(5) All questions before the Council shall be decided by a majority of the valid votes recorded thereon.

(6) The Commissioner shall preside at all meetings of the Council at which he is present.

(7) In the absence of the Commissioner from any meeting any officer of the Transport Department attending the meeting in his stead shall be the Chairman of that meeting. If neither the Commissioner nor any such officer attends any meeting, the members present shall appoint one of their number to be the Chairman of that meeting.

(8) At any meeting of the Council the Chairman shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(9) Subject to the provisions of this Act, the Council may regulate its procedure in such manner as it thinks fit.

Functions of
the Council.

- 10.** (1) The functions of the Council shall be—
- (a) To make inquiries into and to report on and make recommendations concerning such matters as may from time to time be referred to it by the Minister:
 - (b) To institute of its own motion inquiries into any matter affecting public transport of any kind and to make reports and recommendations thereon to the Minister.

(2) All such reports and recommendations shall be laid before Parliament within twenty-eight days after they have been received by the Minister, if Parliament is then in session, and if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session.

Council to be
a Commission
of Inquiry.
See Reprint
of Statutes,
Vol. I, p. 1036

11. The Council shall within the scope of its jurisdiction be deemed to be a Commission under the Commissions of Inquiry Act, 1908, and, subject to the provisions of this Act, all the provisions of that Act shall apply accordingly.

Transport Charges Committee

Transport
Charges
Committee.

12. (1) There is hereby established for the purposes of the principal Act and of this Act a special Committee, to be known as the Transport Charges Committee.

- (2) The Committee shall consist of—
- (a) A Chairman, who shall be appointed as such:
 - (b) One member, who shall be appointed to represent the owners of transport services:
 - (c) One member, who shall be appointed to represent the users of transport services.

(3) The Chairman and members of the Committee shall be appointed by the Minister, and shall hold office during the pleasure of the Minister. No person shall be appointed to be the Chairman or other member of the Committee who is not at the time of his appointment a member of the New Zealand Society of Accountants established under the New Zealand Society of Accountants Act, 1908.

Ibid., p. 4

(4) The Minister shall appoint one of the members of the Committee to be the Deputy Chairman thereof.

(5) Before entering upon the exercise of the duties of their office the members of the Committee shall take and subscribe an oath before the Transport Charges Appeal Authority that they will faithfully and impartially perform the duties of their office.

(6) The members of the Committee may in respect of their services as such be paid out of moneys appropriated by Parliament for the purpose such salaries or other remuneration as may be fixed by the Minister with the concurrence of the Minister of Finance, either generally or in any particular case, and also any expenses reasonably incurred by them for locomotion, board, and lodging in respect of their attendance at meetings of the Committee or when travelling on the business of the Committee.

(7) No person shall be deemed to be employed in the service of His Majesty for the purposes of the Public Service Act, 1912, or of the Superannuation Act, 1947, by reason of his being a member of the Committee.

See Reprint
of Statutes,
Vol. VII, p. 522
1947, No. 57

13. (1) Not less than two members shall be present at every sitting of the Committee.

Sittings of
the Committee.

(2) The Chairman shall preside at every sitting of the Committee at which he is present.

(3) In the absence of the Chairman from any sitting the Deputy Chairman shall preside.

(4) If at any sitting of the Committee two members only are present, both of those members shall concur in every decision of the Committee. In every other case a decision of the majority of the members of the Committee shall be the decision of the Committee.

(5) If the Committee is unable to reach a decision on any matter in accordance with the provisions of the last preceding subsection, the matter shall be referred to the Transport Charges Appeal Authority for determination in the same manner, with the necessary modifications, as if it were an appeal from a decision of the Committee.

(6) All proceedings before the Committee shall be heard in public unless the Committee in any particular case, due regard being had to the interests of the parties and of all other persons concerned, considers that the hearing or any part thereof should take place in private:

Provided that the Committee may deliberate in private as to its decision in the proceedings or as to any question arising in the course of the proceedings:

Provided also that, with the consent of the parties, the Committee may, if it thinks fit, deal with any application without a formal hearing.

(7) The Committee may make an order prohibiting the publication of any report or description of the proceedings or of any part of the proceedings in any matter before the Committee:

Provided that no such order shall be made prohibiting the publication of the names and description of the parties to the matter, particulars of any licence affected thereby and of any charges fixed, reviewed, or altered by the Committee.

(8) Except as hereinbefore provided, the Committee shall determine its own procedure.

Functions of
the Committee.

14. (1) The functions of the Committee shall be to fix, review, or alter the charges for the carriage of passengers or goods (including mails), or the letting of motor-vehicles on hire, by any transport service (including the charges payable under any contract or group of contracts or proposed contract or group of contracts), whether the charges to be reviewed or altered have been fixed before or after the commencement of this Act.

(2) Where having regard to all the circumstances in any particular case the Committee considers it desirable in the public interest so to do, the Committee, 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.

Committee to
be subject to
general
jurisdiction of
Transport
Charges Appeal
Authority.

15. The Committee shall, when so directed by the Transport Charges Appeal Authority, proceed to fix or review the charges for any service or group of services.

Proceedings
before
Committee not
to be questioned
except before
Transport
Charges Appeal
Authority.

16. Proceedings before the Committee shall not be held bad for want of form. Except on the ground of lack of jurisdiction, no proceeding or order of the Committee 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 Transport Charges Appeal Authority as hereinafter provided.

Transport Charges Appeal Authority

17. (1) For the purposes of the principal Act and of this Act, the Governor-General may from time to time appoint any suitable person to be the Transport Charges Appeal Authority.

Transport
Charges
Appeal
Authority.

(2) The person appointed to be the Appeal Authority shall be—

(a) A Judge of the Supreme Court; or

(b) The holder of any office under any Act and as such entitled as to tenure of office to the same rights as a Judge of the Supreme Court.

(3) Any person appointed under this section to be the Appeal Authority shall hold that office concurrently with any other office held by him.

(4) If and so long as a Judge of the Supreme Court holds office as the Appeal Authority he shall be deemed to be absent from his office as a Judge of the Supreme Court, and a Judge may be appointed in his stead, pursuant to section eleven of the Judicature Act, 1908, to hold office during the pleasure of the Governor-General.

See Reprint
of Statutes,
Vol. II, p. 63

(5) Nothing contained in this section shall be construed to deprive the person for the time being appointed as the Appeal Authority from exercising any jurisdiction as the holder of any office under any other Act.

18. The Appeal Authority shall have a seal, which shall be judicially noticed in all Courts.

Seal.

19. (1) Every sitting of the Appeal Authority shall be held in public and at such place as he deems most convenient having regard to the nature of matters to be decided:

Sittings of
the Appeal
Authority.

Provided that the Appeal Authority may in any case, if he considers it in the interests of the parties and of all other persons concerned, order that the hearing or any part thereof shall be held in private.

(2) Any sitting of the Appeal Authority may be adjourned from time to time and to any other place.

(3) The Appeal Authority may make an order prohibiting the publication of any report or description of the proceedings or of any part of the proceedings in any appeal before him:

Provided that no such order shall be made prohibiting the publication of the names and descriptions of the parties to the appeal, or particulars of any licence thereby affected or of any decision of the Appeal Authority.

(4) Except as hereinbefore provided, the Appeal Authority shall determine his own procedure.

Functions of
the Appeal
Authority.

20. (1) The functions of the Appeal Authority shall be to sit as a judicial authority for the determination of appeals from any decision of the Committee.

(2) The Appeal Authority may also from time to time issue directions to the Committee to proceed to fix or review the charges for any service or group of services (including the charges payable under any contract or group of contracts), whether the charges to be reviewed have been fixed before or after the commencement of this Act.

Evidence in
proceedings
before
Appeal
Authority.

21. (1) The Appeal Authority may receive as evidence any statement, document, information, or matter that may in his opinion assist him to deal effectually with the matters before him, whether or not the same would be otherwise admissible in a Court of law.

See Reprint
of Statutes,
Vol. III, p. 106

(2) Subject to the foregoing provisions of this section, the Evidence Act, 1908, shall apply to the Appeal Authority, and to all proceedings before the Appeal Authority, in the same manner as if the Appeal Authority were a Court within the meaning of that Act.

Ibid.,
Vol. I, p. 1036

(3) The Appeal Authority shall within the scope of his jurisdiction be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act, 1908, and, subject to the provisions of this Act, all the provisions of that Act shall apply accordingly.

Proceedings
before
Appeal
Authority not
to be questioned
for want of
form or
appealed
against.

22. Proceedings before the Appeal Authority shall not be held bad for want of form. No appeal shall lie from any order of the Appeal Authority, and except on the ground of lack of jurisdiction no proceeding or order of the Appeal Authority shall be liable to be challenged, reviewed, quashed, or called in question in any Court.

Applications to fix Road and Ferry Charges

23. (1) The following persons, and no others, may make application to the Committee to fix, review, or alter the charges for the carriage of passengers or goods (including mails), or the letting of motor-vehicles on hire, by any transport service:—

Applications to fix charges.

(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) The Commissioner:

(c) Any other person whose interests are affected, being the holder of or an applicant for a passenger-service licence, a goods-service licence, or a harbour-ferry service licence, the permanent head of a Government Department, a local authority, or a public body:

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

(e) All parties to a contract or proposed contract for the carriage of passengers or goods (including mails) 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 written consent of the other or others.

(2) Every such application shall be in the prescribed form and, in the case of applications by persons other than the Commissioner, shall be forwarded to the Commissioner, together with the prescribed fee.

(3) The Commissioner shall, on being satisfied that the application is duly made, transmit the same to the Committee, but may in any case before so doing require the applicant to furnish such further information or particulars as may, in the opinion of the Commissioner, be necessary to enable the Committee to come to a proper decision.

(4) The Commissioner shall in every case place before the Committee all such information at his disposal (whether obtained from the applicant or not) as will assist the Committee in dealing with the application.

(5) As soon as conveniently may be after the receipt of any application, or of any direction from the Appeal Authority under subsection two of section twenty of this Act, the Committee shall fix a time and place for the hearing and, except where the proceedings relate to charges payable under any contract or proposed contract between the user of any service and the licensee thereof, shall give not less than seven clear days' public notice thereof, and shall also give not less than seven clear days' notice in writing thereof to the applicant and to the holder of or applicant for the licence in respect of which the application or direction is made.

(6) Where the proceedings relate to the charges payable under any contract or proposed contract between the user of any service and the licensee thereof the Committee shall give not less than seven clear days' written notice of the time and place fixed for the hearing to all parties to the contract or proposed contract.

(7) At the hearing of any application or of any proceedings directed to be held by the Appeal Authority the Committee shall hear all evidence tendered and representations made by or on behalf of the applicant and other persons which it deems relevant to the subject-matter of the proceedings save that at any time during the hearing it may decide not to receive further evidence or representations.

(8) After hearing the evidence and representations as aforesaid, the Committee may make an order refusing any application, or granting it either unconditionally or upon or subject to such modifications or conditions as the Committee thinks fit. Where the Committee has been directed by the Appeal Authority to fix or review any charges the Committee shall, after hearing the evidence and representations as aforesaid, make an order fixing the charges, or altering or confirming any existing charges, in such manner as it shall think fit.

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

existing charges shall take effect from such date as shall be specified therein, being not earlier than the date fixed for appealing from the order.

24. (1) Every order of the Committee shall be forwarded to the Commissioner, who, except in cases where the order relates to a contract or proposed contract between the user of any service and the licensee thereof, shall forthwith give public notice thereof, specifying in the notice—

Public notice
to be given of
decisions of
Committee.

- (a) The name of the holder of every licence affected by the order, or a description of the group of services affected by the order:
- (b) Particulars of the charges as fixed, or varied, or confirmed by the order, or a place where those particulars may be ascertained:
- (c) The date from which any order fixing any charges or altering any existing charges takes effect:
- (d) The date on or before which appeals must be lodged.

(2) The Commissioner shall also forthwith send a copy of the notice 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 order was made pursuant to directions given by the Appeal Authority, to the holder of or applicant for that licence or those licences.

(3) Where the order 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.

(4) Where no appeal is made within the time prescribed the order of the Committee shall be final and conclusive.

Appeals to Transport Charges Appeal Authority

25. (1) Within twenty-one days after publication of the notice of any order of the Committee or (where the order related to a contract or proposed contract between the user of any service and the licensee thereof), within twenty-one days after service of the notice given pursuant to subsection three of the

Appeal from
order of
Committee.

last preceding section, any of the following persons may appeal to the Appeal Authority from the order of the Committee or from any part thereof:—

- (a) Any person entitled, pursuant to subsection one of section twenty-three of this Act, to make an application to fix, alter, or review the charges to which the order relates:
- (b) The Director of Stabilization under the Economic Stabilization Emergency Regulations 1942, or any officer in the service of the Crown authorized by the Director in that behalf:
- (c) Any other person charged with the administration of any Act or regulation for the time being in force relating to the promotion and maintenance of the economic stability of New Zealand, or any officer in the service of the Crown authorized by that person in that behalf:
- (d) The Director of Rehabilitation under the Rehabilitation Act, 1941, or any officer in the service of the Crown authorized by the Director in that behalf, in any case where the order of the Committee concerns a licence owned by, applied for, or opposed by or in the interests of a discharged serviceman within the meaning of Part I of the Rehabilitation Act, 1941.

Serial number
1944/36

1941, No. 25

(2) Every such appeal shall be in the prescribed form and, in the case of appeals by persons other than the Commissioner, shall be forwarded to the Commissioner together with the prescribed fee.

(3) Every such appeal shall forthwith be referred by the Commissioner to the Appeal Authority for determination in accordance with the provisions of this Act.

(4) As soon as conveniently may be after the receipt of any appeal the Appeal Authority shall fix a time and place for the hearing of the same and, except where the appeal relates to charges payable under any contract or proposed contract between the user of any service and the licensee thereof, shall give not less than seven clear days' public notice thereof, and shall also

give not less than seven clear days' notice in writing thereof to the appellant and to the holder of or applicant for the licence in respect of which the appeal is made.

(5) Where the appeal relates to the charges payable under any contract or proposed contract between the user of any service and the licensee thereof the Appeal Authority shall give written notice of the time and place fixed for the hearing of the appeal to all parties to the contract or proposed contract.

26. Any order of the Committee against which an appeal is lodged and which alters any charges previously fixed shall have no force or effect pending the determination of that appeal; but in all other cases the order shall come into operation on the date thereof or on such other date as may be specified in that behalf in the order, and shall continue in force until revoked or varied by the determination of the Appeal Authority on the appeal.

Operation of orders of Committee pending determination of appeal.

27. (1) At the hearing of any appeal the Appeal Authority shall hear all evidence tendered and representations made by or on behalf of the appellant and other persons which he deems relevant to the subject-matter of the appeal, save that at any time during the hearing he may decide not to receive further evidence or representations.

Hearing of appeal.

(2) After hearing the evidence and representations as aforesaid the Appeal Authority may confirm, discharge, or vary the order of the Committee and generally make such order as he considers just and equitable in the circumstances of the case. Every such order shall take effect from the date thereof or from such other date as may be specified therein.

(3) Notwithstanding anything contained in the foregoing provisions of this section, the Appeal Authority may in any case, instead of determining any appeal under those provisions, direct the Committee to reconsider the matter.

(4) In any case where the Appeal Authority issues a direction under the last preceding subsection, the decision appealed against shall have no effect and the Committee shall again consider the matter as if no decision had previously been made and as if no steps

had been taken under subsection five or subsection six, as the case may require, of section twenty-three of this Act.

(5) Pending any such reconsideration by the Committee the holder of the licence concerned may, subject to any limitations or conditions imposed by the Appeal Authority, impose charges in carrying on the service to which the decision relates which he was lawfully entitled to impose at the time when the decision was given.

(6) Whenever the Appeal Authority directs the Committee to reconsider a matter, he shall advise the Committee of his reasons for so doing and the Committee in reconsidering the matter shall have regard thereto.

Public notice of decisions of the Appeal Authority.

28. Except where the appeal relates to the charges payable under a contract or proposed contract between the user of any service and the licensee thereof, the Commissioner shall forthwith after the Appeal Authority has given his decision on any appeal under this Act give public notice thereof, which notice shall specify—

- (a) The name of the licensee of every licence affected by the decision or a description of any group of services affected by the decision:
- (b) Particulars of the charges as fixed or altered by the Appeal Authority or a place where particulars of those charges may be inspected by any person interested:
- (c) The date from which those charges operate.

General Provisions as to fixing of Charges by Committee or Appeal Authority

Principles to be observed by Committee and Appeal Authority.

29. In any proceedings under this Act to fix, review, or alter any transport charges the Committee or, as the case may be, the Appeal Authority shall have due regard to the necessity of preserving and promoting the social and economic welfare of the people of New Zealand, and in particular to—

- (a) The promotion and maintenance of the economic stability of New Zealand:
- (b) The desirability of increasing national production by granting concessions on the carriage of producers' goods:

- (c) The desirability of providing special fares for all regular users of services for the carriage of passengers:
- (d) The desirability of providing that children under the age of four years shall be carried free of charge, and that children who have attained the age of four years but have not attained the age of fifteen years shall be carried at half adult rates:
- (e) The desirability of maintaining a reasonable standard of living and satisfactory working-conditions in the road-transport and harbour-ferry industries:
- (f) The maintenance of the efficiency of the transport services to which the proceedings relate.

30. Every decision of the Committee or of the Appeal Authority relating to a group of transport services shall apply with respect to every transport service at any time comprised within the description of the group, whether the licence for any such service has been granted before or after the notification of the decision.

Effect of decisions relating to group of transport services.

31. (1) Subject to the provisions of sections thirty-three and thirty-four of this Act, as from the commencement of this Act the charges which may be made in respect of any transport service shall be fixed, altered, or reviewed by the Committee or by the Appeal Authority, as the case may be, under the provisions of this Act, and no Licensing Authority or other authority shall exercise any jurisdiction to fix or review any such charges.

Charges in respect of any service to be fixed under this Act.

(2) Every person who in carrying on any such service imposes any charge which differs from the amount in that behalf allowed by any such order for the time being in force or which, in a case where a maximum charge and minimum charge have been fixed by the order, exceeds the maximum charge or is less than the minimum charge, commits an offence against the principal Act and shall be liable to a fine not exceeding ten pounds, and his licence shall be liable to revocation or suspension under the provisions of section thirty-six of the principal Act.

(3) Where the charges payable under any contract or proposed contract are fixed or altered by the Committee or by the Appeal Authority, as the case may be,

it shall be deemed to be a condition of every licence to which the order relates that the licensee shall carry out the terms of the contract or proposed contract and carry the passengers or goods to which the contract or proposed contract relates at the charges fixed or altered by the said order.

Provisions as to charges on renewal of licences.

32. Where any licence is renewed, whether granted before or after the commencement of this Act, the charges which might lawfully be made for the carriage of passengers or goods (including mails) pursuant to the expiring licence, or to any order made under the provisions of this Act, shall continue and enure for the purposes of the renewal licence until altered under the provisions of this Act.

Charges payable under temporary licences.

33. Notwithstanding anything contained in this Act, where any temporary licence for any transport service is granted under subsection five of section fourteen, or under section twenty-eight of the principal Act, the Chairman of the Licensing Authority or the Licensing Authority, as the case may be, shall fix the charges payable in respect of that licence, and in so doing shall have regard as far as possible to any charges for the time being in force fixed in respect of any similar transport service carried on in the district of the Licensing Authority. There shall be no appeal from the decision of the Chairman or of the Licensing Authority fixing those charges.

Committee and Appeal Authority not to fix certain charges.

1935, No. 31

34. Nothing hereinbefore contained shall be deemed to confer on the Committee or on the Appeal Authority any jurisdiction to fix, review, or alter the fares to be charged on any road passenger-service carried on by the Minister of Railways to which the Government Railways (Wellington to Johnsonville) Act, 1935, applies.

Repeals, amendments, and savings.

35. (1) Section twenty-six of the principal Act is hereby amended by repealing paragraph (e) of subsection two.

(2) Section twenty-seven of the principal Act is hereby amended by omitting from paragraph (d) the words "and that the proposed fares are reasonable".

(3) Section thirty of the principal Act is hereby amended by repealing paragraph (f) of subsection one; also by omitting from subsection two the words "fares and"; and also by repealing subsection three.

(4) Section fifty-five of the principal Act is hereby amended as follows:—

(a) By inserting in paragraph (a), after the word “motor-vehicle” wherever it occurs, the words “or harbour-ferry”:

(b) By inserting in paragraph (b), after the words “controlled area”, the words “or that a harbour-ferry service is being carried on within a harbour”:

(c) By adding to paragraph (d) the words “or of the Transport Charges Committee”.

(5) Section fifty-seven of the principal Act is hereby amended as follows:—

(a) By inserting in subsection one, after the word “motor-vehicles”, the words “or harbour-ferries”:

(b) By inserting in subsection two, after the words “passenger or goods”, the words “or harbour-ferry”:

(c) By inserting in subsection two, after the word “motor-vehicle”, the words “or harbour-ferry”:

(d) By inserting in subsection two, after the words “licensing of vehicles”, the words “or harbour-ferries”.

(6) Section fifty-eight of the principal Act is hereby amended by inserting, after the word “vehicles” wherever it occurs, the words “or harbour-ferries”.

(7) Section fifty-nine of the principal Act is hereby amended as follows:—

(a) By inserting in paragraph (m), after the words “passenger-service vehicles”, the words “harbour ferries,”:

(b) By adding to paragraph (p) the words “and on harbour ferries”:

(c) By inserting in paragraph (q), after the words “such vehicle”, the words “or harbour ferry”.

(8) Section sixty of the principal Act is hereby amended by inserting in paragraph (b) of subsection two, after the words “goods-service vehicles”, and also after the words “description of vehicles”, the words “or harbour ferries”.

1933, No. 25

(9) Section twenty-three of the Transport Law Amendment Act, 1933, is hereby amended by repealing paragraph (c).

Serial number
1944/36

Serial number
1943/40

Serial number
1943/123

Serial number
1944/182

Serial number
1945/87

(10) Part IV_A of the Economic Stabilization Emergency Regulations 1942, the Goods-service Charges Tribunal Emergency Regulations 1943, the Goods-service Charges Tribunal Emergency Regulations 1943, Amendment No. 1, the Goods-service Charges Tribunal Emergency Regulations 1943, Amendment No. 2, and the Goods-service Charges Tribunal Emergency Regulations 1943, Amendment No. 3 are hereby revoked.

(11) All charges prescribed in respect of any service under the authority of any of the provisions hereby repealed or revoked and in force immediately before the commencement of this Act shall continue in force for the period for which they were prescribed, but may at any time be reviewed or altered under the provisions of this Act.

1936, No. 9

(12) All appeals relating to charges prescribed for any service duly lodged under section twelve of the Transport Licensing Amendment Act, 1936, but not determined before the commencement of this Act, shall be determined by the Appeal Authority under this Act as if the order prescribing those charges were an order of the Committee made under this Act.

Miscellaneous Provisions

Additional matters to be considered by authority dealing with any application.

36. In considering any application or other matter under the principal Act or this Act, the Minister, or the Licensing Authority, or the Transport Appeal Authority, or the Transport Charges Appeal Authority, or the Committee, or other person or body dealing with the application or matter shall, in addition to other matters required to be considered by any other provisions of the principal Act or of this Act, have regard to the following matters:—

- (a) The provision of modern transport facilities best suited according to the nature of the service to meet the needs of national production and living standards and of national defence:
- (b) The fair and impartial regulation of all forms of public transport in order to develop and maintain transportation facilities adequate to

meet the needs of New Zealand and of national and Empire defence; and for those purposes so to administer the transportation facilities as to recognize and preserve the inherent advantages of each form of transport, to promote safe, adequate, economic, and efficient service, and the fostering of sound economic conditions in transportation, to encourage the establishment and maintenance of reasonable transport charges without unjust discrimination, undue preference or advantage, or unfair or destructive practices, and to promote good working-conditions for workers.

37. (1) Section two of the principal Act is hereby amended by repealing the definitions of the terms "goods-service", "passenger-service", and "passenger-service vehicle", and substituting the following definitions:—

Amending definition of terms "goods-service", "passenger-service", and "passenger-service vehicle".

" 'Goods-service' means the carriage or haulage of goods for hire or reward by means of a motor-vehicle, or a service for the letting of a goods-service vehicle on hire (otherwise than under a hire-purchase agreement) to a person who himself drives the goods-service vehicle or provides a driver therefor; but, subject to the provisions of section sixteen of the Transport Licensing Amendment Act, 1936, and of section seventeen of the Transport Law Amendment Act, 1939, does not include the carriage or haulage of goods by the owner thereof (whether for hire or reward or not) by means of a motor-vehicle: 1936, No. 9
1939, No. 9

" 'Passenger-service' means the carriage of passengers for hire or reward by means of a passenger-service vehicle, or a service for the letting of a motor-vehicle (other than a goods-service vehicle) on hire (otherwise than under a hire-purchase agreement) to a person who himself drives the motor-vehicle or provides a driver therefor:

" 'Passenger-service vehicle' means a motor-vehicle used for hire or reward for the carriage of passengers, with or without

goods, or let (otherwise than under a hire-purchase agreement) to a person who himself drives the motor-vehicle or provides a driver therefor; and includes a trackless trolley-omnibus: ”.

Repeals.

1936, No. 58
1939, No. 9

(2) Section seventy-nine of the Statutes Amendment Act, 1936, and section sixteen of the Transport Law Amendment Act, 1939, are hereby consequentially repealed.

Serial number
1939/24

(3) The Transport (Rental Vehicles) Notice 1939, issued by the Minister and declaring every service of a kind described in the Schedule thereto to be a passenger-service within the meaning of the principal Act, is hereby declared to be and at all times to have been lawfully issued.

Goods-service
vehicles to
carry
certificate
of fitness.

38. (1) Any motor-vehicle designed exclusively or principally for the carriage of goods and weighing with its maximum load more than two tons shall, for the purposes of this section and of Part V of the principal Act, be deemed to be a goods-service vehicle.

(2) No person shall use (except in case of emergency) any goods-service vehicle (whether in connection with a licensed goods-service or not) unless a certificate of fitness as hereinafter provided has been issued and is in force with respect to that vehicle and is carried in the vehicle:

Provided that in any case where he deems it expedient so to do, the Commissioner or any officer authorized by him in that behalf may grant a permit for any goods-service vehicle to be used without a certificate of fitness for such period as is specified in the permit.

(3) Certificates of fitness in respect of goods-service vehicles shall be issued by the Commissioner or by an officer or officers authorized by him in that behalf, and by no other person.

(4) No such certificate shall be issued save upon the report of an Inspector that the vehicle conforms to any regulations for the time being in force as to the design, construction, and equipment of goods-service vehicles of the class to which the vehicle belongs, and is in a fit condition to be granted a certificate of fitness.

(5) Every certificate of fitness in respect of a goods-service vehicle shall continue in force until revoked. For the purposes of this Act a certificate of fitness shall be deemed to be issued on the day appearing thereon as the date of issue, which may be earlier or later than the day on which it is in fact signed by or on behalf of the Commissioner.

(6) Every person who uses any goods-service vehicle contrary to the provisions of this section commits an offence and is liable to a fine of one hundred pounds, and to a further fine of ten pounds for every day on which the offence is committed.

(7) The foregoing provisions of this section shall not apply to—

(a) Any motor-vehicle belonging to the Crown, or to a local authority, or to a public body:

(b) Any motor-vehicle belonging to a person carrying on business as a farmer (other than as a market-gardener) and used exclusively for the carriage of goods in connection with that business.

(8) Clauses twenty-five, twenty-six, and twenty-seven of the Schedule to the Transport (Goods) Applied Provisions Order 1942 are hereby revoked.

39. Section thirty of the principal Act, as amended by subsection three of section thirty-five of this Act, is hereby further amended by adding thereto the following new subsections:—

“(3) In granting any licence for a taxicab-service the Licensing Authority may, in addition to the matters which it may or is required to prescribe under the provisions of subsection one of this section, prescribe any conditions which it considers necessary for the control of the service in the interests of efficiency or the giving of service to the public, or generally desirable in the public interest, and, without limiting the general powers hereinbefore conferred by this section, may prescribe conditions—

“(a) Requiring the licensee to comply with a roster of duties fixed or approved by the Licensing Authority:

“(b) Requiring the licensee to join a specified organization for the purpose of obtaining telephone and other facilities for the service,

Serial number
1942/21

Licensing
Authority
may prescribe
additional
conditions in
granting
taxicab
licences and
passenger-
service licences.

and requiring him to pay all moneys and do all things necessary to enable him to become and remain a member of that organization.

“(4) In granting any licence for a passenger-service, other than a taxicab-service, the Licensing Authority may, in addition to the matters which it may or is required to prescribe under the provisions of subsection one of this section, prescribe conditions requiring the licensee to provide or cause to be provided suitable shelters or other facilities for the comfort and convenience of passengers and intending passengers at any specified points on the authorized route or routes (including the terminal points thereof) as the Licensing Authority thinks fit.”

Amending provisions as to altering terms and conditions of licences.

40. Section thirty-four of the principal Act is hereby amended by inserting, after subsection one, the following new subsection:—

“(1A) In the exercise of its powers under the last preceding subsection the Licensing Authority may in particular require the licensee to effect such improvements in the service to which the licence relates, whether by way of extension or amendment of the routes authorized, the improvement of the time-table or frequency of service, the improvement of the efficiency of the service, or in any other manner, as the Licensing Authority considers desirable in the public interest.”

Extending power to make regulations.

41. Section fifty-nine of the principal Act is hereby further amended by inserting, after paragraph (t), the following new paragraph:—

“(tt) Prescribing a limit of liability in respect of claims made for loss of or damage to goods carried by any transport service, and authorizing licensees to sell or otherwise dispose of unclaimed goods after reasonable public notice of the intended sale has been given.”

Amending provisions as to appeals.
1936, No. 9

42. Section twelve of the Transport Licensing Amendment Act, 1936, is hereby amended by adding to subsection two the following new paragraph:—

“(g) Any other person affected by the decision and being an unsuccessful applicant at the sitting at which the decision was given for

a licence in respect of a service the same as or substantially the same as the service in respect of which a licence was granted by that decision.”

43. (1) In addition to the persons entitled to appeal against the decision of any Licensing Authority under section twelve of the Transport Licensing Amendment Act, 1936, any of the following persons may appeal against any such decision:—

Director of Stabilization and Director of Rehabilitation may appeal against decision of Licensing Authority.
1936, No. 9
Serial number 1944/36

(a) The Director of Stabilization under the Economic Stabilization Emergency Regulations 1942 or any officer in the service of the Crown authorized by the Director in that behalf:

(b) Any other person charged with the administration of any Act or regulation for the time being in force relating to the promotion and maintenance of the economic stability of New Zealand, or any officer in the service of the Crown authorized by that person in that behalf:

(c) The Director of Rehabilitation under the Rehabilitation Act, 1941, or any officer in the service of the Crown authorized by the Director in that behalf, in any case where the decision of the Licensing Authority concerns a licence or transfer of a licence owned by, applied for, or opposed by or in the interests of a discharged serviceman within the meaning of Part I of the Rehabilitation Act, 1941.

1941, No. 25

(2) All such appeals heretofore made by the said Director of Rehabilitation or by any officer in the service of the Crown authorized by the Director in that behalf are hereby declared to have been lawfully made.

(3) Nothing in the last preceding subsection shall affect the judicial determination in certain proceedings for a writ of certiorari instituted in the Supreme Court by Robert Henry Joseph Terrill against the Honourable Sir Francis Frazer and Frederick Baker.

Certain provisions of this Part to be deemed part of Part II of principal Act.

44. For the purposes of section forty-seven of the principal Act and of section four of this Act, subsection two of section thirty-five, and sections thirty-six, forty, forty-two, and forty-three of this Act shall be deemed to form part of Part II of the principal Act.

PART II

MOTOR-VEHICLES

This Part to be read with Motor-vehicles Act, 1924.

See Reprint of Statutes, Vol. VIII, p. 800

Amending definition of terms "motor-vehicle" and "trailer".
1939, No. 9

45. This Part of this Act shall be read together with and deemed part of the Motor-vehicles Act, 1924 (in this Part referred to as the principal Act).

46. (1) Section two of the principal Act is hereby amended by repealing the definition of the term "motor-vehicle", as set out in paragraph (a) of section three of the Transport Law Amendment Act, 1939, and substituting the following definition:—

“ ‘Motor-vehicle’ means a vehicle that is drawn or propelled by mechanical power; and includes a trailer; but does not include a vehicle running on rails, or an invalid carriage, or a trailer that is designed exclusively for agricultural purposes and is not used on any road or street except when proceeding to or from a farm, or a vehicle normally propelled by mechanical power while it is being temporarily towed without use of its own power: ”.

(2) Section two of the principal Act is hereby further amended by repealing paragraph (b) of the definition of the term "trailer" as set out in subsection one of section two of the Motor-vehicles Amendment Act, 1936, and substituting the following new paragraph:—

“ (b) Unless the Minister otherwise determines by notice in the *Gazette* in respect of any specified vehicle or of vehicles of any specified type or description, a vehicle forming part of a multi-axled motor-vehicle as defined by section twenty-six of the Statutes Amendment Act, 1937; or ”.

1936, No. 18

1937, No. 38

47. Section twenty of the principal Act is hereby amended as follows:—

Amending provisions as to driving by unlicensed persons.

(a) By inserting, after the words “ fifteen years ”, the words “ other than a person whose licence has for the time being been suspended, or who is for the time being disqualified from obtaining a licence, by any order made under this Act,”:

(b) By inserting, before the words “ and is engaged in teaching ”, the words “ for a motor-vehicle of the class to which that motor-vehicle belongs ”.

48. Section twenty-two of the principal Act is hereby amended by adding the following new subsection:—

Penalty for driving motor-vehicle while disqualified.

“ (6) If any person who under the provisions of this Act is disqualified from obtaining a motor-driver’s licence drives a motor-vehicle on any road or street while he is so disqualified, he commits an offence against this Act, and is liable on summary conviction to a fine not exceeding one hundred pounds; and in addition the Court by which he is so convicted may extend the period of his disqualification for such further period, not exceeding one year, as the Court thinks fit.”

49. Where any person in respect of whom a reception order is made under the Mental Defectives Act, 1911, is at the date of the order the holder of a motor-driver’s licence, that licence shall be deemed to be revoked as from the date of the order.

Licences of mentally defective persons to be revoked. See Reprint of Statutes, Vol. V, p. 743

50. Section five of the Motor-vehicles Amendment Act, 1936, is hereby amended as follows:—

Amending provisions as to duties of motor-drivers in cases of accidents.

(a) By omitting from subsection two the words “ and has not already been reported to a constable the driver shall forthwith report the same to the nearest police-station ”, and substituting the words “ the driver shall report the accident in person at the nearest police-station or to a constable as soon as reasonably practicable, and in any case not later than twenty-four hours after the time

1936, No. 18

of the accident, unless the driver is incapable of doing so by reason of injuries sustained by him in the accident”:

(b) By repealing subsection three, and substituting the following new subsections:—

“(3) Every driver who fails to comply with any obligation imposed on him by subsection one of this section in any case where any other person is injured in the accident commits a crime and is liable on indictment to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred pounds.

“(3A) Every driver who fails to comply with any obligation imposed on him by subsection one of this section in any case where no other person is injured in the accident commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds:

“(3B) Every person who fails to comply with any obligation imposed on him by subsection two of this section commits an offence and is liable on summary conviction to a fine not exceeding fifty pounds.”

51. Section thirty-six of the principal Act is hereby amended by inserting in subsection one, after paragraph (n), the following new paragraph:—

“(nn) Providing for the imposition by local authorities or by other bodies or persons having the control of roads or streets of temporary maximum speed-limits for motor-vehicles (not exceeding the maximum in that regard for the time being fixed by any Act or regulation) where the local authority or other body or person concerned considers that a temporary risk of danger to the public or of damage to any road or street exists or is likely to arise, and prescribing the duration of and power to revoke any such temporary speed-limit, the procedure for the imposition and notice to the public thereof, the

Power to make regulations for fixing temporary speed-limits where risk of injury or damage.

erection of traffic signs in relation thereto, the fines to be imposed (not exceeding ten pounds) for the breach of any such speed-limit, and such other matters as the Governor-General thinks necessary for the imposition and enforcement of every such temporary speed-limit:”.

52. Section ten of the Motor-vehicles Amendment Act, 1936, is hereby amended by omitting from subsection one the words “in so far as, in the opinion of the Governor-General, the control of that other traffic is necessary for the proper regulation of motor-traffic”.

Amending provisions as to regulations governing pedestrian and other traffic.
1936, No. 18

53. (1) For the purposes of this section the term “Traffic Inspector” means a Traffic Inspector who is an officer of the Transport Department or of a City Council; and includes any other person whose appointment as a Traffic Inspector is approved by the Minister.

Traffic Inspector may prosecute in traffic cases.

(2) Any Traffic Inspector, notwithstanding that he may not be the informant, may appear and conduct the prosecution in any proceedings for any offence relating to road traffic.