

MINISTRY OF TRANSPORT AMENDMENT (NO. 2) BILL

EXPLANATORY NOTE

THIS Bill amends the Ministry of Transport Act 1968.

Clause 1 relates to the Short Title.

Clause 2 inserts new *sections 13i to 13k* in the principal Act relating to the investigation of transport accidents. These sections replace the provisions of Part III of the Civil Aviation Act 1964, which relates to the investigation of aircraft accidents.

The effect of the new sections is as follows:

Section 13i establishes a branch of the Ministry of Transport, to be called the Transport Accidents Investigation Branch. It is to take the place of the present office of Air Accidents Investigation.

The section provides for the appointment of a Chief Inspector of Transport Accidents, who is to be responsible for the administration of the Branch and is to have such special duties and functions as are imposed or conferred on him by regulations or by the Minister. Provision is also made for the appointment of a Deputy Chief Inspector of Transport Accidents.

Section 13j provides that where a transport accident (as defined in *subsection (5)*) has occurred, the Chief Inspector is to make or cause to be made such inquiries as in his opinion require investigation in the public interest or as may be directed by the Minister. A report of the findings in any such inquiry is to be given to the Minister, together with any recommendations of the Chief Inspector.

Section 13k authorises the making of regulations. It is in the same terms as the present section 19 of the Civil Aviation Act 1964 relating to aircraft accidents, but applies to transport accidents generally.

Clause 3 repeals Part III of the Civil Aviation Act 1964 (relating to the investigation of aircraft accidents), and also contains savings provisions.

Clause 4 inserts new *sections 13l to 13o* in the principal Act, relating to the Road Traffic Safety Research Council. It gives effect to a recommendation of the Road Safety Committee 1972 (Parliamentary Paper 1972, I. 17). See page 5 of that report.

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The effect of the new sections 13L to 13O is as follows.

Section 13L establishes the Road Safety Research Council, having the membership set out in *subsection (2)*. The section includes the usual provisions relating to the procedure for the appointment of members, the term of office, vacation of office and filling of vacancies, the appointment of deputies, and the procedure of the Council.

Section 13M defines the functions of the Council. Its principal function is to inquire into all matters relating to road-traffic safety research referred to it by the Minister or by any member of the Council, and to report to the Minister on such matters. The Council has the additional functions set out in *subsection (2)*.

Section 13N authorises the Council to appoint subcommittees, whether members of the Council or not.

Section 13O provides for payment of remuneration and travelling expenses to members of the Council and of subcommittees appointed by it.

Clause 5 provides for consequential amendments.

Hon. Mr Gordon

MINISTRY OF TRANSPORT AMENDMENT (No. 2)

ANALYSIS

Title	
1. Short Title	4. New sections (as to Road Traffic Safety Research Council) inserted
2. New sections (as to investigation of transport accidents) inserted	"Road Traffic Safety Research Council
"Investigation of Transport Accidents	"13L. Road Traffic Safety Research Council
"13I. Transport Accidents Investigation Branch	"13M. Functions of Council
"13J. Inquiries to be held	"13N. Subcommittees of Council
"13K. Regulations	"13O. Remuneration and travelling expenses
3. Repeals and savings	5. Consequential amendments

A BILL INTITULED

An Act to amend the Ministry of Transport Act 1968

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

1. Short Title—This Act may be cited as the Ministry of Transport Amendment Act (No. 2) 1972, and shall be read together with and deemed part of the Ministry of Transport Act 1968* (hereinafter referred to as the principal Act).

10 **2. New sections (as to investigation of transport accidents) inserted**—The principal Act is hereby amended by inserting, after section 13H (as inserted by section 2 of the Ministry of Transport Amendment Act 1971), the following heading and sections:

*1968, No. 39

Amendments: 1971, No. 65; 1972, No. 4

“Investigation of Transport Accidents

“13i. Transport Accidents Investigation Branch—(1) There shall be a branch of the Ministry to be called the Transport Accidents Investigation Branch.

“**(2)** There shall from time to time be appointed under the State Services Act 1962 an officer of the Ministry to be called the Chief Inspector of Transport Accidents, who shall be responsible for the administration of the Transport Accident Investigations Branch and shall have such special duties and functions as may be imposed or conferred on him by regulations under this Act or by the Minister. 5 10

“**(3)** The Chief Inspector of Transport Accidents shall be under the general direction of the Secretary in respect of administrative matters but in the exercise of his special duties and functions under this Act he shall act independently and shall not be subject to the directions of the Secretary or of any other officer of the Ministry, and nothing in this section shall derogate from any of the powers, duties, and discretions conferred or imposed on him by regulations under this Act or by the Minister. 15 20

“**(4)** There may from time to time be appointed under the State Services Act 1962 a Deputy Chief Inspector of Transport Accidents, who, subject to the control of the Chief Inspector of Transport Accidents, shall have and may exercise all of the powers, duties, and functions of the Chief Inspector. 25

“**(5)** On the occurrence from any cause of a vacancy in the office of Chief Inspector of Transport Accidents (whether by reason of death, resignation, or otherwise) and in the case of absence from duty of the Chief Inspector of Transport Accidents (from whatever cause arising), and so long as any such vacancy or absence continues, the Deputy Chief Inspector of Transport Accidents shall have and may exercise all the powers, duties, and functions of the Chief Inspector of Transport Accidents. 30

“13j. Inquiries to be held—(1) Notwithstanding any provision in any other enactment, where a transport accident has occurred the Chief Inspector of Transport Accidents shall make or cause to be made such inquiries respecting that accident as in his opinion require investigation in the public interest or as may be directed by the Minister. 35 40

“**(2)** For the purposes of any such inquiry the person holding the inquiry shall have all the powers of a Commission of Inquiry under the Commissions of Inquiry Act 1908.

“(3) Where any such inquiry is held by a person other than the Chief Inspector of Transport Accidents, the person holding the inquiry shall report his findings therein to the Chief Inspector.

5 “(4) The Chief Inspector of Aircraft Accidents shall send to the Minister—

“(a) A report of his findings in any such inquiry held by the Chief Inspector:

10 “(b) A copy of every report sent to the Chief Inspector pursuant to subsection (3) of this section,— together, in each case, with any recommendation that the Chief Inspector may wish to make.

“(5) For the purposes of this section and of section 13k of this Act, the term ‘transport accident’ or ‘accident’ includes 15 a shipping casualty within the meaning of section 323 of the Shipping and Seamen Act 1952, a road accident, and an air accident, whether or not there is any loss of life, personal injury, or damage to or loss of property in the accident:

20 “Provided that, in relation to any shipping casualty, nothing in this Act shall derogate from the provisions of Part VIII of the Shipping and Seamen Act 1952.

“13k. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

25 “(a) Providing for the investigation of any transport accident:

30 “(b) Providing for the investigation of any unusual or dangerous incident arising out of or in connection with marine navigation, marine traffic, air navigation, air traffic, or road traffic:

“(c) Providing for the appointment of Inspectors, having such qualifications as may be prescribed, for the purposes of making inquiries under the regulations:

35 “(d) Prescribing the powers, functions, and duties of Inspectors appointed under the regulations:

“(e) Requiring notice to be given of any such accident or incident as aforesaid in such manner and by such persons as may be prescribed:

40 “(f) Requiring a report to be made, in such manner and by such person as may be prescribed, of any mechanical or structural defect discovered during the operation of any aircraft, ship, or motor vehicle:

- “(g) Prohibiting, pending investigation, access to or interference with any aircraft, ship, or motor vehicle to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft, ship, or motor vehicle: 5
- “(h) Prescribing the procedure to be followed at the hearing of any inquiry under the regulations: 10
- “(i) Prescribing penalties, not exceeding imprisonment for a term of 6 months or a fine of \$400, for the breach of any regulation under this section:
- “(j) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and the Civil Aviation Act 1964 relating to the investigation of accidents.” 15

3. Repeals and savings—(1) The following enactments are hereby repealed:

- (a) Part III of the Civil Aviation Act 1964: 20
- (b) Section 4 of the Civil Aviation Amendment Act 1969.
- (2) The Civil Aviation (Investigation of Accidents) Regulations 1953 shall continue in force after the commencement of this Act as if they had been made pursuant to section 13K of the principal Act (as inserted by section 2 of this Act). 25
- (3) Unless the context otherwise requires, every reference in any enactment, regulation, rule, order, agreement, deed, instrument, application, notice, licence, or other document whatsoever in force at the commencement of this Act,—
- (a) To the Office of Air Accidents Investigation or to the Accidents Investigation Branch shall, after the commencement of this Act, be read as a reference to the Transport Accidents Investigation Branch: 30
- (b) To the Chief Inspector of Air Accidents or to the Chief Inspector of Accidents shall, after the commencement of this Act, be read as a reference to the Chief Inspector of Transport Accidents. 35
- (4) The person holding office at the commencement of this Act as the Chief Inspector of Air Accidents shall be deemed to have been appointed as the Chief Inspector of Transport Accidents. 40

4. New sections (as to Road Traffic Safety Research Council) inserted—The principal Act is hereby further amended by inserting, after section 13K (as inserted by section 2 of this Act), the following heading and sections:

5 “Road Traffic Safety Research Council

“13L. Road Traffic Safety Research Council—(1) There is hereby established a Council, to be called the Road Traffic Safety Research Council.

“ (2) The Council shall consist of—

10 “(a) The Secretary for Transport, who shall be Chairman of the Council:

“ (b) One member, to be nominated by the National Roads Board:

15 “(c) One member, to be nominated by the Accident Compensation Commission established by the Accident Compensation Act 1972:

“ (d) One member, to be nominated by the Traffic Safety Research Foundation:

20 “(e) One member, to be nominated by the Minister of Science:

“ (f) One member, to be nominated by the New Zealand Automobile Association Incorporated:

“ (g) One member, to be nominated by the Medical Research Council of New Zealand:

25 “(h) One member, to represent road transport industry.

“ (3) The following provisions shall apply with respect to every member of the Council under paragraphs (b) to (h) of subsection (2) of this section, namely:

30 “(a) He shall be appointed by the Governor-General on the recommendation of the Minister:

35 “(b) He shall hold office for a term of 3 years, but may from time to time be reappointed, and may at any time be removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct, and he may at any time resign his office by writing addressed to the Minister:

40 “(c) If he dies, is removed from office, or resigns, the vacancy so created may be filled in the manner in which the appointment to the vacant office was originally made. Every person appointed to fill the vacancy shall be appointed for the residue of the term for which his predecessor was appointed:

“(d) Unless he sooner vacates his office as provided in paragraph (b) of this subsection otherwise than by effluxion of time, he shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired. 5

“(4) The Governor-General may, on the recommendation of the Minister, appoint any person to be the deputy of any member of the Council appointed under paragraphs (b) to (h) of subsection (1) of this section, to act, pursuant to the terms of his appointment, in the event of the absence from any meeting of the Council of the member whose deputy he is. 10

“(5) In the absence from any meeting of the Council of the Secretary for Transport, any other officer of the Ministry nominated by him as his deputy may attend the meeting in his stead. While any person is attending any meeting under this subsection, he shall be deemed for all purposes to be both a member of the Council and the Chairman. 15

“(6) The fact that any person appointed as the deputy of any member of the Council attends and acts at any meeting thereof shall be conclusive evidence of his authority so to do. 20

“(7) In the absence of the Chairman and his deputy from any meeting of the Council, the members present shall appoint one of their number to be Chairman of that meeting. 25

“(8) Five members shall form a quorum at any meeting of the Council.

“(9) The Chairman of any meeting shall have a deliberative vote, and in the case of an equality of votes shall have a casting vote. 30

“(10) The powers of the Council shall not be affected by any vacancy in its membership.

“(11) The Council may make rules consistent with this section governing its own procedure.

“13M. Functions of Council—(1) The Council shall examine and inquire into all matters relating to road-traffic safety research referred to it from time to time by the Minister or by any member of the Council, and shall report direct to the Minister on such matters. 35

“(2) In addition to the function specified in subsection (1) of this section, the Council shall from time to time—

5 “(a) Review the needs for research related to road-traffic accidents, and recommend priorities to the Minister, organisations funding road-traffic safety research, and persons and organisations engaged in road-traffic safety research:

10 “(b) Review the resources available for road-traffic accident research, and recommend the allocation of such resources:

“(c) Review the allocation of resources applied to road-traffic accident research, and determine areas of research which are insufficiently funded:

15 “(d) Facilitate the exchange of information on research projects and co-ordinate road-traffic safety research.

“13N. **Subcommittees of Council**—(1) The Council may from time to time appoint such subcommittees as it thinks fit to investigate and report to the Council upon such matters
20 as are from time to time referred to them by the Council.

“(2) It shall not be necessary that any person appointed as a member of a subcommittee under this section shall be a member of the Council.

25 “(3) The Council may at any time, and from time to time, discharge or reconstitute any subcommittee or discharge any member of a subcommittee, and, if it thinks fit, appoint another member in his stead.

“(4) Every subcommittee shall determine its own procedure.

30 “13o. **Remuneration and travelling expenses**—(1) The Council and every subcommittee of the Council are hereby declared to be statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951.

35 “(2) These shall be paid to the members of the Council or of any subcommittee of the Council, out of money appropriated by Parliament, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

40 “(3) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason of being a member of the Council or of any subcommittee of the Council.”

5. Consequential amendments—(1) Section 2 of the principal Act is hereby amended by adding to the definition of the term “Council” (as substituted by section 3 (1) of the Ministry of Transport Amendment Act 1971) the following paragraph:

“(c) In sections 13L to 13o of this Act, the Road Traffic Safety Research Council established by section 13L of this Act:”.

(2) Section 4 of the principal Act is hereby amended by inserting in subsection (3) (as amended by section 3 (3) of the Transport Amendment Act 1971), after the words “the New Zealand Urban Public Passenger Transport Council”, the words “the Road Traffic Safety Research Council”.