



## ANALYSIS

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1973, No. 35

**An Act to amend the Transport Act 1962**

[16 November 1973]

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 1973, and shall be read together with and deemed part of the Transport Act 1962 (hereinafter referred to as the principal Act).

(2) Sections 3 and 4 and paragraph (a) of section 5 of this Act shall come into force on the 1st day of April 1974.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the date of its passing.

**2. Interpretation**—(1) Section 2 of the principal Act (as substituted by section 2 (1) of the Transport Amendment Act 1972) is hereby amended by omitting from the definition of the expression “accident compensation levy” in subsection (1) the words “section 93”, and substituting the words “section 98”.

(2) Section 2 of the principal Act (as so substituted) is hereby further amended by inserting in subsection (1), after the definition of the expression "agricultural operation", the following definition:

"'Agricultural trailer' means a trailer designed exclusively for agricultural operations and used on a road only when proceeding to or from a farm or when being inspected, serviced, or repaired:".

**3. Regulations**—(1) Section 77 of the principal Act is hereby amended by omitting from the second proviso to paragraph (u) of subsection (1) (as substituted by section 14 (2) of the Transport Amendment Act 1964 and amended by section 23 of the Transport Amendment Act 1972) the words "or that, in the case of any vehicle race or trial, the appropriate accident compensation levy has been paid in respect of each vehicle participating that is a vehicle of any of the classes described in section 87 or section 88 of the Accident Compensation Act 1972", and substituting the words "and that, in the case of any vehicle race or trial, the only motor vehicles participating are vehicles in respect of which the accident compensation levy and the indemnity surcharge under Part VIA of this Act have been paid for the licensing year then current".

(2) The Third Schedule to the Transport Amendment Act 1972 is hereby consequentially amended by repealing so much thereof as relates to section 77 of the principal Act.

**4. Principal Act to bind the Crown**—Section 200 of the principal Act is hereby amended by repealing subsection (3).

**5. Motor vehicle accident scheme**—The Transport Amendment Act 1972 is hereby amended—

(a) By omitting from paragraph (a) of section 24 and also from paragraph (b) the words "sections 87 to 91", and substituting in each case the words "sections 92 to 96":

(b) By omitting from section 25 the words "sections 87 to 91" wherever they occur, and substituting in each case the words "sections 92 to 96".

**6. Third-party insurance premium and accident compensation levy for licensing year commencing 1 July 1973**—In respect of the licensing year commencing on the 1st day of

July 1973, the principal Act shall have effect as if the words “and the accident compensation levy” were inserted—

- (a) After the words “Part VI of this Act” in paragraph (c) of subsection (1) of section 7; and
- (b) After the words “insurance premium” in paragraph (b) of subsection (2) of section 7; and
- (c) After the words “Part of this Act” in subsection (3) of section 81.

**7. New Part inserted**—The principal Act is hereby amended by inserting, before Part VII, the following new part:

#### “PART VIA

##### “MOTOR VEHICLES INSURANCE (THIRD-PARTY RISKS) INDEMNITY SCHEME

“90J. **Application of this Part**—This Part of this Act shall apply to—

- “(a) Every insurance company which has undertaken insurance business in terms of Part VI of this Act during the period of 12 months that commenced on the 1st day of July 1973:

“Provided that this Part of this Act shall not apply to any insurance company to which the Minister has, by notice published in the *Gazette* not later than the 31st day of January 1974, declared that it shall not apply:

- “(b) The period of 9 months commencing on the 1st day July 1973 and ending with the 31st day of March 1974, and every previous period of 12 months commencing on the 1st day of July in any year and ending with the 30th day of June in the following year (every such period being in this Part of this Act referred to as a “claims year”) if, at the 1st day of April 1974, any insurance company to which this Part of this Act applies has any outstanding liability under a contract of insurance entered into during the period pursuant to Part VI of this Act.

“90K. **Motor Vehicles (Third-party Risks) Indemnity Fund established**—(1) There is hereby established a Motor Vehicles (Third-party Risks) Indemnity Fund (in this Part of this Act referred to as “the Fund”), which Fund shall form part of the Trust Account mentioned in paragraph (d) of

section 38 of the Public Revenues Act 1953 (as substituted by section 3 of the Public Revenues Amendment Act 1963).

“(2) There shall be credited to the Fund—

“(a) All money paid into it in accordance with sections 90N and 90P of this Act; and

“(b) All interest on money for the time being to the credit of the Fund.

“(3) There shall be charged to the Fund all amounts required to be paid thereout in accordance with subsections (3) and (4) of section 90P of this Act.

“90L. **Owners to pay indemnity surcharge with licence fees**—(1) Every owner of a motor vehicle, on making application for a licence for that vehicle pursuant to Part II of this Act, shall pay, in addition to all other amounts payable under this or any other Act, to the Deputy Registrar the indemnity surcharge in respect of that motor vehicle prescribed pursuant to the provisions of this Part of this Act.

“(2) No licence shall be issued for any period in respect of any motor vehicle unless and until the prescribed indemnity surcharge has been paid by or on behalf of the owner.

“90M. **Change of ownership**—Every indemnity surcharge payment made by an owner under this Part of this Act in respect of any motor vehicle shall enure in favour of the owner thereof for the time being, notwithstanding any change in the ownership of the motor vehicle.

“90N. **Application of money received by way of indemnity surcharge**—(1) All money received by a Deputy Registrar by way of indemnity surcharges under this Part of this Act shall be paid into the Post Office Account.

“(2) From the amount of every indemnity surcharge so received there shall be deducted such proportion or amount as may from time to time be prescribed in respect of administration expenses, and the residue shall, without further appropriation than this section, be paid into the Fund.

“90o. **Statement to be supplied to Secretary by insurance companies**—(1) On or before the 31st day of August 1974 each insurance company to which this Part of this Act applies shall forward to the Secretary in respect of each claims year up to and including the claims year ending with the 31st day of March 1974 a statement showing:

- “(a) The details of all claims for which it is or may be liable on the 1st day of April 1974 under a contract of insurance entered into under Part VI of this Act and in respect of which liability for any payment is still outstanding:
- “(b) An estimate of the amount which it may be liable to pay in respect of the claims referred to in paragraph (a) of this subsection:
- “(c) The details of all claims for which it was liable on the 1st day of April 1974 under a contract of insurance entered into under Part VI of this Act, and in respect of which full payment has subsequently been made by the insurance company pursuant to a final settlement or a final determination by a Court of competent jurisdiction.

“(2) On or before the 28th day of February 1975, and at the end of each period of 6 months thereafter until all claims made pursuant to all contracts of insurance under Part VI of this Act have been settled, or finally determined by a Court of competent jurisdiction, and paid by the insurance company, each insurance company to which this Part of this Act applies shall send to the Secretary a further statement containing the details set out in subsection (1) of this section.

“(3) If in the opinion of the Secretary the amount finally paid in respect of any claim reported by an insurance company in accordance with the provisions of this section differs substantially from the estimate given by that insurance company in respect of that claim, the Secretary may require the insurance company to explain to his satisfaction the reason for that difference; and, pending such an explanation, payment of any money from the Fund to the insurance company may be withheld to the extent of the amount of that claim, if the Secretary thinks fit.

“90P. **Claims against and payments to Fund**—(1) In this section, unless the context otherwise requires,—

“‘Income’, in respect of any claims year, means the total of the premium income received by an insurance company together with the amount (less tax) of all money earned or saved from the investment or other use of the premium income or (if that amount cannot be ascertained) such amount as may be assessed by the Minister of Finance:

“‘Payments’, in respect of any claims year, means the amounts paid out by an insurance company in payment or settlement of claims under any contract of insurance entered into by it under Part VI of this Act for that year, together with an amount (in respect of administrative costs) equal to 5 percent of the premium income of that insurance company for that claims year:

“‘Premium income’, in respect of any claims year, means the amount of the premiums paid to an insurance company by the Deputy Registrar pursuant to section 88 of this Act.

“(2) When all claims incurred by an insurance company in respect of a claims year have been finally settled, or determined by a Court of competent jurisdiction, and paid by that insurance company, or at such earlier time as the Minister may (by notice in writing to the company) require in relation to a specified claims year, that company shall, as soon as practicable, submit to the Secretary an audited statement setting out its income and the payments relating to that year.

“(3) Where a statement is submitted to the Secretary by an insurance company in accordance with subsection (2) of this section,—

“(a) If the statement shows an excess of income over payments and the amount of that excess is greater than  $2\frac{1}{2}$  percent of the premium income for the year to which the statement relates, the amount by which that excess is greater than  $2\frac{1}{2}$  percent of the premium income shall forthwith be paid into the Fund by the insurance company:

“Provided that any payment which the insurance company is then entitled to receive from the Fund under the following provisions of this subsection may be set off against any payment which the insurance company is required to make into the Fund under this paragraph:

“(b) If the statement shows an excess of income over payments and the amount of that excess is  $2\frac{1}{2}$  percent or less of the premium income for the year to which the statement relates, no amount shall be paid out of the Fund to the insurance company:

“Provided that, if the insurance company, in any other claims year, has made or makes any payments into the Fund pursuant to paragraph (a) of this subsection, an amount not greater than the difference (if any) between the amount of that excess and an amount equal to  $2\frac{1}{2}$  percent of the premium income for the year to which the statement relates shall be paid to the insurance company from any amount derived from those payments and for the time being held in the Fund:

“(c) If the statement discloses an excess of payments over income,—

“(i) The amount of that excess shall be paid from the Fund to the insurance company; and

“(ii) If the insurance company, in any other claims year or claims years, has made or makes any payments into the Fund pursuant to paragraph (a) of this subsection, an amount not greater than  $2\frac{1}{2}$  percent of the premium income for the claims year to which the statement relates shall be paid to the insurance company from any amount derived from those payments and for the time being held in the Fund.

“(4) If in any claims year the amount in the Fund is insufficient to meet in full the payments to be made thereout under subsection (3) of this section, payment for that year shall be made to each insurance company in the proportion which its claim bears to the total claims made. If subsequently, after meeting the claims in any other year, there is a credit balance in the Fund, that balance shall be applied so far as it is available to meet underpayments in previous claims years in chronological order.

“(5) This section shall apply to every insurance company to which this Part of this Act applies, and to every claims year notwithstanding that any insurance company has paid all amounts for which it is liable in respect of that claims year before the 1st day of April 1974.

“90q. **Secretary may inspect accounts**—The Secretary may from time to time inspect the accounts relating to any claims year of any insurance company to which this Part of this Act applies, and the insurance company shall make available to the Secretary all accounts and documents required by him for the inspection.

**“90R. Winding up of Fund**—When all claims against the Fund in respect of all claims years have been paid by the Fund, any money remaining to the credit of the Fund shall be paid, without further appropriation than this section, into the Motor Vehicle Compensation Fund established under the Accident Compensation Act 1972.

**“90S. Regulations**—(1) Without limiting the general power to make regulations conferred by section 199 of this Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

“(a) Prescribing the amount of the indemnity surcharge to be paid in respect of motor vehicles under this Part of this Act:

“(b) Prescribing or authorising the Secretary to prescribe the forms of notices, accounts, or other forms required in relation to this Part of this Act.

“(2) Regulations prescribing indemnity surcharges payable for the purposes of this Part of this Act may differentiate between different classes of motor vehicles, and may differentiate between motor vehicles, having regard to the purposes for which they are used or are intended to be used.”

**8. Consequential amendments**—(1) The principal Act, as amended by section 23 of the Transport Amendment Act 1972, is hereby further amended by inserting in sections 7, 12, and 22, after the words “accident compensation levy” in each place where they appear, the words “and indemnity surcharge under Part VIA of this Act”.

(2) Section 11 of the principal Act is hereby amended by repealing subsection (4), as added by section 23 of the Transport Amendment Act 1972, and substituting the following subsection:

“(4) No licence shall be issued for any motor vehicle for which the appropriate accident compensation levy and indemnity surcharge under Part VIA of this Act in respect of the licensing year for which the licence is to be in force have not been paid.”

(3) The Transport Amendment Act 1972 is hereby amended by repealing so much of the Third Schedule as relates to section 11 of the principal Act.