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ANALYSIS.

Title.

1. Short Title.

PART I.

TRANSPORT CO-ORDINATION BOARD.

2. Transport Co-ordination Board.
3. Certain persons not qualified to be members of Board.
4. Acting when disqualified.
5. Vacancies.
6. Evidence of appointment to or removal from office.
7. Deputies.
8. Allowances.
9. Meetings of Board.
10. Procedure of Board.
11. Functions of Board.
12. Powers of Board as to inquiries and investigations.

PART II.

TRANSPORT LICENSING AMENDMENT.

13. This Part to form part of Transport Licensing Act, 1931.
14. Central Licensing Authority may consist of one person.
15. By whom passenger-service licenses granted. Repeals. Section 31 of principal Act consequentially amended.
16. Saving of licenses where services cease to be within jurisdiction of licensing authority.

17. Transport Appeal Board abolished and functions transferred to Transport Co-ordination Board. Consequential amendments of principal Act.
18. Section 43 of principal Act amended.
19. Restricting right of Licensing Authority to consider application for license, &c., in certain cases.
20. Transfer of licenses.
21. Section 14 of principal Act amended.
22. Section 20 of principal Act amended.
23. Section 30 of principal Act amended.
24. Section 31 of principal Act amended.
25. Section 34 of principal Act amended. Section 14 of principal Act consequentially amended.
26. Section 38 of principal Act amended.
27. Governor-General in Council may exempt passenger-service vehicles from requirement as to certificates of fitness.
28. Licensing Authority may license goods-service vehicles to carry passengers in certain cases.
29. Offence for agent to book passengers or goods for unlicensed service.
30. Governor-General in Council may declare certain services to be passenger-services.
31. Certain provisions of this Part to be deemed part of Part II of principal Act.

1933, No. 25.

AN ACT to constitute a Transport Co-ordination Board and to amend the Transport Licensing Act, 1931. Title.

[18th December, 1933.]

Public.—25.]

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

Short Title.

1. This Act may be cited as the *Transport Law Amendment Act, 1933*.

## PART I.

### TRANSPORT CO-ORDINATION BOARD.

Transport  
Co-ordination  
Board.

2. (1) There is hereby established a Board to be called the *Transport Co-ordination Board* (hereinafter in this Part of this Act referred to as the Board).

(2) The Board shall consist of three members to be appointed by the Minister of Transport, of whom one shall be appointed as Chairman.

(3) Every member of the Board shall be appointed for a term not exceeding three years, but shall be eligible for reappointment unless incapacitated under the next succeeding section.

(4) The Minister may remove any member of the Board from office for inability or misbehaviour.

Certain persons  
not qualified to  
be members of  
Board.

3. No person shall be capable of being appointed to be or of being a member of the Board—

(a) Who is an officer or servant of any Department of State; or

(b) Who (otherwise than as a member of an incorporated company in which there are more than twenty members) is financially interested directly or indirectly in the business of carrying passengers or goods; or

(c) Who is the representative, officer, or servant of any person, firm, company, or public authority engaged in the business of carrying passengers or goods.

Acting when  
disqualified.

4. If any person does any act as a member of the Board, being incapacitated under the last preceding section, he shall be liable to a fine of fifty pounds, to be recovered with costs of suit by any person in any Court of competent jurisdiction.

Vacancies.

5. Any member of the Board may resign his office by writing under his hand addressed to the Minister, and in such case, or in case of his death or incapacity or removal from office, his office shall become vacant, and shall be filled by appointment by the Minister.

6. The publication in the *Gazette* of a notice of appointment of a member of the Board signed by the Minister shall be conclusive evidence of the regularity of appointment of any person whose appointment is thereby notified, and the like publication of a notice of vacation of office shall be conclusive evidence that any person whose vacation of office is thereby notified has resigned his office or has been duly removed therefrom or has otherwise vacated his office in accordance with the terms of such notice.

Evidence of  
appointment to  
or removal from  
office.

7. (1) In the case of illness or absence of the Chairman of the Board, the Minister may appoint such person as he thinks fit (not being a person disqualified for appointment as a member of the Board) to act as Chairman, and the Minister may, in the case of illness or absence of any other member, appoint any person qualified to be appointed to be a member of the Board to act as the deputy of such member.

Deputies.

(2) Every person so appointed shall, while such illness or absence continues, be deemed for all purposes to be a member of the Board.

The provisions of section three hereof shall apply with respect to every person appointed under this section.

8. (1) The members of the Board shall be paid such allowances as may be prescribed, and all travelling-expenses reasonably incurred by them in respect of their attendance at meetings of the Board and in transacting the business thereof.

Allowances.

(2) All such amounts shall be paid out of moneys to be appropriated by Parliament for the purpose.

9. (1) The Board shall hold meetings for the transaction of its business at such times as the Board itself by resolution or the Chairman from time to time determines, and no decision of the Board shall be given otherwise than by resolution passed at such a meeting and concurred in by at least two members.

Meetings of  
Board.

(2) At all meetings of the Board two members (of whom one shall be the Chairman or the Acting-Chairman) shall constitute a quorum.

(3) A copy of any resolution of the Board certified by the Chairman thereof to be correct shall, until the contrary is proved, be sufficient evidence of such resolution in any proceedings.

(4) No act or proceeding of the Board shall be invalidated in consequence of there being a vacancy in the membership thereof at the time of such act or proceeding or the subsequent discovery that any person acting as a member of the Board was then disqualified or had vacated his office.

Procedure of Board.

**10.** (1) Save as may be provided by regulations under this Part of this Act or regulations under the Transport Licensing Act, 1931, in relation to appeals against decisions of Licensing Authorities under that Act, the Board may regulate its own procedure.

(2) The Governor-General may from time to time, by Order in Council, make such regulations as he deems necessary for the purposes of this section.

Functions of Board.

**11.** The functions of the Board shall be—

(a) From time to time, of its own initiative, or as and when directed by the Minister, to hold such inquiries, make such investigations as it or the Minister deems necessary or expedient, and to report to the Governor-General through the Minister the result of such inquiries and investigations with such recommendations as it may think fit for the purpose of securing the improvement, co-ordination and development, and better regulation and control of all means of and facilities for transport and all matters incidental thereto :

(b) To make in respect of each year ending on the thirty-first day of March a report to Parliament which shall include all reports and recommendations made pursuant to the last preceding paragraph, and shall be laid before Parliament not later than the thirtieth day of June next following, if Parliament is then sitting, and if not, then within fourteen days after the commencement of the next ensuing session :

(c) To hear and determine appeals under section forty-three of the Transport Licensing Act, 1931.

Powers of Board as to inquiries and investigations.

**12.** (1) For the purpose of any inquiry or investigation to be made or held by it under the last preceding section the Board shall have all the powers of a Commission under the Commissions of Inquiry Act, 1908.

(2) The Board may, for any particular purpose, delegate to any of its members or to any person or

persons any of the powers of inquiry or investigation conferred upon it by this Act, and the person or persons to whom such delegation is made shall thereupon possess all the powers of the Board with respect to such inquiry or investigation.

## PART II.

### TRANSPORT LICENSING AMENDMENT.

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

**14.** (1) Notwithstanding anything to the contrary in subsection two of section five of the principal Act, the Minister may, if he thinks fit, appoint any qualified person to be the sole member of the Central Licensing Authority, and may at any time revoke such appointment.

(2) On the date from which any appointment of any person under the last preceding subsection takes effect the other members (if any) of the Central Authority then in office shall vacate office.

(3) While any person is in office as sole member of the Central Licensing Authority section fourteen of the principal Act shall be deemed to be suspended in respect of that authority. A person appointed under this section as sole member shall cause to be entered in a minute-book a record of all decisions made by him which, if the Central Authority consisted of more than one member, would require to be given by a resolution passed at a meeting thereof. A copy of any entry in such minute-book certified by such sole member to be correct shall, until the contrary is proved, be sufficient evidence in any proceedings under this Act of the decision to which it relates.

(4) Save as provided in the last preceding subsection, all the provisions of the principal Act relating to the Central Licensing Authority shall, with the necessary modifications, apply to any sole member as aforesaid.

**15.** (1) The granting of passenger-service licenses shall be a function of the Central Authority in respect of such specified services (whether carried on wholly within one district or within two or more districts) as the Governor-General in Council determines, on the recommendation of the Minister, made after consultation with the

This Part to form part of Transport Licensing Act, 1931.

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

Central Licensing Authority may consist of one person.

By whom passenger-service licenses granted.

Transport Co-ordination Board. Any such determination may in like manner be amended or revoked :

Provided that nothing in this subsection shall apply to any passenger-service carried on wholly within the district of a Metropolitan Authority.

(2) In all other cases the granting of passenger-service licenses shall be a function of—

(a) The Licensing Authority of any district in the case of a passenger-service proposed to be carried on wholly within such district :

(b) Such one of the licensing authorities of the several districts affected, in the case of a passenger-service proposed to be carried on within more than one district, as the Commissioner appoints having regard to—

(i) The respective needs of the several districts in relation to passenger-transport, and the extent to which the service is likely to be used in each such district ; and

(ii) The distances to be traversed by the service in the respective districts ; and

(iii) Such other matters as the Commissioner deems relevant.

(3) A Licensing Authority appointed by the Commissioner for the purposes of the last preceding subsection shall, in considering any application for a license, take into account, in addition to the matters mentioned in section twenty-six of the principal Act, any representations made to it by the Licensing Authority of any other district through any part of which the service is to be carried on.

(4) Nothing in paragraph (b) of subsection two hereof shall affect the operation of section twenty-three of the principal Act, but that section shall be read subject to subsection one of this section.

Repeals.

(5) This section is in substitution for section twenty-two of the principal Act, and that section is hereby accordingly repealed.

(6) The principal Act is hereby consequentially amended as follows :—

(a) By omitting from subsection two of section thirty-one thereof all words down to and including the words “shall operate”, and substituting the words “No license granted by any Licensing

Section 31  
of principal Act  
consequentially  
amended.

Authority shall have any force or effect to authorize the carrying-on of a passenger-service outside the area in respect of which it may issue licenses or ” :

- (b) By repealing subsection two of section thirty-five thereof, and substituting the following subsection :—

“(2) Every application for the renewal of a passenger-service license shall be made to the Licensing Authority within whose jurisdiction the service is being carried on at the date of the application, but, if the occasion so requires, shall be transmitted to and dealt with by the Licensing Authority within whose jurisdiction the service will be carried on if the license is renewed.”

(7) This section shall come into force on the first day of February, nineteen hundred and thirty-four.

16. (1) All passenger-service and goods-service licenses theretofore granted by the Central Licensing Authority and in force at the commencement of the last preceding section shall continue to have force and effect in accordance with the terms thereof. Any action that may thereafter be required to be taken by a Licensing Authority other than the Central Authority in respect of any such license shall be taken by a Licensing Authority appointed for that purpose by the Commissioner in accordance with subsection two of the last preceding section.

Saving of licenses where services cease to be within jurisdiction of licensing authority.

(2) Where after the commencement of the last preceding section any licensed passenger-service or goods-service ceases to be within the jurisdiction of the Licensing Authority by which the license was granted, such license shall continue to have force and effect in accordance with the terms thereof, and any action thereafter required to be taken in respect of such license by any Licensing Authority shall be taken by the Licensing Authority by which an application for renewal of such license would then be considered.

17. (1) The Transport Appeal Board constituted by section seventeen of the principal Act is hereby abolished, and all appeals under section forty-three of that Act shall hereafter be determined by the Transport Co-ordination Board constituted by this Act, and for that purpose

Transport Appeal Board abolished and functions transferred to Transport Co-ordination Board.

all references to the Transport Appeal Board in the said section forty-three shall be read as references to the Transport Co-ordination Board.

(2) All appeals duly lodged but not determined before the passing of this Act shall be determined by the Transport Co-ordination Board, and shall be so heard and determined notwithstanding that any member of the Board may have been a member of any Licensing Authority against whose decision the appeal was lodged.

(3) The Board in determining any appeal shall not be bound to hear any person or to take any evidence or to receive any representations from any person.

(4) The principal Act is hereby consequentially amended as follows:—

(a) By repealing sections seventeen, eighteen, and nineteen:

(b) As to section fifty-nine, by repealing paragraph (i), and by omitting from paragraph (j) the words “and of the Transport Appeal Board”.

18. Section forty-three of the principal Act is hereby amended by repealing subsections four and five, and substituting the following subsection:—

“(4) Pending the determination of any appeal duly lodged by a person carrying on a passenger-service against any decision of a Licensing Authority in relation to that service, the appellant may carry on such service to the full extent to which he was lawfully carrying it on at the time the decision of the Licensing Authority was given.”

19. No application for a license or for the amendment of a license, the granting or making of which would be to affect in any way any determination by the Transport Co-ordination Board of an appeal under section forty-three of the principal Act, shall be dealt with by any Licensing Authority until after the expiration of six months from the date of such determination unless the Board consents thereto on the ground that there has been a material change in the conditions of the service affected since the giving of such determination.

20. (1) Notwithstanding anything contained in the principal Act, any passenger-service license under that Act may, subject to the provisions of this section, be transferred to any person.

Consequential amendments of principal Act.

Section 43 of principal Act amended.

Restricting right of Licensing Authority to consider application for license, &c., in certain cases.

Transfer of licenses.



(2) Application for the transfer of any license shall be made in the prescribed form, and the provisions of section twenty-four of the principal Act shall apply to every such application.

(3) The Licensing Authority shall give to every person who, in its opinion is likely to be affected, seven days' notice of its intention to consider any application for a transfer as aforesaid.

(4) The Licensing Authority, after duly considering the application and any objections thereto, may grant or refuse the transfer of the license, but shall not in any case grant a transfer unless it is satisfied that the proposed transferee is financially able to carry on the service and is likely to carry it on satisfactorily.

21. Section fourteen of the principal Act is hereby amended by adding thereto the following subsection:—

Section 14 of principal Act amended.

“(6) Any Licensing Authority may delegate to any person its power to grant temporary licenses. Every such license granted pursuant to such delegation shall be expressed to be granted and to have effect subject to ratification by the Licensing Authority at the next meeting thereof, and if not so ratified shall cease to have effect at the end of the day on which such meeting is held.”

22. Subsection one of section twenty of the principal Act is hereby amended by omitting from paragraph (b) the words “On and after”, and substituting the words “On or after”.

Section 20 of principal Act amended.

23. Subsection one of section thirty of the principal Act is hereby amended as follows:—

Section 30 of principal Act amended.

(a) By inserting, immediately before the words “shall prescribe”, the words “may prescribe the localities to be served or the route or routes to be traversed, and the time-tables or frequency of service to be observed, and”:

(b) By repealing paragraphs (d) and (e):

(c) By adding to paragraph (f) the words “including mails”.

24. Section thirty-one of the principal Act is hereby amended as follows:—

Section 31 of principal Act amended.

(a) By adding to subsection two as from the passing of that Act the following proviso:—

“Provided that the alteration of the boundaries of any district shall not operate to

deprive of force and effect in respect of any area thereby excluded from such district any passenger-service license theretofore granted by the Licensing Authority thereof.”

(b) By omitting the words “not less than twenty-eight days’ notice” from subsection three, and substituting the words “such notice as the Licensing Authority directs”.

Section 34 of principal Act amended.

25. (1) Section thirty-four of the principal Act is hereby amended by adding thereto the following subsection :—

“(4) Where for any reason it is not practicable to hold a meeting of the Licensing Authority for the purpose of passing a resolution in exercise of any of the powers conferred on it by the foregoing provisions of this section, the assent of all the members signified in writing or by telegram to the amendment or revocation of any term or condition of a license or the addition of any new term or condition, as the case may be, shall be as effective as and be deemed to be a resolution of the Licensing Authority duly passed at a meeting thereof :

“Provided that a record of such action as aforesaid as of the date on which the last such assent was signified shall be entered in the minutes of the next meeting of the Licensing Authority.”

Section 14 of principal Act consequentially amended.

(2) Subsection one of section fourteen of the principal Act is hereby consequentially amended by omitting the words “provided in subsection five hereof”, and substituting the words “otherwise specially provided in this Act”.

Section 38 of principal Act amended.

26. Subsection one of section thirty-eight of the principal Act is hereby amended by omitting the words “the actual vehicle or one of the vehicles specified in”, and substituting the words “one of the number and of the capacity authorized to be used by”.

Governor-General in Council may exempt passenger-service vehicles from requirement as to certificates of fitness.

27. Notwithstanding anything contained in section thirty-eight of the principal Act, the Governor-General may from time to time, by Order in Council, exempt any passenger-service vehicles, or any passenger-service vehicles of a particular type or class, from the requirement of that section as to a certificate of fitness being in force with respect to such vehicles while the same are used in connection with a passenger-service.

28. (1) In any case where, from a comparison of the goods traffic and passenger traffic respectively and the revenue derived from each by a service for the carriage of both goods and passengers, the Licensing Authority is of opinion that such service is principally a goods-service, and if such service is carried on by vehicles designed chiefly for the carriage of goods, the Licensing Authority may issue a goods-service license in respect thereof endorsed to the effect that the vehicles authorized to be used may in the ordinary course of the goods-service operations, but subject to such conditions (if any) as are specified, carry passengers for hire or reward without a passenger-service license.

Licen-  
Authority  
license goo  
service vel  
to carry  
passengers  
certain cases.

(2) For the purpose of enabling it to exercise the power conferred by the last preceding subsection the Licensing Authority may treat an application for a passenger-service license as an application for a goods-service license and deal with the same accordingly.

29. Every person commits an offence and is liable to a fine of fifty pounds for each such offence who does any act in any capacity as agent for any passenger-service or goods-service which may be lawfully carried on only pursuant to a license under the principal Act if at the time of his doing such act such a license is not in force in respect of such service.

Offence for  
agent to book  
passengers or  
goods for  
unlicensed  
service.

30. (1) If at any time the Governor-General in Council is satisfied that persons are being carried by motor-vehicle in such a manner as in effect to constitute a regular public service, he may, whether or not persons are being so transported for hire or reward of any kind, declare such manner of transport to be the carrying-on of a passenger-service within the meaning of the principal Act, and thereupon it shall be unlawful for any person in any part of New Zealand so to transport passengers, save pursuant to the authority and in conformity with the terms of a passenger-service license granted under Part II of that Act.

Governor-  
General in  
Council may  
declare certain  
services to be  
passenger-  
services.

(2) Any such declaration may at any time be revoked.

31. For the purposes of section forty-seven of the principal Act sections fifteen, nineteen, twenty, twenty-eight, twenty-nine, and thirty of this Act shall be deemed to form part of Part II of the principal Act.

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