

Bylaw Regulating Roadside Vendors on State Highways

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Transit New Zealand

Transit New Zealand Act 1989

Bylaw Regulating Roadside Vendors on State Highways

Pursuant to section 61(3) of the Transit New Zealand Act 1989, Transit New Zealand hereby makes the following bylaw.

Bylaw

1. **Title and commencement** - This bylaw may be cited as the Transit New Zealand (Roadside Vendors) Bylaw 1993/2 and shall come into force on the 14th day of August 1993.

2. **Interpretation** - In this bylaw, unless the context otherwise requires, -

"**Carriageway**" means: the sealed part of the State highway:

"**Hours of darkness**" means:

- (a) Any period of time between half an hour before sunrise on one day and half an hour after sunrise on the next day; or
- (b) Any other time when there is not sufficient daylight to render clearly visible a person or vehicle at a distance of 250m:

"**Licensed roadside vendor**" means: a person who offers or exposes for sale or distribution any goods or services whatsoever by means of a mobile shop and who holds a current licence in the form set out in the **First Schedule** to this bylaw:

"**Mobile shop**" means:

- (a) Any motor vehicle; or
- (b) Any motor vehicle and connected trailer that is capable of moving under its own power from the area of operation at all times during operation, and used for the purpose of offering or exposing for sale or distribution any goods or services whatsoever.

"**State highway**" includes a motorway:

"**Transit**" means the Transit New Zealand Authority established under section 4 of the Transit New Zealand Act 1989:

"**Vehicle**" has the same meaning as in section 2 of the Transport Act 1962.

3. **Application** -

(1) Subject to sub clause (2) of this clause, this bylaw applies in respect of State highways throughout New Zealand.

(2) This bylaw does not apply in any area where a 50 km/h vehicle speed limit applies unless the local authority responsible for that area resolves to adopt this bylaw as its bylaw for application to that area and Transit has delegated responsibility for that area under section 62 of the Transit New Zealand Act 1989.

(3) Where this bylaw applies to a 50 km/h vehicle speed limit area pursuant to sub clause (2) of this clause, all references to Transit shall be deemed to be a reference to the local authority which has adopted this bylaw in respect of that area.

4. Roadside vendors prohibited unless licensed -

No person other than a licensed roadside vendor may offer or expose for sale or distribution on any State highway any goods or services whatsoever.

5. Licensing of roadside vendors -

(1) Any person who wishes to operate a mobile shop on any State highway may apply for, and Transit may grant, a licence to operate as a licensed roadside vendor.

(2) In deciding whether to grant a licence under sub clause (1) of this clause, Transit shall consider whether the operation of the mobile shop -

(a) Is likely to detrimentally affect, in a material way, public safety; and

(b) Is likely to detrimentally affect, in a material way, the efficiency of that part of the State highway on which the mobile shop is located.

(3) In considering whether to grant a licence under sub clause (1) of this clause, Transit may in its discretion consider any report submitted in that regard by the Police, any relevant territorial authority, or any employee of Transit.

(4) Where Transit is considering refusing approval, it shall give the applicant an opportunity to -

(a) Place facts relevant to the matters listed in sub clause (2) of this clause before Transit for consideration; and

(b) Comment on any report received under sub clause (3) or this clause in respect of the application.

(5) Transit shall record its decisions in writing, and where a licence is not granted it shall give reasons to the applicant.

(6) Every licence issued under this bylaw shall be in the form set out in the **First Schedule** of this bylaw, or such other form as Transit may prescribe from time to time.

6. Licence Fee -

(1) The applicant shall pay a licence fee to Transit for each licence issue by Transit to the applicant of-

(a) \$475 where the term of the licence is greater than 6 months; or

(b) \$325 where the term of the licence is 6 months or less.

(2) Where an applicant has previously held a licence within the previous 6 months of the application and the details set out in **Schedule A** of that licence are or will be the same as the details (except in respect of the term of the licence) set out in **Schedule A** of the licence to be issued to the applicant, -

(a) A licence fee of \$300 shall be payable where the licence fee is for a term greater than 6 months:

(b) A licence fee of \$200 shall be payable where the licence is for a term of 6 months or less.

(3) All amounts specified in this clause include goods and services tax.

7. Term of licence -

- (1) No licence shall be issued for a term of more than 12 months.
- (2) Unless otherwise specified in the licence issued under this bylaw, the licence shall remain valid until –
 - (a) The licensee has committed a breach of this bylaw or any condition imposed on him or her under the licence issued under this bylaw; or
 - (b) The licence is terminated under clause 8 of this bylaw, - and, in each case, Transit has notified the licensee that the licence is therefore no longer valid or -
 - (c) The expiry of the term of the licence.

8. Conditions of licence –

Transit may terminate any licence issued under this bylaw, or amend, add to, or delete conditions including any Additional Conditions (as defined in the licence), under the licence for reasons consistent with the matters listed in clause 5 (2) of this bylaw. The licensee shall not be entitled to any compensation should Transit exercise its powers under this clause.

9. Breach of bylaw –

- (1) Every person committing any breach of this bylaw or any condition imposed on him or her under a licence issued under this bylaw shall be liable upon conviction to a fine not exceeding \$500.
- (2) If any person breaches clause 4 of this bylaw, or if any licensed roadside vendor breaches any condition under a licence issued under this bylaw –
 - (a) The person shall immediately cease operations and move his or her operation from the state highway:
 - (b) Transit or its authorised agent or representative, or, in the event of an emergency or where the mobile shop or other operation is detrimentally affecting road safety in a material way, a police officer, may take all necessary steps to remove the mobile stop or other operation from the state highway:
 - (c) In the case of a continuing breach, Transit may seek an injunction under section 109 of the Transit New Zealand Act 1989 restraining the further continuance of the breach.
- (3) The licence of the person committing any breach of this bylaw or any condition under a licence issued under this bylaw is automatically revoked.
- (4) Nothing in this bylaw prevents Transit or a police officer giving a person who breaches this bylaw or any condition under a licence issued under this bylaw a warning under the Trespass Act 1980 to leave or to stay off that part of the State highway on which the mobile shop or other operation is located.

10. Adoption of bylaw -

This bylaw was made by resolution passed at a meeting of Transit held in Wellington on the 30th day of June 1993.

First Schedule

Licence to Operate a Mobile Shop on a State Highway

DATE: **this** **day of**

BETWEEN: Transit New Zealand (New Zealand Transport Agency - NZTA)
and

THE LICENSEE: _____

In this licence, references to any term shall include a reference to the information inserted next to that term in **Schedule A** to this licence.

1. By this licence, pursuant to its power under sections 61 (3) and 68 (2) of the Transit New Zealand Act 1989, and pursuant to the Transit New Zealand (Roadside Vendors) Bylaw 1993/2, NZTA permits the Licensee to operate the Licensee's Mobile Shop at the Site on the state highway specified in **Schedule A**.

Conditions of Licence

2. NZTA permits the Licensee to operate the Mobile Shop so long as the following conditions are satisfied:

2.1 The Licensee shall ensure that any requirements as to the size, shape and placement of the Mobile Shop and the size and shape of signs attached to the Mobile Shop which are set out in **Schedule A** to this licence are met or complied with:

2.2 The Licensee shall ensure that all signs associated with the Mobile Shop are attached to the Mobile Shop and comply with the **Signs on State Highways Bylaw 1987/3** and any other bylaw or local authority requirements relating to road signs:

2.3 The Mobile Shop shall not be operated during the hours of darkness:

2.4 The Licensee shall comply, with all Additional Conditions set out in **Schedule A**:

2.5 All refuse and litter from and associated with the operations of the Licensee shall be removed from the area of operation at appropriate intervals and disposed of in an appropriate manner by the Licensee:

2.6 The Mobile Shop shall be of a size and shape, and shall be so parked and operated as to ensure that it does not cause, or is likely to cause an obstruction or a danger to traffic, pedestrians or any other road users:

2.7 The Licensee shall comply with all Acts, regulations, or bylaws relating to the Licensee's operations:

2.8 This Licence is not transferable in respect of the Licensee or the Mobile Shop:

2.9 The named Licensee shall be liable for all actions of its agents or representatives acting within their actual or apparent authority:

2.10 The Licensee shall make good any damage caused by that Licensee's operation and shall restore any part of the state highway used in that Licensee's operation to the satisfaction of NZTA:

2.11 No Licensee shall have any claim whatsoever against NZTA, its agents, representatives, or contractors in respect of any operations or work done on any state highway which may interfere with the Licensee's operation:

2.12 The Licensee shall indemnify NZTA from and against all costs, actions, suits, damages and proceedings of any kind for or in connection with any loss or damage that may directly or indirectly result from that Licensee's operation:

2.13 The Licensee shall not acquire any rights to the state highway which is the subject of this licence, other than those specifically granted under this licence. The Licensee's rights shall be defined solely by reference to the terms of this licence:

2.14 A copy of **Schedule A** of this licence shall be displayed at the Mobile Shop during all operating hours:

2.15 NZTA may terminate this licence, or amended, add to, or delete conditions (including the Additional Conditions) under this licence, for reasons consistent with the matters listed in clause 5 (2) of the Transit New Zealand (Roadside Vendors) Bylaw 1993/2, by notice in writing to the Licensee at the Licensee's Address. The Licensee shall not be entitled to any compensation should NZTA exercise its powers under this sub clause:

2.16 Upon receiving notice from NZTA under sub clause 2.15 of this licence, the Licensee shall do all things necessary to comply with any added or amended condition:

2.17 Unless otherwise specified in the Additional Conditions, this licence shall remain valid until -

(a) The Licensee has committed a breach of the Transit New Zealand (Roadside Vendors) Bylaw 1993 No. 2 or any conditions set out in this clause; or

(b) The licence is terminated under sub clause 2.15 of this Licence, - and in each case, NZTA Has notified the licensee that the licence is therefore no longer valid or

(c) The expiry of the Term of the Licence.

2.18 For this licence to be valid all conditions and requirements must be fully complied with. Any breach of a condition contained in this licence shall, if breached without the consent of NZTA, invalidate the licence from the date of such breach:

2.19 If any question arises as to whether the size, shape, placement, or operation of a Mobile Shop, or sign associated with a Mobile Shop causes, or is likely to cause an obstruction or danger to traffic, pedestrians or any other authorised road users, the question shall be decided by NZTA, or its authorised agent or representative, or, in the event of an emergency, a police officer.

Breach of Conditions

3. Every Licensee who breaches any conditions imposed under this licence commits an offence under **Transit New Zealand (Roadside Vendors) Bylaw 193/2**.

4. If any Licensee breaches any condition imposed under this licence -

4.1 The authority of the Licensee to operate a Mobile shop on the Site is automatically revoked:

4.2 The Licensee shall immediately close the Mobile Shop and move it from the state highway:

4.3 NZTA may bring proceedings against the Licensee in respect of the breach:

4.4 NZTA or its authorised agent or representative, or, in the event of an emergency or where the Mobile Shop or other operation is detrimentally affecting road safety in a material way, a police officer, may take all necessary steps to remove the Mobile Shop or other operation from the state highway:

4.5 In the case of a continuing breach, NZTA may seek an injunction under section 109 of the Transit New Zealand Act 1989 restraining the further continuance of the breach by the Licensee.

Schedule A

Information on the Licence

A Licence

1. Licence No: (Ref No)
2. Licensee's name:
3. Licensee's address and contact details including Phone No:
4. Issued by:

B Mobile Shop

1. Name: (Description of shop)
2. Vehicle Make/Model:
3. Vehicle Registration No:
4. Trailer Registration No:
5. Size, shape and placement of Mobile Shop:
6. Nature and size of signs attached to the Mobile Shop: (To comply with the Signs on State Highways Bylaw 1987/3).
7. The range of products sold:

C Site

1. State Highway No:
2. Territorial Local Authority:
3. Place/site: (Description/reference)
4. Distance from the Edge of the Carriageway:

D Term

1. Term: (not more than 1 year)
2. Commencement Date:
3. Expiry Date:

E Additional Conditions (relevant to site, activity or term)

On behalf of NZ Transport Agency

Colin Knaggs: _____
Highway Manager, Christchurch

Under clause 28 of Schedule 2 of the Land Transport Management Amendment Act 2008 any references to **Transit** in bylaws are to be read as references to the **NZTA**.