

Land Transport Management Act 2003

Public Act 2003 No 118
Date of assent 12 November 2003

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Land Transport Management Act 2003.

**Part 1
Preliminary provisions**

2 Commencement

- (1) Sections 40 to 44, 92, and 103(1) and (2) come into force on a date to be appointed by the Governor-General by Order in Council.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose

- (1) The purpose of this Act is to contribute to the aim of achieving an integrated, safe, responsive, and sustainable land transport system.
- (2) To contribute to that purpose, this Act—

- (a) provides an integrated approach to land transport funding and management; and
- (b) improves social and environmental responsibility in land transport funding, planning, and management; and
- (c) changes the statutory objectives of Transfund and Transit to broaden the focus of each entity; and
- (d) improves long-term planning and investment in land transport; and
- (e) ensures that land transport funding is allocated in an efficient and effective manner; and
- (f) improves the flexibility of land transport funding, including provisions enabling new roads to be built on a tolled or concession agreement basis or on a basis involving a combination of those methods; and
- (g) amends the Local Government Act 1974, the Transit New Zealand Act 1989, and the Land Transport Act 1998, and repeals the Auckland Transport Board Act 1928.

4 Treaty of Waitangi

In order to recognise and respect the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi and to maintain and improve opportunities for Maori to contribute to land transport decision-making processes, sections 15, 16, 18, 28, 49, and 59, clause 58 of Schedule 4, and clauses 13 and 24 of Schedule 5 provide principles and requirements which are intended to facilitate participation by Maori in land transport decision-making processes.

5 Interpretation

In this Act, unless the context otherwise requires,—

activity means a land transport output or capital project, or both

activity class means a group of activities

administration means the activities or components of activities that in the opinion of the Authority are, or reasonably

ought to be, provided in administering the delivery of land transport related activities

administration: this definition was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 Land Transport Management Amendment Act 2004 (2004 No 97) as to the savings and transitional provisions.

affected community, in relation to a proposed activity, means a group of people who are affected by the proposed activity because of living, studying, or working in close geographical proximity to the proposed activity

approved activity means an activity approved under section 20

approved organisation means—

- (a) Transit:
- (b) a regional council:
- (c) a territorial authority:
- (d) an approved public organisation

approved public organisation means a public organisation approved under section 23

approved safety administration programme*[Repealed]*

approved safety administration programme: this definition was repealed, as from 1 December 2004, by section 3(1) Land Transport Management Amendment Act 2004 (2004 No 97). See sections 20 to 22 of that Act as to the savings and transitional provisions.

[Repealed]

Auckland local authority has the same meaning as in section 4(1) of the Local Government (Auckland) Amendment Act 2004

Auckland local authority: this definition was inserted, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). See clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

Auckland Region has the same meaning as in section 4(1) of the Local Government (Auckland) Amendment Act 2004

Auckland Region: this definition was inserted, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). See clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

Auckland Regional Council means the Auckland Regional Council referred to in Part 1 of Schedule 2 of the Local Government Act 2002

Auckland Regional Council: this definition was inserted, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). *See* clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

Auckland territorial authority has the same meaning as in section 4(1) of the Local Government (Auckland) Amendment Act 2004

Auckland territorial authority: this definition was inserted, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). *See* clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

ARTA means the Auckland Regional Transport Authority established by section 7 of the Local Government (Auckland) Amendment Act 2004

ARTA: this definition was inserted, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). *See* clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

Authority means Land Transport New Zealand established by section 66

Authority: this definition was substituted, as from 1 December 2004, by section 3(1) and (2) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

board, in relation to an entity, means the board members of the entity

board member means a member of an entity's board

capital project —

- (a) means an individual land transport-related activity of a capital nature; and
- (b) includes—
 - (i) planning, design, and supervision related to the particular capital project; and
 - (ii) construction and reconstruction; and
 - (iii) any activity of a capital nature the purpose of which is to improve public safety in relation to land transport; and
 - (iv) administration related to the particular capital project

coastal shipping means the carriage of coastal cargo by means of any ship (as defined in section 2(1) of the Maritime Transport Act 1994), being carriage that is authorised by or under section 198 of that Act

collecting body means a body corporate, organisation, or other person authorised, by a written delegation or authorisation from the Secretary, to exercise or perform the relevant duties, functions, and powers of the Secretary

Commissioner means the Commissioner of Police

concession agreement means an agreement or a suite of agreements approved under section 56 between a public road controlling authority and 1 or more other persons, being an agreement or agreements in respect of an activity that involves the leasing of land for roading purposes under Part 2 (whether or not the public road controlling authority is the lessor)

concession road means a formed or unformed road to which a concession agreement applies

concessionaire means a person who has a concession agreement with a public road controlling authority

council-controlled organisation has the same meaning as in section 6 of the Local Government Act 2002

council-controlled trading organisation has the same meaning as in section 6 of the Local Government Act 2002

Crown Bank Account has the same meaning as in the Public Finance Act 1989

district means—

- (a) the district of a territorial authority;
- (b) in relation to land in respect of which a Minister of the Crown is the council, that land

enforcement authority, in relation to a toll road, means the public road controlling authority named in the relevant Order in Council made under section 46

enforcement officer has the same meaning as in section 2(1) of the Land Transport Act 1998

entity means—

- (a) the Authority;
- (b) Transit

entity: paragraph (a) of this definition was substituted, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97). See sections 20 to 22 of that Act as to the savings and transitional provisions.

excise duty means any excise duty payable on motor spirits, compressed natural gas, or liquefied petroleum gas under the Customs and Excise Act 1996

excise-equivalent duty means any excise-equivalent duty payable on motor spirits, compressed natural gas, or liquefied petroleum gas under the Customs and Excise Act 1996

fees and charges, when used in Part 2,—

- (a) means the fees and charges prescribed for the purposes of the Road User Charges Act 1977 and the fees and charges prescribed for the purposes of Part 1 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986; but
- (b) does not include any infringement fee (whether recovered by an enforcement authority or under the Summary Proceedings Act 1957) or any other fine or penalty

financial year, in relation to Transit, means the 12 months ending on the close of 30 June or any other date determined for the entity by the Minister of Finance.

financial year: this definition was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

financial year: this definition was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

interested*[Repealed]*

interested: this definition was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

[Repealed]

land transport —

- (a) means—
 - (i) transport on land by any means:
 - (ii) the infrastructure, goods, and services facilitating that transport; and
- (b) includes—

- (i) coastal shipping (including transport by means of harbour ferries, or ferries or barges on rivers or lakes) and associated infrastructure:
- (ii) the infrastructure, goods, and services (including education and enforcement), the primary purpose of which is to improve public safety in relation to the kinds of transport described in paragraph (a)(i)

land transport: this definition was substituted, as from 1 December 2004, by section 3(1) and (2) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

land transport disbursement account means an account kept under section 24

land transport options and alternatives includes land transport demand management options and alternatives

land transport programme means a land transport programme prepared under section 12 or section 12A, as from time to time amended or varied

land transport programme: this definition was amended, as from 1 December 2004, by section 3(3) Land Transport Management Amendment Act 2004 (2004 No 97) by inserting the words “or section 12A” after the expression “section 12”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

land transport revenue has the meaning given to it by section 6

local authority has the same meaning as in section 5(1) of the Local Government Act 2002

local road means a road (other than a State highway) in the district, and under the control, of a territorial authority

Maori land has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993

Maori roadway means a roadway laid out or to be laid out by order of the Maori Land Court under sections 315 to 326 of Te Ture Whenua Maori Act 1993 or laid out under any former Act relating to Maori land

Minister or **responsible Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible

for the administration of this Act or the relevant Part or provision of this Act

Minister or responsible Minister: this definition was substituted, as from 1 December 2004, by section 3(1) and (2) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Ministry means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

minor and ancillary works —

- (a) means works associated with a local road that are determined by the Authority to be minor and ancillary road-making works; but
- (b) does not include in-house professional services or works associated with a State highway

minor and ancillary works: this definition was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

motor spirits does not include aviation spirits of a kind specified in Schedule 3 of the Customs and Excise Act 1996 as aviation fuel

motor vehicle has the same meaning as in section 2(1) of the Land Transport Act 1998

national land transport account means the account or accounts kept by the Authority under section 10

national land transport account: this definition was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

national land transport fund means all land transport revenue paid into a Crown Bank Account under section 8.

national land transport fund: this definition was substituted, as from 25 January 2005, by section 37(1) Public Finance Amendment Act 2004 (2004 No 113).

national land transport programme means a national land transport programme adopted under section 19, as from time to time amended or varied

national land transport strategy has the same meaning as in section 2(1) of the Land Transport Act 1998

new road includes a lane that is added to an existing road

outputs means goods or services

performance agreement *[Repealed]*

performance agreement: this definition was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

[Repealed]

personal information has the same meaning as in section 2(1) of the Privacy Act 1993

procurement procedure means a procurement procedure approved under section 25

public organisation means—

- (a) a Minister of the Crown;
- (b) a department of State;
- (c) a Crown entity (as defined in section 7 of the Crown Entities Act 2004);
- (ca) an organisation named or described in Schedule 4 of the Public Finance Act 1989;
- (d) a State enterprise (as defined in section 2 of the State Owned Enterprises Act 1986);
- (e) a local authority;
- (f) a council-controlled organisation;

public organisation: paragraph (c) of this definition was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

public organisation: paragraph (ca) of this definition was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

public road controlling authority, in relation to a concession road or a toll road, means Transit or a territorial authority, regardless of whether any other person is also a controlling authority for the road

public transport service means the carriage of passengers for hire or reward by means of—

- (a) vehicles as defined in section 2(1) of the Land Transport Act 1998; or
- (b) coastal ships; or
- (c) rail vehicles as defined in section 4(1) of the Railways Act 2005.

public transport service: paragraph (b) of this definition was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by adding the word “; or”.

public transport service: paragraph (c) of this definition was inserted, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

regional council has the same meaning as in section 5(1) of the Local Government Act 2002

regional land transport committee means a regional land transport committee established under section 178 of the Land Transport Act 1998

regional land transport strategy has the same meaning as in section 2(1) of the Land Transport Act 1998

registered owner, in relation to a motor vehicle, means the person registered under the Transport (Vehicle and Driver Registration and Licensing) Act 1986 as the owner of the vehicle

registered service has the same meaning as in section 47 of the Transport Services Licensing Act 1989

road —

- (a) means a road as defined in section 2(1) of the Transit New Zealand Act 1989; and
- (b) despite the terms of that definition, in subpart 2 of Part 2, includes a motorway as defined in that section; and
- (c) includes toll booths and other toll-related infrastructure on a road

road controlling authority, in relation to a road, means the Minister, Department of State, Crown entity, State enterprise, or territorial authority that controls the road

road tolling scheme means a road tolling scheme established by Order in Council under section 46

safety administration*[Repealed]*

safety administration: this definition was repealed, as from 1 December 2004, by section 3(1) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

[Repealed]

safety administration programme*[Repealed]*

safety administration programme: this definition was repealed, as from 1 December 2004, by section 3(1) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

[Repealed]

Secretary means the chief executive of the Ministry

State highway has the same meaning as in section 2(1) of the Transit New Zealand Act 1989

statutorily independent function means,—

- (a) in the case of the Authority, a function specified in section 69(2):
- (b) a matter in respect of which this Act provides must be carried out independently.

statutorily independent function: paragraph (a) of this definition was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

statutorily independent function: paragraph (b) of this definition was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

territorial authority has the same meaning as in section 5(1) of the Local Government Act 2002

toll means a toll that is payable under Part 2, and includes different levels of tolls if more than 1 level is set in respect of the same road

toll operator, in relation to a toll road, means the public road controlling authority or concessionaire who operates the toll road under a road tolling scheme

toll road means a road or part of a road that is subject to tolling under a road tolling scheme

Transfund*[Repealed]*

Transfund: this definition was repealed, as from 1 December 2004, by section 3(1) Land Transport Management Amendment Act 2004 (2004 No 97). See sections 20 to 22 of that Act as to the savings and transitional provisions.

[Repealed]

Transit means Transit New Zealand, as continued by section 75.

6 Meaning of land transport revenue

In this Act, unless the context otherwise requires, **land transport revenue** means—

- (a) all fees and charges payable for any matter under the Road User Charges Act 1977:
- (b) all excise duty and excise-equivalent duty payable to the national land transport fund under section 40:

- (c) all fees and charges payable for the purposes of Part 1 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986:
- (d) an amount equal to the goods and services tax payable on expenses, costs, and refunds payable under this Act:
- (e) the proportion of the interest earned, or interest saved, from the investment of public money that relates to land transport revenue:
- (f) the amounts of public money that Parliament appropriates for the purpose:
- (g) all other public money that is required by any enactment to be treated as land transport revenue for the purposes of this Act.

Compare: 1989 No 75 s 8

7 Act binds the Crown
This Act binds the Crown.

Part 2
Funding of land transport system

Subpart 1—Funding system

National land transport fund

8 National land transport fund

- (1) All land transport revenue must, as soon as practicable after its receipt by the relevant collecting body, be paid into a Crown Bank Account and be identified as being part of the national land transport fund.
- (2) All roading revenue held in the Crown Bank Account under the Transit New Zealand Act 1989 immediately before the commencement of this section must be treated as land transport revenue under this Act.

Compare: 1989 No 75 ss 9, 11

Subsection (1) was substituted, as from 25 January 2005, by section 37(1) Public Finance Amendment Act 2004 (2004 No 113).

9 Crown's authority to incur certain land transport expenditure

- (1) In each financial year, the Crown incurs a liability to pay from the national land transport fund, without further appropriation than this section, the amounts referred to in subsections (2) to (6).
- (2) The Crown incurs a liability to pay to the relevant collecting body the amount agreed between the responsible Minister and the Minister of Finance for the outputs delivered in that financial year in—
 - (a) collecting land transport revenue; and
 - (b) administering and enforcing the Road User Charges Act 1977 and Part 1 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986.
- (3) The Crown incurs a liability to pay to the relevant collecting body the refunds paid or payable in any financial year of—
 - (a) road user charges and additional charges in accordance with section 22(2) of the Road User Charges Act 1977; and
 - (b) excise duty and excise-equivalent duty in accordance with section 41; and
 - (c) fees and charges for the purposes of Part 1 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986.
- (4) The Crown incurs a liability to pay to the Commissioner the amount determined by the responsible Minister for the activities or activity classes delivered by the Commissioner under the Authority's approved land transport programme less any revenue received or receivable by the Commissioner from other sources applicable to activities or activity classes in the programme.
- (5)
- (6) The Crown incurs a liability to pay to the Authority an amount equal to the land transport revenue for that financial year less the amount of the liabilities for that year that are referred to in subsections (2) to (4).

Compare: 1989 No 75 s 10

Subsection (4) was substituted, as from 1 December 2004, by section 4(1) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (5) was repealed, as from 1 December 2004, by section 4(1) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (6) was amended, as from 1 December 2004, by section 4(2)(a) Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (6) was amended, as from 1 December 2004, by section 4(2)(b) Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the expression “(4)” for the expression “(5)”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

National land transport account

10 National land transport account

- (1) The Authority must operate a national land transport account.
- (2) The national land transport account may be used to provide funds as follows:
 - (a) to Transit for approved activities:
 - (ab) to the Authority for approved activities:
 - (b) to regional councils for approved activities:
 - (c) to territorial authorities for approved activities (other than public transport services activities):
 - (d) to territorial authorities for the purpose of carrying out any activity to which paragraph (b) applies, and to regional councils for the purpose of carrying out any activity to which paragraph (c) applies, if authorised to do so by a transfer of responsibility under section 17 of the Local Government Act 2002:
 - (e) to approved public organisations for any land transport purposes specified under section 23:
 - (f) to any person for the purposes of any research, education, or training activity or activity class.
- (2A) Funding under subsection (2)(ab) is subject to compliance with section 25 (procurement procedures) unless exempt by or under section 26.
- (3) The following amounts must be paid each financial year into the national land transport account:
 - (a) any amount paid to the Authority under section 9(6):

- (b) all other money received by the Authority from any other source.
- (4) Each financial year, there is payable out of the national land transport account—
 - (a) payments to approved organisations and persons for approved activities; and
 - (b) any costs and expenses of the Authority that—
 - (i) arise out of the performance of its functions and duties and the exercise of its powers under this Act or any other Act; and
 - (ii) are up to a maximum amount that has been approved by the responsible Minister; and.
 - (c) all compensation or damages payable by the Authority.
- (5) The funds held by the Authority in the accounts that constituted the National Roads Account under the Transit New Zealand Act 1989 must be treated as if they were part of the national land transport account.
- (6) The Authority may reduce payments to Transit for approved activities to take account of revenue received by Transit from the following sources:
 - (a) funds invested by Transit; and
 - (b) the sale of Crown land; and
 - (c) the management of Crown land, including revenue received for advertising on State highways; and
 - (d) all other revenue derived from a source other than the Authority, except from—
 - (i) tolling; or
 - (ii) permits issued by Transit under the Heavy Motor Vehicle Regulations 1974 or under rules made under the Land Transport Act 1998 relating to overweight permits; or
 - (iii) the provision of advisory or related services; or
 - (iv) financial contributions made by developers; or
 - (v) costs, expenses, or damages awarded to Transit; or
 - (vi)

Compare: 1989 No 75 ss 13, 16

Subsection (1) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the

words “The Authority” for the word “Transfund”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (1) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words “through 1 or more accounts with any bank or banks selected by it under clause 51 of Schedule 4”.

Subsection (2)(ab) was inserted, as from 1 December 2004, by section 5(1) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (2A) was inserted, as from 1 December 2004, by section 5(2) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (3)(a) and (b) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (4)(b) was substituted, as from 1 December 2004, by section 5(3) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (4)(b) was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsections (4)(c) and (5) were amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund” in all places they appear. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (6) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “The Authority” for the word “Transfund”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (6)(d) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (6)(d)(vi) was repealed, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). *See* clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

11 Management of national land transport account

The Authority may—

- (a) carry forward to any later financial year any amount of the credit balance in the national land transport account at the close of any financial year; and
- (b) allocate or spend that money at any time.

Compare: 1989 No 75 s 14

Section 11 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “The Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Land transport programmes

12 Land transport programmes

- (1) In each financial year, every approved organisation that recommends that any activities or activity classes be included in a national land transport programme must, by a date or dates appointed by the Authority,—
 - (a) prepare a land transport programme for the next financial year; and
 - (b) forward copies to the Authority, Transit, the Commissioner, and the Secretary; and
 - (c) make it available to the public in a written form.
- (2) The provisions of Part 1 of Schedule 1 (which relate to the content of land transport programmes) apply to land transport programmes and organisations preparing them.
- (3) An approved organisation must, in preparing a land transport programme, take into account how each activity or activity class—
 - (a) assists economic development; and
 - (b) assists safety and personal security; and
 - (c) improves access and mobility; and
 - (d) protects and promotes public health; and
 - (e) ensures environmental sustainability.
- (4)
- (5) An approved organisation (other than ARTA) must, in preparing a land transport programme, take into account any current national land transport strategy, National Energy Efficiency and Conservation Strategy, and relevant regional land transport strategies.
- (6) ARTA must, in preparing a land transport programme,—
 - (a) take into account any current national land transport strategy and the National Energy Efficiency and Conservation Strategy;
 - (b) from a date appointed by the Governor-General by Order in Council, give effect to the matters in the

Auckland regional land transport strategy required by section 175(2) of the Land Transport Act 1998, unless it is required to do otherwise by operational considerations that affect the sequencing and timing of activities, the funding available to it, or its statutory functions or powers.

Compare: 1989 No 75 s 42F

Subsection (1) was substituted, as from 1 December 2004, by section 6(1) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (4) was repealed, as from 1 December 2004, by section 6(2) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (5) was amended, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57) by inserting the words “(other than ARTA)” after the words “approved organisation”. *See* clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

Subsection (6) was inserted, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). *See* clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

12A Authority’s land transport programme

- (1) In each financial year and if it recommends that any activities or activity classes, including those delivered by the Commissioner, are to be included in a national land transport programme, the Authority must prepare a land transport programme for the next financial year.
- (2) Before preparing a land transport programme under subsection (1), the Authority must consult the Commissioner.
- (3) The Authority must—
 - (a) include in each of its land transport programmes—
 - (i) the recommended funding for the Authority and the Commissioner; and
 - (ii) an estimate of the revenue to be received by the Authority and the Commissioner from sources (other than the national land transport fund) applicable to the outputs for which funding is sought from the national land transport programme; and

- (b) forward copies of its land transport programme to local authorities, Transit, the Commissioner, and the Secretary; and
 - (c) make its land transport programme available to the public in a written form.
- (4) The provisions of Part 1 of Schedule 1 (which relate to the contents of land transport programmes) apply to the Authority's land transport programmes and to the Authority.
- (5) The Authority must, in preparing a land transport programme, take into account how each activity or activity class—
- (a) assists economic development; and
 - (b) assists safety and personal security; and
 - (c) improves access and mobility; and
 - (d) protects and promotes public health; and
 - (e) ensures environmental sustainability.
- (6) The Authority must, in preparing a land transport programme, take into account any current national land transport strategy, the National Energy Efficiency and Conservation Strategy, and any relevant regional land transport strategies.
- (7) If the Authority prepares a land transport programme under subsection (1), the Authority must obtain the approval of the responsible Minister for that land transport programme.

Section 12A was inserted, as from 1 December 2004, by section 7 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

13 Local authority may not need to prepare land transport programme

A local authority need not prepare a land transport programme for a financial year if—

- (a) the local authority's long-term council community plan or annual plan includes the matters required to be in a land transport programme prepared by the local authority; and
- (b) the local authority provides details of those matters as required by section 12 in a form that the Authority is satisfied complies with the provisions of this Act relating to the form of a land transport programme; and

- (c) in preparing the plan, the local authority has taken into account the matters referred to in section 12(3) and (5).

Paragraph (b) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority is” for the words “Transfund and the Authority are”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

14 Variation of land transport programmes

- (1) The organisation responsible for preparing a land transport programme may vary the programme from time to time during the financial year to which it applies,—
 - (a) if the programme has been prepared by the Authority, by agreement with the Minister:
 - (b) in every other case, by agreement with the Authority.
- (2) The provisions of this Act that apply to the preparation of a land transport programme apply with the necessary modifications to a variation of a land transport programme.
- (3) The Minister or the Authority (as the case may require) may (without limitation) decline to agree to a variation of a land transport programme if the Minister or the Authority (as the case may require) is satisfied that the subject matter of the variation could reasonably have been included in the organisation’s land transport programme.

Section 14 was substituted, as from 1 December 2004, by section 8 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

15 Who must be consulted about land transport programme

- (1) When preparing its land transport programme, Transit must consult—
 - (a)
 - (b) the Authority; and
 - (c) every affected local authority; and
 - (d) every affected approved public organisation; and
 - (e) the Accident Compensation Corporation; and
 - (f) the Commissioner; and
 - (g) the Ministry of Health; and
 - (h) the New Zealand Historic Places Trust; and
 - (i) land transport users and providers; and
 - (j) affected communities; and

- (k) Maori; and
 - (l) the public.
- (2) When preparing a land transport programme, a regional council (or a territorial authority having the powers of a regional council) must consult—
- (a)
 - (b) Transit; and
 - (c) the territorial authorities in the region; and
 - (d) the adjoining regional councils and territorial authorities; and
 - (e) every affected approved public organisation; and
 - (f) the district health boards in the region; and
 - (g) the Accident Compensation Corporation; and
 - (h) the Authority; and
 - (i) the Commissioner; and
 - (j) the New Zealand Historic Places Trust; and
 - (k) land transport users and providers; and
 - (l) affected communities; and
 - (m) Maori of the region; and
 - (n) the public in the region.
- (3) When preparing a land transport programme, a territorial authority must consult—
- (a)
 - (b) Transit; and
 - (c) all regional councils whose jurisdiction includes the district; and
 - (d) the adjoining territorial authorities; and
 - (e) the district health boards in the district; and
 - (f) the Accident Compensation Corporation; and
 - (g) every affected approved public organisation; and
 - (h) the Authority; and
 - (i) the Commissioner; and
 - (j) the New Zealand Historic Places Trust; and
 - (k) land transport users and providers; and
 - (l) affected communities; and
 - (m) Maori of the district; and
 - (n) the public in the district.
- (4) When preparing a land transport programme, any other approved organisation must consult—

- (a)
 - (b) Transit; and
 - (c) every affected regional council; and
 - (d) every affected territorial authority; and
 - (e) every affected approved organisation; and
 - (f) affected district health boards; and
 - (g) the Accident Compensation Corporation; and
 - (h) the Authority; and
 - (i) the Commissioner; and
 - (j) the New Zealand Historic Places Trust; and
 - (k) land transport users and providers; and
 - (l) affected communities; and
 - (m) Maori; and
 - (n) the public.
- (4A) When preparing a land transport programme under section 12A, the Authority must—
- (a) consult—
 - (i) Transit; and
 - (ii) every affected regional council; and
 - (iii) every affected territorial authority; and
 - (iv) every affected approved organisation; and
 - (v) the Ministry of Health; and
 - (vi) the Accident Compensation Corporation; and
 - (vii) the Commissioner; and
 - (viii) the Secretary; and
 - (ix) the Ministry of Justice; and
 - (x) land transport users and providers; and
 - (xi) affected communities; and
 - (xii) Maori; and
 - (xiii) the public; and
 - (b) carry out the consultation using the special consultative procedures set out in Part 2 of Schedule 2.
- (4B) The Authority need not consult any organisation or person referred to in subsection (4A) about any activity or activity class to be included in the Authority's land transport programme if—
- (a) an approved organisation has, under clause 2(5) of Schedule 1, recommended that the activity or activity

- class is to be included in the Authority's land transport programme; and
- (b) the approved organisation has already consulted that organisation or person about the activity or activity class.
- (5) A local authority need not consult any organisation or person referred to in subsection (2) or subsection (3) about any matter if it has already consulted that organisation or person about the matter in the course of preparing its current long-term council community plan or annual plan in accordance with the Local Government Act 2002.
- (6) ARTA must consult under subsection (4) with respect to its land transport programme, but need not otherwise consult any organisation or person referred to in subsection (4) about any activity in its land transport programme if an Auckland local authority has already consulted that organisation or person about the activity in the course of preparing its current long-term council community plan or annual plan in accordance with the Local Government Act 2002.

Compare: 1989 No 75 ss 42E, 42G, 42I

Subsections (1)(a), (2)(a), (3)(a), and (4)(a) were repealed, as from 1 December 2004, by section 9(1) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsections (4A) and (4B) were inserted, as from 1 December 2004, by section 9(2) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (6) was inserted, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). *See* clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

16 Consultation principles

- (1) Consultation required by this Act must be carried out in accordance with the consultation principles set out in Part 1 of Schedule 2.
- (2) Part 1 of Schedule 2 applies in relation to every approved organisation, but is subject to section 15(5) (which relates to consultation carried out by local authorities under the Local Government Act 2002).

17 Special consultative procedure for consulting land transport users and providers, affected communities, and public

- (1) Every approved organisation that is required by section 15 to consult with land transport users and providers, affected communities, or the public must use the special consultative procedure set out in Part 2 of Schedule 2.
- (2) Part 2 of Schedule 2 applies in relation to every such approved organisation, but is subject to section 15(5) (which relates to consultation carried out by local authorities under the Local Government Act 2002).

18 Consultation with Maori

- (1) An approved organisation that is required to consult Maori in the course of preparing a land transport programme must use the special consultative procedure set out in Part 2 of Schedule 2.
- (2) Part 2 of Schedule 2 applies in relation to every approved organisation, but is subject to section 15(5) (which relates to consultation carried out by local authorities under the Local Government Act 2002).
- (3) In addition to complying with Part 2 of Schedule 2, an approved organisation must do everything reasonably practicable to separately consult Maori affected by any proposed activity that affects or is likely to affect—
 - (a) Maori land; or
 - (b) land subject to any Maori claims settlement Act; or
 - (c) Maori historical, cultural, or spiritual interests.
- (4) In addition to complying with Part 2 of Schedule 2, the responsible approved organisation must consult the land holding trustee (as defined in section 7 of the Waikato Raupatu Claims Settlement Act 1995) about any proposed activity that affects or is likely to affect land registered in the name of Pootatau Te Wherowhero under section 19 of that Act.
- (5) The Authority, Transit, and approved public organisations other than local authorities must—

- (a) establish and maintain processes to provide opportunities for Maori to contribute to the organisation's land transport decision-making processes; and
 - (b) consider ways in which the organisation may foster the development of Maori capacity to contribute to the organisation's land transport decision-making processes; and
 - (c) provide relevant information to Maori for the purposes of paragraphs (a) and (b).
- (6) Subsection (5) does not limit the ability of the Authority, Transit, or an approved public organisation to take similar action in respect of any other population group.

Subsection (5) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words "The Authority" for the word "Transfund". See sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (6) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words "the Authority" for the word "Transfund". See sections 20 to 22 of that Act as to the savings and transitional provisions.

National land transport programme

19 National land transport programme

- (1) The Authority must, for each financial year,—
 - (a) prepare and adopt a national land transport programme; and
 - (b) make it available to the public in a written form.
- (2) The provisions of Part 2 of Schedule 1 (which relate to the content of national land transport programmes) apply to national land transport programmes and to the Authority.
- (3) Before adopting a national land transport programme, the Authority must be satisfied that—
 - (a) the programme contributes to the purpose of this Act and contributes to the following:
 - (i) assisting economic development; and
 - (ii) assisting safety and personal security; and
 - (iii) improving access and mobility; and
 - (iv) protecting and promoting public health; and
 - (v) ensuring environmental sustainability; and

- (b) the Minister's approval has been given under section 12A(7), if applicable.
- (4) In preparing a national land transport programme, the Authority must take into account any current national land transport strategy, relevant regional land transport strategy, and National Energy Efficiency and Conservation Strategy.
- (5) The Authority—
 - (a) may add, suspend, or abandon any activities or activity classes; and
 - (b) must from time to time amend a national land transport programme to reflect such decisions; but
 - (c) need not make an amendment available to the public in a written form unless it is satisfied that the amendment is significant.

Subsection (1) was amended, as from 1 December 2004, by section 10(1)(a) Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words "The Authority" for the word "Transfund". *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (2) was amended, as from 1 December 2004, by section 10(1)(b) Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words "the Authority" for the word "Transfund". *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (3) was substituted, as from 1 December 2004, by section 10(2) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (4) was amended, as from 1 December 2004, by section 10(1)(b) Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words "the Authority" for the word "Transfund". *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (5) was amended, as from 1 December 2004, by section 10(1)(a) Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words "The Authority" for the word "Transfund". *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

20 Approval of activities and activity classes

- (1) The Authority may approve an activity or activity class as qualifying for payments from the national land transport account if
 - (a) the Authority is satisfied that subsections (2) and (3) have been complied with; and
 - (b) the Authority is satisfied that its expenditure forecast from the national land transport account on activities

- and activity classes included in the national land transport programme for the relevant financial year will not exceed the following sum:
- (i) the anticipated amounts payable under section 9(6), borrowed for that financial year, and carried forward from any previous financial year; plus
 - (ii) any other money that may be owing to the Authority (including any other liability of the Crown to the Authority under section 9); less
 - (iii) the administrative costs and expenses that are payable under section 10(4)(b).
- (2) In approving a proposed activity or activity class, the Authority must take into account—
- (a) how the activity or activity class—
 - (i) assists economic development; and
 - (ii) assists safety and personal security; and
 - (iii) improves access and mobility; and
 - (iv) protects and promotes public health; and
 - (v) ensures environmental sustainability; and
 - (b) any current national land transport strategy, relevant regional land transport strategy, and National Energy Efficiency and Conservation Strategy.
- (3) In approving a proposed activity or activity class, the Authority must be satisfied that—
- (a) the activity or activity class is included in the national land transport programme or qualifies under subsection (4); and
 - (b) the national land transport programme continues to meet the requirements of section 19(3) and (4); and
 - (c) the activity or activity class contributes to the Authority's objective, including its social and environmental responsibility, in an efficient and effective manner; and
 - (d) the activity or activity class has, to the extent practicable, been assessed against other land transport options and alternatives; and
 - (e) the organisation seeking the funding has complied with the relevant consultation requirements of this Act in preparing its land transport programme.

- (4) However, the Authority may, without complying with subsections (2) and (3), approve for payment from the national land transport account any activities and activity classes that, in the opinion of the Authority,—
 - (a) are in the urgent interests of public safety; or
 - (b) are necessary to effect immediate or temporary repair of damage caused by a sudden and unexpected event.
- (5) The Authority may apply different methods of assessment for the purpose of approving different activities and activity classes.
- (6) The Authority may approve activities and activity classes subject to any terms and conditions, which must be relevant and reasonable, that the Authority thinks fit.
- (7) If the Authority decides not to approve an activity or activity class, the Authority must give the organisation responsible for preparing the relevant land transport programme written advice of its decision and reasons for its decision.

Compare: 1989 No 75 ss 17, 18, 42C

Subsections (1), (5), and (6) were amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “The Authority” for the word “Transfund” in the first place where it occurs in each case. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Section 20 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund” wherever else it occurs. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

20A Authority may not withhold approval of activities and activity classes approved under section 12A without Minister’s consent

Despite anything in section 20, the Authority may not withhold approval of an activity or activity class included in the Authority’s land transport programme prepared under section 12A without the Minister’s consent.

Section 20A was inserted, as from 1 December 2004, by section 11 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

21 Funding for land transport research, education, or training

- (1) The Authority may approve funding for research, education, or training activities or activity classes up to a maximum amount that has been approved by the responsible Minister.
- (2) Persons seeking funding under subsection (1) from the Authority must prepare a proposal in a form approved by the Authority and submit the proposal to the Authority.
- (3) Funding under subsection (1)—
 - (a) is not subject to section 12 or section 12A or section 19 or section 20, but the activities approved for funding must be shown in the current national land transport programme; and
 - (b) is subject to compliance with section 25 (procurement procedures) unless exempt by or under section 26.

Subsection (1) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “The Authority” for the word “Transfund”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (1) was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (2) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund” wherever it occurs. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (3)(a) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by inserting the words “section 12A or” after the words “section 12 or”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

22 Funding for Maori roadways

- (1) The Authority may, in accordance with this Part, approve an activity relating to a Maori roadway as qualifying for payments to Transit from the national land transport account as if the roadway were a State highway.
- (2) The Authority may, in accordance with this Part, approve an activity relating to a Maori roadway as qualifying for payments to a territorial authority from the national land transport account as if the roadway were a local road.

- (3) Transit and territorial authorities may apply for funding for a Maori roadway if the activity is included in its land transport programme.

Subsections (1) and (2) were amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “The Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Public organisations

23 Approval of public organisations

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—
- (a) approve any public organisation for the purpose of section 10(2)(e);
 - (b) revoke any approval given under this subsection.
- (2) Before making a recommendation under subsection (1), the Minister must—
- (a) consult the persons or organisations considered by the Minister to be representative of those classes of persons having an interest in the approval or revocation; and
 - (b) in the case of an approval, be satisfied that granting the approval would be consistent with the purpose of this Act.
- (3) Without limiting subsection (1), an order made under that subsection may—
- (a) grant an approval in relation to particular land transport purposes;
 - (b) grant an approval subject to conditions specified in the order.
- (4) The Department of Conservation and the Waitangi National Trust Board and ARTA are deemed to be approved public organisations under this section.

Subsection (4) was amended, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57) by inserting the words “and ARTA” after the word “Board”. See clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

*Land transport disbursement accounts***24 Land transport disbursement accounts**

- (1) Every approved organisation that receives funds from the national land transport account must operate a land transport disbursement account.
- (2) All money received from the national land transport account by a recipient referred to in section 10(2) must be paid into its land transport disbursement account.
- (3) Transit must also pay into its land transport disbursement account all other money received by Transit from any source other than the national land transport account.
- (4) All expenditure from a land transport disbursement account must be recorded in a form that contains any details that are prescribed by the Authority after consultation with the Controller and Auditor-General.
- (5) Payments may be made from a land transport disbursement account as follows:
 - (a) in the case of funds received by an approved organisation from the national land transport account, payments may be made only in respect of approved activities or activity classes:
 - (b) in the case of funds received by a person for education, research, or training activities or activity classes, payments may be made for activities or activity classes approved under section 21:
 - (c) in the case of funds received by Transit from any other source, payments may be made in respect of any costs and expenses of Transit that arise out of the performance of its functions and duties, or the exercise of its powers.
- (6) All payments from a land transport disbursement account—
 - (a) are subject to any relevant conditions imposed by an order made under section 23; and
 - (b) must be made in accordance with a procurement procedure unless exempt by or under section 26.
- (7) An approved organisation may—
 - (a) carry forward to any later financial year any amount of the credit balance in its land transport disbursement account at the close of any financial year; and

(b) spend that money at any time.

Compare: 1989 No 75 ss 20, 24

Subsection (1) was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (4) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Procurement procedures

25 Procurement procedures

- (1) For the purposes of this Part, the Authority must approve 1 or more procurement procedures that are designed to obtain the best value for money spent by approved organisations and persons, having regard to the purpose of this Act.
- (2) In approving a procurement procedure, the Authority must also have regard to the desirability of—
 - (a) enabling persons to compete fairly for the right to supply outputs required for approved activities, if 2 or more persons are willing and able to provide those outputs; and
 - (b) encouraging competitive and efficient markets for the supply of outputs required for approved activities.
- (3) A procedure approved by the Authority under subsection (1) must specify how procurement is to be carried out (which may differ for different kinds of procurement).
- (4) It is a condition of every approved procurement procedure that an organisation or person must procure outputs from a provider other than the organisation or person, or their employees.
- (5) However, nothing in subsection (4) prevents an approved organisation from procuring from the organisation’s own business units the provision of minor and ancillary works on terms approved by the Authority.
- (6) Nothing in this section compels an organisation or person to accept the lowest tender received by it for the provision of any outputs.

Subsections (1) to (3) and (5) were amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund” in each case. See sections 20 to 22 of that Act as to the savings and transitional provisions.

26 Payments exempt from procurement procedure

Section 25 does not apply in relation to any payment—

- (a) approved by the Authority on the ground that the costs of the procurement process would be disproportionate to the value of the proposed activity or activity class; or
- (b) made in respect of any approved administration activity that is approved by the Authority for the purpose of this section; or
- (c) made in respect of in-house professional services that are—
 - (i) approved by the Authority; and
 - (ii) undertaken by an approved organisation using the organisation's own staff and assets; or
- (d) made under the land transport disbursement account of an approved organisation if the payment is made to the land transport disbursement account of another approved organisation to enable that other organisation to exercise delegated functions and powers under this Act of that first-mentioned approved organisation; or
- (da) made from ARTA's land transport disbursement account if the payment is made to the land transport disbursement account of another approved organisation; or
- (e) made in respect of any registered service of any public transport operator in relation to any 6-month period that follows—
 - (i) the withdrawal or proposed withdrawal of that operator from the provision of the service; or
 - (ii) the withdrawal of any other operator from the provision of the same or a similar service; or
- (f) made in respect of any expenditure that is necessary in the urgent interests of public safety; or
- (g) made in respect of any expenditure that is necessary for the immediate or temporary repair of damage caused by a sudden and unexpected event.

Compare: 1989 No 75 s 27(4), (5)

Paragraphs (a), (b), and (c)(i) were amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words "the Authority" for the word "Transfund". See sections 20 to 22 of that Act as to the savings and transitional provisions.

Paragraph (da) was inserted, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). *See* clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

Local authority interests in public transport services

27 Manner in which certain local authority interests in public transport service must be held

- (1) Any interest that a local authority has in a public transport service to which this section applies must be held in a council controlled trading organisation, whether or not in conjunction with another local authority.
- (2) This section applies to a public transport service held by a local authority if, and only if, the public transport service indirectly receives funding for the purpose from the national land transport account.
- (3) A regional council may, subject to subsection (1), hold an interest in, or acquire the ownership of, a public transport service or any public transport infrastructure.

Compare: 1974 No 66 s 594ZR

Safety administration programme

This heading was repealed, as from 1 December 2004, by section 17(a) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

28 Safety administration programme

[Repealed]

Section 28 was repealed, as from 1 December 2004, by section 17(a) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

29 Approval of safety administration programme

[Repealed]

Sections 29 to 33 were repealed, as from 1 December 2004, by section 17(b) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

30 Agencies must adhere to safety administration programme

[Repealed]

Sections 29 to 33 were repealed, as from 1 December 2004, by section 17(b) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

31 Secretary must make safety administration programme available to public

[Repealed]

Sections 29 to 33 were repealed, as from 1 December 2004, by section 17(b) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

32 Secretary may submit supplementary safety administration programme

[Repealed]

Sections 29 to 33 were repealed, as from 1 December 2004, by section 17(b) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

33 Minister may approve supplementary safety administration programme

[Repealed]

Sections 29 to 33 were repealed, as from 1 December 2004, by section 17(b) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

34 Reports on outputs and programmes

(1) The Secretary must include in every annual report to be given by him or her to the Minister under section 43 of the Public Finance Act 1989—

- (a) a statement comparing the performance of the Authority in relation to the activities or activity classes in that financial year (other than those delivered by the police) with the relevant performance measures agreed under clause 5 of Schedule 3 for that year; and
- (b) a statement comparing the performance of the police in relation to the activities or activity classes delivered by the police in that financial year with the relevant performance measures agreed under clause 5 of Schedule

3 for that year, which statement must be prepared by the Commissioner in the form agreed in writing by the responsible Minister and the Minister of Police.

- (2) The Minister may require the Commissioner to provide information relating to the activities or activity classes delivered by the police, and the Commissioner must provide the information in the manner agreed in writing by the responsible Minister and the Minister of Police.
- (3) An agreement entered into by the responsible Minister and the Minister of Police under subsection (2) must be published or made available to the public in the manner that those Ministers jointly consider appropriate.

Compare: 1989 No 75 s 42N

Section 34 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “activities or activity classes” for the words “safety administration outputs” wherever they occur. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (1) was amended, as from 25 January 2005, by section 37(1) Public Finance Amendment Act 2004 (2004 No 113) by substituting the words “section 43 of the Public Finance Act 1989” for the words “section 30 of the State Sector Act 1988”.

General provisions

35 Needs of transport disadvantaged must be considered

In preparing any programme under this Part, Transit, the Authority, the Commissioner, the Secretary, every local authority, and every approved public organisation must consider the needs of persons who are transport disadvantaged.

Compare: 1989 No 75 s 42K

Section 35 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by omitting the expression “Transfund.”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

36 Authority may reduce, refuse, or withhold payments in certain cases

- (1) This section applies if the Authority considers that, in relation to an approved activity, an approved organisation or person—
 - (a) is in breach of a procurement procedure; or

- (b) has been or is or will be likely to be in breach of any other provision of this Act relating to payments from a land transport disbursement account; or
 - (c) has constructed or undertaken the activity, or is proposing to construct or undertake the activity, to standards that are excessively high or unsatisfactory.
- (2) If this section applies, the Authority may, to the extent that it considers appropriate,—
- (a) reduce any payment for any approved activity; or
 - (b) refuse the whole or part of any payment for any approved activity; or
 - (c) withhold the whole or part of any payment for any approved activity.
- (3) The Authority may, under subsection (2),—
- (a) reduce, refuse, or withhold any amount that it is presently considering paying for any approved activity; or
 - (b) reduce, refuse, or withhold any amount that it proposes to pay for any approved activity in the future.
- (4) If the Authority makes any payment for an approved activity that is based on information that is subsequently found to be erroneous or inaccurate, the payment is recoverable in any court of competent jurisdiction as a debt due to the Authority.

The heading to section 36 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the word “Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsections (1) and (2) were amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (3) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “The Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (4) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

37 Disputes

- (1) This section applies to any dispute or difference between an organisation and the Authority about 1 or more of the following:
 - (a) whether the organisation has complied with a procurement procedure in a particular case:
 - (b) the terms on which the Authority has granted an approval under section 25(5) for the provision of minor and ancillary works:
 - (c) the application of section 26 in a particular case:
 - (d) whether a payment should be reduced, refused, or withheld under section 36.
- (2) The dispute or difference must be determined by a single arbitrator appointed by the Minister.
- (3) No member or employee of the organisation or of the Authority is qualified to be an arbitrator under this section.
- (4) The organisation and the Authority are the parties to the arbitration.
- (5) Articles 35 and 36 of Schedule 1 of the Arbitration Act 1996 (which relate to recognition and enforcement of an arbitral award) and clause 6 of Schedule 2 of that Act (which relates to costs and expenses of an arbitration) apply in relation to an arbitration under this section as if this section were an arbitration agreement within the meaning of that Act, but no other provisions of that Act apply in relation to an arbitration under this section.

Compare: 1989 No 75 s 25

Subsections (1), (3), and (4) were amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund” wherever it occurs. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

38 Provision of information

- (1) The Authority may require an approved organisation to provide any information that the Authority considers it needs to perform its functions under this Act.

- (2) An approved organisation may require any other approved organisation to provide any information that it considers it needs to perform its functions under this Act.
- (3) A requirement under this section must be made in writing, and the information required must be provided as soon as practicable after the requirement is received and be in a readily understandable form.

Compare: 1974 No 66 s 594ZZJ; 1989 No 75 ss 34, 42J

Subsection (1) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “The Authority” for the word “Transfund” in the first place where it occurs. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (1) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund” in the second place where it occurs. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Infrastructure Auckland

This heading was repealed, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). *See* clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

39 Special provisions relating to Auckland Region

- (1) Immediately after 1 January 2005, the Auckland Regional Council must transfer to ARTA any part of the funds received by it from Transfund in relation to the Auckland Regional Council’s land transport programme for the year ending 30 June 2005 (other than funding that relates to the Auckland Regional Council’s Regional Land Transport Strategy) that remains in the Auckland Regional Council’s land transport disbursement account at that date.
- (2) From 1 January 2005, all grants to be made by Transfund in relation to the programme referred to in subsection (1) must be made to ARTA rather than the Auckland Regional Council.
- (3) Despite the Auckland Regional Council being an approved organisation for the purposes of this Act, it may not after 1 January 2005—

- (a) make any recommendation of a kind referred to in section 12(1); or
 - (b) receive any funds directly from the national land transport account; or
 - (c) prepare a land transport programme.
- (4) However, on and from 1 January 2005 the Auckland Regional Council may make a recommendation of a kind referred to in section 12(1) or receive funds directly from the national land transport account and prepare a land transport programme only if it does so for the purpose of exercising its powers under sections 175 to 182 of the Land Transport Act 1998.
- (5) Despite an Auckland territorial authority being an approved organisation for the purposes of this Act, it may not after 1 July 2005—
 - (a) make any recommendation of a kind referred to in section 12(1); or
 - (b) receive any funds directly from the national land transport account; or
 - (c) prepare a land transport programme.
- (6) ARTA must, as soon as practicable and at no cost to the local authority, pay to an Auckland local authority the funds received by ARTA from Transfund for approved activities to be carried out by the local authority.
- (7) Transit's land transport programmes for the year commencing 1 July 2006 and subsequent years must include a statement of its view of land transport priorities (including the priorities of other approved organisations) for the Auckland Region; and, in preparing this statement of priorities, Transit—
 - (a) must take into account the 10 year financial forecasts of the land transport expenditure of Transfund and the Auckland local authorities, and the priorities in the latest land transport programme of ARTA; and
 - (b) may include comment on ARTA's latest land transport programme.
- (8) ARTA's land transport programmes for the year commencing 1 July 2006 and subsequent years must include a statement of its view of land transport priorities (including the priorities of other approved organisations) for the Auckland Region; and, in preparing this statement of priorities, ARTA—

- (a) must take into account the 10 year financial forecasts of the land transport expenditure of Transfund and the Auckland local authorities, and the priorities in the latest land transport programme of Transit; and
- (b) may include comment on Transit's latest land transport programme; and
- (c) must be satisfied that the priorities contribute to its objective, including its social and environmental responsibilities, and contribute to the following:
 - (i) assisting economic development; and
 - (ii) assisting safety and personal security; and
 - (iii) improving access and mobility; and
 - (iv) protecting and promoting public health; and
 - (v) ensuring environmental sustainability.

Section 39 was substituted, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). See clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

*Diversion of excise duty and excise-equivalent
duty to national land transport fund*

- 40 Apportionment of excise duty and excise-equivalent duty**
Of the excise duty and excise-equivalent duty paid into the Crown Bank Account, after deducting any relevant refunds or drawbacks of duties under the Customs and Excise Act 1996, there must be paid to the national land transport fund the amounts prescribed for the purpose by regulations made under section 45.

Compare: 1989 No 75 s 100

- 41 Refund of excise duty, excise-equivalent duty, and GST**
(1) Persons using any motor spirits, compressed natural gas, or liquefied petroleum gas are entitled to a refund in respect of excise duty, excise-equivalent duty, and goods and services tax charged on the consideration for the supply of motor spirits, compressed natural gas, or liquefied petroleum gas, to the extent that the amount of the duty that is refunded forms part of the consideration for that supply and to the extent specified in regulations made under section 45.

- (2) Nothing in this section applies to any motor spirits, compressed natural gas, or liquefied petroleum gas used for any purpose declared by regulations made under section 45 to be exempt from the provisions of this section.
- (3) All refunds of excise duty, excise-equivalent duty, and goods and services tax under regulations made under section 45 must be paid out of the national land transport fund to the extent specified in the regulations without further appropriation than this section.
- (4) No such refund of excise duty, excise-equivalent duty, or goods and services tax may be allowed unless application is made for that refund in accordance with section 42.
- (5) If the amount of any refund of excise duty, excise-equivalent duty, and goods and services tax provided for in regulations made under section 45 is increased, reduced, or varied by any Act or by any regulations, refunds of duty or tax paid, whether before or after the coming into force of that increase, reduction, or variation, in satisfaction of a liability for that duty or tax incurred before that date may be applied for and made as if the increase, reduction, or variation were not in force.

Compare: 1989 No 75 s 101

42 Procedure for obtaining refund

- (1) Every application for a refund under section 41 must be made to the Secretary on a form to be provided by the Secretary, and must be supported by any documentary evidence and any other information that the Secretary may require or as may be prescribed.
- (2) Applications for refunds must be made in respect of periods ending with the date or dates approved by the Secretary.
- (3) No refund may be allowed unless application for the refund is made within 2 years following the close of the period in respect of which the application is made.
- (4) If the application for a refund is made after the expiration of 3 months from the close of the relevant period but within 2 years after the close of that period, the amount of the refund otherwise payable must be reduced by 10% unless a full refund is allowed under subsection (5).

- (5) If application for a refund is made after the expiration of 3 months from the close of the relevant period, whether or not it is made within 2 years after the close of that period, the Secretary may, at his or her discretion, allow a full refund.
- (6) The Secretary may, at his or her discretion, allow a refund in any special case before the close of any period in respect of motor spirits, compressed natural gas, or liquefied petroleum gas used within that period.

Compare: 1989 No 75 s 102

43 Offence and penalty

- (1) A person commits an offence who, for the purposes of obtaining a refund under section 41, makes any application or furnishes any information that he or she knows to be false in any material particular.
- (2) A person who commits an offence against subsection (1) is liable on summary conviction to a fine not exceeding \$2,000.
- (3) Despite anything in the Summary Proceedings Act 1957, any information for an offence against subsection (1) may be laid at any time within 3 years after the date of the offence.

44 Consequential repeal

Part 5 of the Transit New Zealand Act 1989 is consequentially repealed.

45 Regulations relating to sections 40 to 42

The Governor-General may, from time to time, by Order in Council, make regulations providing for any matters contemplated by sections 40 to 42, necessary for the administration of those sections, or necessary for giving those sections full effect.

Subpart 2—Road tolling schemes and concession agreements

Road tolling schemes

46 Authority to establish road tolling scheme

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, establish a road tolling scheme to provide funds that may be applied by or on behalf of a public road controlling authority for the purposes of—
 - (a) 1 or more of the following activities, namely, the planning, design, supervision, construction, maintenance, or operation of a new road; and
 - (b) meeting any conditions or requirements set out in the order.
- (2) An order under subsection (1) must—
 - (a) describe (so far as is practicable)—
 - (i) the new road, or part of it, in respect of which the toll revenue may be applied; and
 - (ii) the road or roads that may be tolled (being the new road and, if the order so provides, a road that meets the requirements of section 48(2)), or the part or parts of those roads that may be tolled; and
 - (b) set out any conditions that must be met to the satisfaction of the Minister, being—
 - (i) any conditions that must be met before the public road controlling authority or toll operator may begin tolling; and
 - (ii) any other conditions that apply; and
 - (c) set out a process by which the Minister will confirm whether he or she is satisfied that the relevant conditions to be met before tolling may begin have been met.
- (3) An order made under subsection (1) may (without limitation)—
 - (a) set tolls, or empower the public road controlling authority or toll operator to set tolls within the maximum limit, or according to the method, set out in the order:
 - (b) provide for different levels of tolls to be levied in respect of different classes of person or motor vehicles,

- different times or days, different directions of travel, or different methods of payment, or to be levied on any other differential basis:
- (c) grant exemptions from the obligation to pay tolls under the scheme (whether on a basis referred to in paragraph (b) or on any other basis specified in the order), and empower the public road controlling authority or toll operator to grant exemptions (which power is subject to any limitations set out in the order):
 - (d) state how the tolls are to be collected:
 - (e) specify any information that the toll operator or the public road controlling authority is required to provide to the Minister or any other specified person or organisation:
 - (f) authorise the enforcement authority to have access to law enforcement information held by a holder agency under the Privacy Act 1993, and set out terms and conditions governing that access:
 - (g) require the public road controlling authority to prepare a demand management plan in accordance with the order:
 - (h) specify civil penalties for breach of conditions referred to in subsection (2)(b)(ii), and establish a procedure for resolving disputes about the application of those penalties:
 - (i) require notice of the Minister's confirmation of the matters referred to in subsection (2)(c) to be published in the manner set out in the order.
- (4) An order made under subsection (1) is a regulation for the purposes of the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publication Act 1989.
- (5) Before recommending that an order made under subsection (1) be amended or revoked, the Minister must consult the relevant public road controlling authority about his or her proposal.
- (6) This section does not limit any other Act that provides for tolls to be levied or collected in respect of any road.

47 When tolling power is exercisable

- (1) The power of a public road controlling authority or toll operator to begin tolling a road or part of it in accordance with an Order in Council made under section 46(1) is exercisable—
 - (a) from the time, or on and from the date, specified for the purpose in a notice published by the Minister stating that he or she is satisfied as to the matters referred to in section 46(2)(c); or
 - (b) if no time is so specified, from the time that notice is published.
- (2) A notice under subsection (1) must be published in the form and manner specified in the relevant order made under section 46(1) (if such requirements are specified in the order).
- (3) The power of a public road controlling authority or toll operator to continue tolling a road or part of it in accordance with an order made under section 46(1) is exercisable—
 - (a) during the period specified for the purpose in the order; or
 - (b) if no period is specified in the order, while the toll-setting provisions of the order remain in force.

48 Procedure for recommending making of order under section 46

- (1) The Minister must not recommend the making of an Order in Council under section 46(1) unless—
 - (a) he or she is satisfied that the activity contributes to the purpose of this Act; and
 - (b) he or she has taken into account how the activity—
 - (i) assists economic development; and
 - (ii) assists safety and personal security; and
 - (iii) improves access and mobility; and
 - (iv) protects and promotes public health; and
 - (v) ensures environmental sustainability; and
 - (c) he or she has taken into account—
 - (i) any current national land transport strategy, relevant regional land transport strategies, and National Energy Efficiency and Conservation Strategy; and

- (ii) the availability of alternative land transport options and the impact of the activity on those options; and
 - (iii) the land transport options and alternatives that have been considered by the public road controlling authority; and
 - (iv) whether the activity is consistent with current priorities for land transport expenditure; and
 - (v) the outcome of consultation undertaken by the public road controlling authority; and
 - (d) either—
 - (i) the activity is included in the current national land transport programme; or
 - (ii) the Minister is satisfied that there is a high degree of support from affected communities; and
 - (e) he or she is satisfied that—
 - (i) the requirement in subsection (2) (if applicable) is met; and
 - (ii) there is available to road users a feasible, untolled, alternative route.
- (2) The Minister, must not recommend that an existing road or part of it be tolled unless he or she is satisfied that the existing road or part is located near, and is physically or operationally integral to, the new road in respect of which the tolling revenue will be applied.
- (3) If the Authority has assessed an activity against any criterion in subsection (1) in the course of performing its functions and duties under section 19 or section 20, the Minister is entitled to rely on that assessment and need not separately assess the activity against that criterion for the purpose of this section.
- (4) The Minister may, at his or her discretion,—
- (a) recommend or decline to recommend the making of an order under section 46(1);
 - (b) after consulting the public road controlling authority about his or her proposal, recommend the making of an order under section 46(1) that contains provisions different from those requested by the public road controlling authority.

- (5) The application of subsection (1)(d)(i) is subject to section 109.

Subsection (3) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

49 Consultation requirements

- (1) A public road controlling authority that seeks funding by way of a road tolling scheme must consult in accordance with sections 15 to 18 as if the public road controlling authority were seeking funding from the Authority, and those sections apply with the necessary modifications.
- (2) However, a public road controlling authority need not consult any person or organisation referred to in those sections about any matter if it has already consulted them about the matter in the course of carrying out consultation under any provision of this Act, other than this section, or under or for the purposes of any other Act.

Subsection (1) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

50 Privacy

- (1) This section applies to personal information held or stored for the purposes of a road tolling scheme by or on behalf of a toll operator or enforcement authority.
- (2) The toll operator must not use any personal information to which this section applies except for the purpose of collecting tolls.
- (3) The enforcement authority must not use any personal information to which this section applies except for the purpose of enforcing the toll offence provisions of this Act.
- (4) The disclosure of personal information to which this section applies on any of the grounds set out in principle 11 in the Privacy Act 1993 is not prohibited by subsection (2) or subsection (3).
- (5) The toll operator and enforcement authority must each outline their privacy policies in a document and make the document

available for inspection by the public free of charge during usual working hours or for purchase at a reasonable price.

51 Payment of tolls

- (1) A toll must be paid at the time the toll is due for payment under section 52.
- (2) A toll must be paid by a method required by the toll operator, and the toll operator may offer alternative methods of payment.
- (3) At least 1 of the methods of payment must be a method that does not record personal information in relation to the person paying the toll.
- (4) The toll operator may impose reasonable charges in connection with the administration of any method of payment.

52 Who is liable to pay toll

- (1) The driver of a motor vehicle is liable for payment of the toll to the toll operator when the vehicle reaches the toll payment point.
- (2) If the driver fails to pay the toll as required by subsection (1), the registered owner of the motor vehicle is liable for payment of the toll to the toll operator.
- (3) However, the registered owner of a motor vehicle is not liable under subsection (2) to pay a toll if, within 28 days after being notified of the non-payment of the toll, the registered owner supplies to the toll operator, in a sworn statement in writing or a statutory declaration,—
 - (a) the name and address of the driver of the vehicle or any other particulars within the knowledge of the registered owner that may lead to the identification of the person who was in charge or control of the vehicle at the relevant time; or
 - (b) a statement that the vehicle was a stolen vehicle at the relevant time.
- (4) Tolls (and the associated enforcement costs) are recoverable in a court of competent jurisdiction as a debt due to the toll operator.
- (5) Tolls are not payable in respect of any motor vehicle that—

- (a) is a police vehicle; or
- (b) is a fire engine; or
- (c) is an ambulance; or
- (d) is exempt by virtue of an Order in Council made under section 46(1).

53 Enforcement of tolls

A toll operator may deny a motor vehicle physical access to its toll road, or past the toll payment point, if—

- (a) the vehicle is subject to a toll, or the driver or registered owner of the vehicle is liable to pay a toll; and
- (b) the driver or registered owner of the vehicle has not paid the toll or made an acceptable payment arrangement with the toll operator.

54 Offences and penalties

- (1) A person commits an offence if the person, without reasonable excuse, refuses or fails to pay a toll payable by that person.
- (2) An offence against subsection (1) is a moving vehicle offence under the Land Transport Act 1998.
- (3) A person commits an offence if, for the purpose of section 52(3), the person gives a sworn statement in writing or a statutory declaration and, in that statement or declaration, gives information that the person knows to be false or misleading.
- (4) A person who commits an offence against subsection (3) is liable on summary conviction to a fine not exceeding \$500.
- (5) Subsection (3) does not limit section 111 of the Crimes Act 1961.

55 Application of Fair Trading Act 1986

- (1) Nothing in this Part limits the application of the Fair Trading Act 1986.
- (2) For the purposes of the Fair Trading Act 1986, a toll operator is supplying services to those by whom the tolls are payable and is accordingly in trade.

*Concession agreements for roads***56 Concession agreements**

- (1) An activity described in the definition of concession agreement in section 5 must not be undertaken by a public road controlling authority except under a concession agreement.
- (2) Before entering into a concession agreement, a public road controlling authority must—
 - (a) obtain the Minister’s prior written approval in principle; and
 - (b) satisfy the Minister that the conditions referred to in subsection (3)(b)(i) that are attached to that approval have been met.
- (3) In granting an approval in principle under subsection (2), the Minister—
 - (a) must set conditions that protect public access to the associated new road:
 - (b) may make the approval subject to any other conditions the Minister thinks fit, including (without limitation) conditions that—
 - (i) must be met before the public road controlling authority may enter into a concession agreement:
 - (ii) relate to the apportionment of risk as between the parties:
 - (iii) relate to the responsibilities of the parties:
 - (iv) relate to the rights of the parties:
 - (c) may specify civil penalties for breach of the conditions referred to in paragraph (b), and establish a procedure for resolving disputes about the application of those penalties.
- (4) Conditions imposed under subsection (3) form part of the relevant concession agreement.
- (5) The term of a concession agreement must not exceed 35 years from the date on which the associated new road is opened to the public, except that the Minister may, before the expiry of the agreement, approve an extension of the agreement once only by up to 10 years if he or she is satisfied that—
 - (a) there are exceptional circumstances justifying the extension; and

- (b) the extension is justified in terms of the criteria set out in section 58(1)(a) and (b); and
 - (c) the concession agreement has been in effect for at least two-thirds of its term.
- (6) A concession agreement must not include any provision that provides a disincentive for a person to pursue other sustainable transport options (for example, public transport or the implementation of demand management strategies).
- (7) In performing functions, exercising rights or powers, or providing services under a concession agreement, a concessionaire must act in accordance with the agreement and this Part.
- (8) This section does not empower any person to levy a toll.

57 When concession agreement may be entered into

A public road controlling authority that has an approval in principle to enter into a concession agreement may enter into a concession agreement if the Minister has notified the public road controlling authority that he or she is satisfied that it has met the relevant conditions attached to the approval under section 56(3)(b)(i).

58 Approval process and relationship to national land transport programme

- (1) In considering whether to grant an approval under section 56, the Minister must—
 - (a) be satisfied that the activity contributes to the purpose of this Act; and
 - (b) take into account how the activity—
 - (i) assists economic development; and
 - (ii) assists safety and personal security; and
 - (iii) improves access and mobility; and
 - (iv) protects and promotes public health; and
 - (v) ensures environmental sustainability; and
 - (c) take into account any current national land transport strategy, relevant regional land transport strategy, and National Energy Efficiency and Conservation Strategy; and

- (d) take into account the availability of alternative land transport options and the impact of the activity on those options; and
 - (e) take into account the land transport options and alternatives that have been considered by the public road controlling authority; and
 - (f) take into account whether the activity is consistent with current priorities for land transport expenditure; and
 - (g) take into account the outcome of consultation undertaken by the public road controlling authority.
- (2) The Minister must not approve a public road controlling authority entering into a concession agreement in respect of an activity unless—
- (a) either—
 - (i) the activity is included in the current national land transport programme; or
 - (ii) the Minister is satisfied that the activity has a high degree of support from affected communities; and
 - (b) the land and road comprised in the agreement will be owned by a road controlling authority during the term of the agreement.
- (3) The fact that an approval has been granted under section 56 in respect of an activity does not of itself make the activity an approved activity.
- (4) If the Authority has assessed an activity against any criterion in subsection (1) in the course of performing its functions and duties under section 19 or section 20, the Minister is entitled to rely on that assessment and need not separately assess the activity against that criterion for the purpose of this section.
- (5) The application of subsection (2)(a)(i) is subject to section 109.

Subsection (4) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

59 Consultation requirements

- (1) A public road controlling authority that seeks funding by way of a concession agreement must consult in accordance with sections 15 to 18 as if the public road controlling authority were seeking funding from the Authority, and those sections apply with the necessary modifications.
- (2) However, a public road controlling authority need not consult any person or organisation referred to in those sections about any matter if it has already consulted them about the matter in the course of carrying out consultation under any provision of this Act, other than this section, or under or for the purposes of any other Act.

Subsection (1) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

60 Terms of concession agreements

- (1) A concession agreement may include any terms and conditions agreed by the parties that are not inconsistent with—
 - (a) the terms and conditions of the Minister’s approval under section 56; or
 - (b) the provisions of, or requirements under, this Act or any other enactment.
- (2) In addition, a concession agreement must include the functions, duties, and powers under Part 21 of the Local Government Act 1974 or Part 4 of the Transit New Zealand Act 1989 that are delegated under section 61.

61 Delegation of roading functions and powers to concessionaires

- (1) A road controlling authority may, with the prior approval of the Minister, delegate in writing to a concessionaire all or any of its functions and powers under
 - (a) Part 21 of the Local Government Act 1974; or
 - (b) Part 4 of the Transit New Zealand Act 1989, other than the power under section 61(3) to make bylaws or the power under section 62 to delegate.

- (2) While functions or powers of a road controlling authority are delegated to a concessionaire under subsection (1),—
 - (a) the concessionaire must perform or exercise the delegated functions, duties, or powers in its own name and is liable accordingly; and
 - (b) neither the road controlling authority nor the Crown is answerable for any act or default of the concessionaire in the performance or exercise of any functions, duties, or powers so delegated; and
 - (c) the road controlling authority may not perform or exercise any of the functions, duties, or powers so delegated without first revoking that delegation.
- (3) A concessionaire to whom any functions or powers are delegated under subsection (1) may, with the prior approval in writing of the Minister and the road controlling authority, delegate to any other person such of those functions or powers as are so approved.
- (4) Nothing in this section affects the right of Transit to delegate under clause 20 or clause 21 of Schedule 4.

62 Effect of delegation under section 61

- (1) This section applies in relation to delegations under section 61.
- (2) A person may, subject to any general or special directions given or conditions imposed by the road controlling authority, exercise any functions or powers under a delegation in the same manner and with the same effect as if they had been conferred or imposed on that person directly by section 61 and not by delegation.
- (3) A delegation may be made—
 - (a) to a specified person or to persons of a specified class; or
 - (b) to the holder or holders for the time being of a specified office or specified class of office.
- (4) A delegation must be given for a specified period but in any event is revocable on the terms and conditions agreed in the relevant concession agreement.
- (5) Until it is revoked or it expires, a delegation continues in force according to its tenor, despite the fact that the person by whom

it was made may cease to hold office, and continues to have effect as if it were made by the person for the time being holding that office.

- (6) A person purporting to act under a delegation must, when reasonably requested to do so, produce evidence of his or her authority to so act.
- (7) A person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

63 Leasing

- (1) A road controlling authority may, for the purpose of enabling a concessionaire to discharge any responsibilities under a concession agreement or this Part, grant a lease for a term not longer than 35 years over any land under the control of the road controlling authority.
- (2) However, a road controlling authority may extend the lease once only by up to 10 years in order to align the term of the lease as closely as practicable with the term of a related concession agreement (as provided for in section 56(5)).
- (3) In subsection (1), **land** includes—
 - (a) an estate, right, title, or interest in land; and
 - (b) a road or portion of a road; and
 - (c) land acquired by the road controlling authority under the Public Works Act 1981.
- (4) The lease—
 - (a) may be set out in the concession agreement or in a separate deed or agreement:
 - (b) may be for the whole or any part of any period or periods within the concession agreement and on any terms and conditions that the road controlling authority thinks fit:
 - (c) if so required by the Minister, must include provisions setting out the rights and responsibilities of the lessor and lessee, including provisions about matters such as fees:
 - (d) must include provisions relating to the protection of public access to the land.
- (5) While the concession has effect, the grant of the lease—

- (a) is not a subdivision for the purposes of section 218 of the Resource Management Act 1991; and
 - (b) is not subject to sections 40 to 42 of the Public Works Act 1981.
- (6) For the purposes of the Rating Powers Act 1988 and the Local Government (Rating) Act 2002, land subject to a lease under subsection (1) and formed and used for a road is not rateable property.
- (7) A licence must not be granted for the purpose referred to in subsection (1).

64 Registration of leases

Despite anything in the Land Transfer Act 1952, if a lease under section 63 is in the form of a deed and the lease is granted over land for which no certificate of title or computer register has been issued or created under that Act or the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002, the Minister may request the Registrar-General of Land to register the deed by constituting it as a computer interest register under section 9 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002; and the Registrar-General of Land must register the deed accordingly.

Enforcement of this Part and other land transport legislation

65 This Part and other land transport legislation enforceable in relation to concession roads and toll roads

- (1) This section applies in relation to persons who are enforcement officers under the Land Transport Act 1998.
- (2) In relation to a concession road or toll road and to any person, vehicle, or animal on that road,—
- (a) enforcement officers who are sworn members of the police and enforcement officers who are non-sworn members of the police authorised for the purpose by the Commissioner may enforce the provisions of this Part and the other enactments referred to in section 113(1) of the Land Transport Act 1998, and, to avoid doubt, the

- road must be regarded for this purpose as a road as defined in section 2(1) of that Act; and
- (b) other enforcement officers who are appointed for the purposes of this Part under section 208(1) of the Land Transport Act 1998 may enforce the provisions of this Part relating to tolls, and, to avoid doubt, the road must be regarded for this purpose as a road as defined in section 2(1) of that Act; and
 - (c) the provisions of the Summary Proceedings Act 1957 and the regulations in force under that Act apply accordingly.
- (3) For the purposes of sections 52(1)(c) and 53 of the Land Transport Act 1998, an enforcement officer who gives or imposes any lawful requirement, direction, notice, request, or prohibition in relation to a person, vehicle, or animal on a concession road or toll road must be regarded as acting in the execution of his or her functions or powers under that Act.

Part 3

Administrative provisions relating to Land Transport New Zealand and Transit, and miscellaneous provisions

This heading was substituted, as from 1 December 2004, by section 12 Land Transport Management Amendment Act 2004 (2004 No 97). It previously read “Administrative provisions relating to Transfund and Transit, and miscellaneous provisions”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Land Transport New Zealand

This heading was substituted, as from 1 December 2004, by section 12 Land Transport Management Amendment Act 2004 (2004 No 97). It previously read “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

66 Establishment of Land Transport New Zealand

This section establishes Land Transport New Zealand.

Sections 66 to 74 were substituted, as from 1 December 2004, by section 12 Land Transport Management Amendment Act 2004 (2004 No 97). See sections 20 to 22 of that Act as to the savings and transitional provisions.

67 Crown entity status

- (1) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (2) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.

Sections 66 to 74 were substituted, as from 1 December 2004, by section 12 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Section 67 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

68 Objective of Authority

- (1) The objective of the Authority is to allocate resources and to undertake its functions in a way that contributes to an integrated, safe, responsive, and sustainable land transport system.
- (2) In meeting its objective, the Authority must exhibit a sense of social and environmental responsibility, which includes—
 - (a) avoiding, to the extent reasonable in the circumstances, adverse effects on the environment; and
 - (b) ensuring, to the extent practicable, that persons or organisations preparing land transport programmes—
 - (i) take into account the views of affected communities; and
 - (ii) give early and full consideration to land transport options and alternatives in a manner that contributes to the matters in paragraph (a) and subparagraph (i); and
 - (iii) provide early and full opportunities for the persons and organisations listed in section 15 to contribute to the development of land transport programmes.

Sections 66 to 74 were substituted, as from 1 December 2004, by section 12 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

69 Functions of Authority

- (1) The functions of the Authority are—
 - (a) to promote land transport sustainability in New Zealand:

- (b) to prepare and adopt a land transport programme under section 12A and a national land transport programme under section 19:
- (c) to review and revise the national land transport programme in accordance with its most recent performance agreement:
- (d) to approve activities and activity classes:
- (e) to make payments from the national land transport account as authorised by this Act:
- (f) to promote safe transport on land in New Zealand:
- (g) to provide safety information and advice, and to foster appropriate information education programmes that promote its objective:
- (h) to investigate and review accidents and incidents involving transport on land in its capacity as the responsible safety authority, subject to any limitations set out in the Transport Accident Investigation Commission Act 1990:
- (i) to approve procurement procedures under section 25:
- (j) to maintain and preserve records and documents concerning activities within the land transport system, and in particular to maintain the Land Transport Register under the Land Transport Act 1998:
- (k) to audit the performance of approved organisations in relation to activities approved by the Authority and the operation of the organisation's land transport disbursement account:
- (l) to assist and advise approved organisations in relation to the Authority's functions, duties, and powers under this Act and the Land Transport Act 1998:
- (m) to fund research, education, and training activities and activity classes:
- (n) to provide the Minister with any advice relating to the Authority's functions that the Minister may request:
- (o) to co-operate with, or to provide advice and assistance to, any government agency or local government agency when requested to do so by the Minister, but only if the Minister and the Authority are satisfied that the per-

formance of the Authority's functions and duties will not be compromised:

- (p) to carry out any other functions relating to land transport that the Minister directs in accordance with section 112 of the Crown Entities Act 2004.
- (2) The Authority's statutorily independent functions are—
- (a) to determine whether particular activities should be included in a national land transport programme; and
 - (b) approving activities; and
 - (c) approving procurement procedures.
- (3) Subsection (2) does not apply in relation to—
- (a) activities that are included in a land transport programme prepared by the Authority;
 - (b) activities relating to the police.

Sections 66 to 74 were substituted, as from 1 December 2004, by section 12 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (1)(n) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words "information and".

Subsection (1)(p) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words "directs in accordance with section 112 of the Crown Entities Act 2004" for the words "requests or directs".

70 Separate legal personality

[Repealed]

Sections 66 to 74 were substituted, as from 1 December 2004, by section 12 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Section 70 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

71 Capacity and powers

[Repealed]

Sections 66 to 74 were substituted, as from 1 December 2004, by section 12 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Section 71 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

72 Authority's board

(1) The Authority's board must have at least 6, but no more than 8, board members appointed in accordance with section 28(1)(a) of the Crown Entities Act 2004.

(2)

Sections 66 to 74 were substituted, as from 1 December 2004, by section 12 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (1) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by inserting the words "appointed in accordance with section 28(1)(a) of the Crown Entities Act 2004".

Subsection (2) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

73 Further provisions about Authority

Schedule 4 applies to the Authority.

Sections 66 to 74 were substituted, as from 1 December 2004, by section 12 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

74 Use of words Land Transport New Zealand

(1) No company or other body may be incorporated or registered under a name that contains the words Land Transport New Zealand or under any name that, in the opinion of the Registrar of Companies, or the appropriate registering authority within the meaning of section 2 of the Flags, Emblems, and Names Protection Act 1981, so resembles a name containing those words that it is likely to deceive.

(2) On or from the commencement of this Act until the close of 31 December 2006, no company or other body may be incorporated or registered under a name that contains the words Land Transport Safety Authority of New Zealand or the word Transfund or under any name that, in the opinion of the Registrar of Companies, or the appropriate registering authority within the meaning of section 2 of the Flags, Emblems, and Names Protection Act 1981, so resembles a name containing those words that it is likely to deceive.

(3) Nothing in subsection (1) or subsection (2) applies to the Authority or to any person who is appropriately authorised by the Authority.

Sections 66 to 74 were substituted, as from 1 December 2004, by section 12 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Transit

75 Transit continued

Transit New Zealand is continued as a body corporate with the same name.

Compare: 1989 No 75 s 4

76 Crown entity status

- (1) Transit is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (2) The Crown Entities Act 2004 applies to Transit except to the extent that this Act expressly provides otherwise.

Section 76 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

77 Objective of Transit

- (1) The objective of Transit is to operate the State highway system in a way that contributes to an integrated, safe, responsive, and sustainable land transport system.
- (2) In meeting its objective, Transit must exhibit a sense of social and environmental responsibility, which includes—
 - (a) avoiding, to the extent reasonable in the circumstances, adverse effects on the environment; and
 - (b) taking into account the views of affected communities; and
 - (c) giving early and full consideration to land transport options and alternatives in a manner that contributes to paragraphs (a) and (b); and
 - (d) providing early and full opportunities for the persons and organisations listed in section 15(1) to contribute to the development of its land transport programmes.

Compare: 1989 No 75 s 5

78 Functions

The functions of Transit are—

- (a) to control the State highway system, including planning, design, supervision, construction, and maintenance, in accordance with this Act and the Transit New Zealand Act 1989:
- (b) to prepare a land transport programme for the State highway system:
- (c) to make payments from its land transport disbursement account as authorised by this Act:
- (d) to operate road tolling schemes:
- (e) to enter into concession agreements under section 56:
- (f) to provide the Minister with any advice relating to Transit's functions that the Minister may request:
- (g) to carry out research, education, and training:
- (ga) to co-operate with, or to provide advice and assistance to, any government agency or local government agency when requested to do so by the Minister, but only if the Minister and Transit are satisfied that the performance of Transit's functions and duties will not be compromised:
- (h) to carry out any other functions relating to land transport that the Minister directs in accordance with section 112 of the Crown Entities Act 2004.

Compare: 1989 No 75 s 6

Paragraph (f) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words "information and".

Paragraph (ga) was inserted, as from 1 December 2004, by section 13 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Paragraph (h) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words "directs in accordance with section 112 of the Crown Entities Act 2004" for the words "request or directs".

79 Separate legal personality

[Repealed]

Section 79 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

80 Capacity and powers*[Repealed]*

Section 80 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

81 Transit's board

(1) Transit's board must have at least 6, but no more than 8, board members appointed in accordance with section 28(1)(a) of the Crown Entities Act 2004.

(2)

Compare: 1989 No 75 s 4(1)

Subsection (1) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by inserting the words "appointed in accordance with section 28(1)(a) of the Crown Entities Act 2004".

Subsection (2) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

82 Further provisions about Transit

Schedule 4 applies to Transit.

83 Use of words Transit New Zealand

(1) No company or other body may be incorporated or registered under a name that contains the words Transit New Zealand or under any name that, in the opinion of the Registrar of Companies, or the appropriate registering authority within the meaning of section 2 of the Flags, Emblems, and Names Protection Act 1981, so resembles a name containing those words that it is likely to deceive.

(2) Nothing in subsection (1) applies to Transit or to any person who is appropriately authorised by Transit.

Compare: 1989 No 75 s 3G

Provisions applying to Authority and Transit

This heading was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the word "Authority" for the words "both Transfund". See sections 20 to 22 of that Act as to the savings and transitional provisions.

84 Extra information to be included in statement of intent

- (1) Each entity must, if required by the Minister, include the following information in its statement of intent under section 139 of the Crown Entities Act 2004:
 - (a) in the case of the Authority, the matters set out in Part 1 of Schedule 5; and
 - (b) in the case of Transit, the matters set out in Part 2 of Schedule 5.
- (2) The Minister may direct each entity to amend any provision that is included in the statement of intent under this section, and section 147 of the Crown Entities Act 2004 applies accordingly.

The heading to section 84 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the word “Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (1)(a) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Section 84 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

85 Failure to prepare performance agreement or comply with directions

[Repealed]

Section 85 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

86 Amendment of performance agreement after approval

[Repealed]

Section 86 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

87 Authority and Transit must consider delegating or contracting out functions and powers

Each entity, in the course of performing its functions and exercising its powers, must consider whether it could most efficiently and effectively perform those functions and powers by means of their own operations, or by delegating or contracting

out those operations to appropriate persons selected after an appropriate competitive process.

Compare: 1989 No 75 s 3H

The heading to section 87 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the word “Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Miscellaneous provisions

88 Public availability of documents

If a public organisation is required under this Act to make any document or matter available to the public, it must—

- (a) make sufficient copies of that document or matter available for public inspection, free of charge; and
- (b) make sufficient copies of that document or matter available for purchase, at a reasonable price, during normal office hours; and
- (c) notify that availability by advertisement in a newspaper circulating in the region or district, or regions or districts, to which the document or matter relates.

Compare: 1989 No 75 s 105

89 Application of Act to Chatham Islands

This Act applies to the Chatham Islands as if the Chatham Islands Council were a territorial authority that is also a regional council.

Compare: 1989 No 75 s 107

Amendments and repeals

90 Consequential amendments

The enactments listed in Schedule 6 are amended in the manner set out in that schedule.

91 Repeals

- (1) The Auckland Transport Board Act 1928 is repealed.
- (2) Section 104 of the Transit New Zealand Act 1989 (which relates to special purpose roads) is repealed.

Savings provisions

92 Transit New Zealand (Apportionment and Refund of Excise Duty) Regulations 1998

The Transit New Zealand (Apportionment and Refund of Excise Duty) Regulations 1998 (SR 1998/94) continue to have effect as if they had been made under section 45.

93 Performance agreements

The performance agreements for Transfund New Zealand and Transit New Zealand that were in effect under the Transit New Zealand Act 1989 immediately before the commencement of this section continue to have effect as if they had been approved under section 84.

94 Accounts

- (1) The State Highways Account kept under section 20 of the Transit New Zealand Act 1989 immediately before the commencement of this section is a land transport disbursement account under this Act.
- (2) The Land Transport Disbursement Accounts kept under section 24 of the Transit New Zealand Act 1989 immediately before the commencement of this section are land transport disbursement accounts under this Act.

95 Competitive pricing procedure

- (1) Competitive pricing procedures in effect under section 26 of the Transit New Zealand Act 1989 immediately before the commencement of this section continue to have effect as procurement procedures under this Act.
- (2) However, until the close of 30 June 2004, nothing in section 21(3)(b) applies in relation to any approved research, education, or training activity or activity class.

96 Approved outputs and capital projects

Approvals in effect under section 17 of the Transit New Zealand Act 1989 immediately before the commencement of this section continue to have effect as if they were given under section 20.

97 Existing programmes continued

- (1) The national roading programme in effect under section 42A of the Transit New Zealand Act 1989 immediately before the commencement of this section continues to have effect as a national land transport programme under this Act.
- (2) Every State highways programme, regional programme, and district roading programme under Part 3 of the Transit New Zealand Act 1989 that was in effect immediately before the commencement of this section continues to have effect as a land transport programme under this Act.
- (3) Every safety (administration) programme in effect under section 38 of the Transit New Zealand Act 1989 immediately before the commencement of this section continues to have effect as a safety administration programme under this Act.
- (4) Transfund must use its best endeavours to comply with the provisions of this Act in approving activities that were not approved before the commencement of this section and that are in a programme to which this section applies, but nothing in this section requires Transfund to be satisfied that an approved organisation has complied with section 15 in preparing the organisation's land transport programme.

98 Completion of draft programmes

- (1) This section applies to a draft programme referred to in subsection (2) if—
 - (a) the draft programme was in existence (but not completed) immediately before the date of commencement of this section; and
 - (b) the consultation required by the Transit New Zealand Act 1989 to be undertaken before the programme could be approved had been carried out before that date or is completed on or after that date.
- (2) The programmes are—
 - (a) any draft national roading programme under sections 18 and 42A of the Transit New Zealand Act 1989; and
 - (b) any draft State highways programme, regional programme, and district roading programme under Part 3 of the Transit New Zealand Act 1989; and

- (c) any draft safety (administration) programme under section 37 of the Transit New Zealand Act 1989.
- (3) The programmes may be completed in accordance with the following provisions of this section.
- (4) Until the close of 30 June 2004, Transfund must use its best endeavours to comply with the provisions of this Act in approving activities and activity classes, but nothing in this section requires Transfund to be satisfied that an approved organisation has complied with section 15 in preparing the organisation's land transport programme during that period.
- (5) Until the close of 30 June 2004, the following provisions apply to the completion of any draft State highways programme, regional programme, or district roading programme prepared by an approved organisation:
 - (a) Transit must consult the persons and organisations listed in section 15(1)(a) to (h), but otherwise the relevant consultation provisions of Part 3 of the Transit New Zealand Act 1989 apply in relation to Transit instead of sections 15 to 18 of this Act, as if that Part had not been repealed by this Act:
 - (b) an approved organisation that is a regional council (or a territorial authority having the powers of a regional council) must consult the persons and organisations listed in section 15(2)(a) to (j), but otherwise the relevant consultation provisions of Part 3 of the Transit New Zealand Act 1989 apply in relation to the organisation instead of sections 15 to 18 of this Act, as if that Part had not been repealed by this Act:
 - (c) an approved organisation that is a territorial authority must consult the persons and organisations listed in section 15(3)(a) to (j), but otherwise the relevant consultation provisions of Part 3 of the Transit New Zealand Act 1989 apply in relation to the organisation instead of sections 15 to 18 of this Act, as if that Part had not been repealed by this Act:
 - (d) any other approved organisation must consult the persons and organisations listed in section 15(4)(a) to (j), but otherwise the relevant consultation provisions of Part 3 of the Transit New Zealand Act 1989 apply in re-

lation to the organisation instead of sections 15 to 18 of this Act, as if that Part had not been repealed by this Act:

- (e) approved organisations must use their best endeavours to comply with the other relevant provisions of this Act.
- (6) Until the close of 30 June 2004, in completing any draft national roading programme, Transfund must, subject to subsection (4), use its best endeavours to comply with the provisions of this Act relating to the preparation of a national land transport programme.
- (7) Any draft safety (administration) programme that relates to the financial year ending with the close of 30 June 2005 must be completed under Part 3 of the Transit New Zealand Act 1989 as if that Part had not been repealed by this Act.
- (8) The completed programmes have effect as if they had been continued by section 97.

99 Transitional programmes: period ending 30 June 2004

- (1) This section applies to the preparation of land transport programmes, and national land transport programmes, in the financial year ending with the close of 30 June 2004.
- (2) Transfund must use its best endeavours to comply with the provisions of this Act in approving activities to which this section applies, but nothing in this section requires Transfund to be satisfied that an approved organisation has complied with section 15 in preparing the organisation's land transport programme during that period.
- (3) Until the close of 30 June 2004, the following provisions apply to the preparation of land transport programmes by approved organisations:
 - (a) Transit must consult the persons and organisations listed in section 15(1)(a) to (h), but otherwise the relevant consultation provisions of Part 3 of the Transit New Zealand Act 1989 apply in relation to Transit instead of sections 15 to 18 of this Act, as if that Part had not been repealed by this Act and as if it were preparing a State highways programme:

- (b) an approved organisation that is a regional council (or a territorial authority having the powers of a regional council) must consult the persons and organisations listed in section 15(2)(a) to (j), but otherwise the relevant consultation provisions of Part 3 of the Transit New Zealand Act 1989 apply in relation to the organisation instead of sections 15 to 18 of this Act, as if that Part had not been repealed by this Act and as if it were preparing a regional programme:
 - (c) an approved organisation that is a territorial authority must consult the persons and organisations listed in section 15(3)(a) to (j), but otherwise the relevant consultation provisions of Part 3 of the Transit New Zealand Act 1989 apply in relation to the organisation instead of sections 15 to 18 of this Act, as if that Part had not been repealed by this Act and as if it were preparing a district roading programme:
 - (d) any other approved organisation must consult the persons and organisations listed in section 15(4)(a) to (j), but otherwise the relevant consultation provisions of Part 3 of the Transit New Zealand Act 1989 apply in relation to the organisation instead of sections 15 to 18 of this Act, as if that Part had not been repealed by this Act and as if it were preparing a corresponding programme under that Act:
 - (e) approved organisations must use their best endeavours to comply with the other relevant provisions of this Act.
- (4) In preparing a national land transport programme, Transfund must use its best endeavours to comply with the relevant provisions of this Act relating to the preparation of a national land transport programme.
- (5) Nothing in this section applies to a draft programme to which section 98 applies.

100 Transitional programmes: 1 July 2004 to 30 June 2005

- (1) This section applies to the preparation of land transport programmes, and national land transport programmes, in the financial year ending with the close of 30 June 2005.

(2) Approved organisations must comply with the relevant provisions of this Act in preparing land transport programmes in the financial year ending with the close of 30 June 2005 unless it is impracticable to do so.

(3)

(4)

Subsections (3) and (4) were repealed, as from 1 December 2004, by section 17(c) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

101 Policy directions

Policy directions in effect under section 3F or section 7 of the Transit New Zealand Act 1989 immediately before the commencement of this section continue to have effect as policy directions under clause 8 of Schedule 4.

102 Delegations

Delegations in effect under any of sections 3I, 3J, 7D, or 7E of the Transit New Zealand Act 1989 immediately before the commencement of this section continue to have effect as delegations under clause 20 or clause 21 of Schedule 4.

103 Excise duty, excise-equivalent duty, and GST

(1) Applications for a refund of excise duty or goods and services tax (or both) that are pending under section 101 of the Transit New Zealand Act 1989 immediately before the commencement of this section must be treated as applications under section 41 of this Act.

(2) All excise-equivalent duty credited to the Land Transport Fund or the National Roads Fund before the commencement of this section is deemed to have been excise duty for the purposes of section 100 of the Transit New Zealand Act 1989.

(3) Until the commencement of section 44, references in sections 6 and 9 to the crediting or refunding of excise duty or excise equivalent duty must be read as references to the crediting or refunding of duty under the corresponding provisions of Part 5 of the Transit New Zealand Act 1989.

104 Applications for grants from Infrastructure Auckland

[Repealed]

Section 104 was repealed, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). See clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

105 Gazette notices relating to functions of Transfund or Transit

Notices in effect under section 3C(1)(j) or section 6(e) of the Transit New Zealand Act 1989 immediately before the commencement of this section continue to have effect as if they were directions given under section 69(1)(p) or section 78(h), as the case may be.

Section 105 was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “as if they were directions given under section 69(1)(p) or section 78(h), as the case may be” for the words “as if they were directions given under clause 8 of Schedule 4”.

106 Superannuation of employees of Transfund or Transit

- (1) This section applies to every person who, immediately before the commencement of this section, was an employee of Transfund or Transit.
- (2) Nothing in this Act affects any entitlement under the Government Superannuation Fund Act 1956 of a person to whom this section applies.

107 Number of members on Transfund’s board

Until the close of 30 June 2004, it is sufficient compliance with section 72 if Transfund’s board is constituted in accordance with section 3A(2) of the Transit New Zealand Act 1989.

108 Regional land transport strategies

- (1) The amendments to the Land Transport Act 1998 that are made by section 90 (as set out in Schedule 6) do not affect the currency of regional land transport strategies that are in force immediately before the commencement of that section
- (2) However,—
 - (a) if a regional land transport strategy referred to in subsection (1) was last renewed more than 2 years before

- the commencement of section 90, steps to renew it must begin within 12 months after that commencement and the strategy must be renewed within 2 years after that commencement; and
- (b) in any other case, a regional land transport strategy referred to in subsection (1) must be renewed within 3 years after the commencement of section 90; and
 - (c) after its renewal in accordance with paragraph (a) or paragraph (b), a regional land transport strategy must be renewed in accordance with section 176(1)(b) of the Land Transport Act 1998.
- (3) Until they are renewed in accordance with section 176(1)(b) of the Land Transport Act 1998, regional land transport strategies referred to in subsection (1) continue to have effect in their existing form or renewed form (as the case may be).

109 Application of sections 48(1)(d)(i) and 58(2)(a)(i)

Nothing in section 48(1)(d)(i) or section 58(2)(a)(i) applies until—

- (a) the regional land transport strategy for the region in which the proposed new road is to be constructed has been renewed, after the commencement of section 90, in accordance with section 176(1)(b) of the Land Transport Act 1998; and
- (b) a national land transport programme has been prepared and adopted after that renewal of the regional land transport strategy.

110 Determinations under section 32(b) of Transit New Zealand Act 1989

Determinations in effect under section 32(b) of the Transit New Zealand Act 1989 immediately before the commencement of this section continue to have effect according to their tenor for the purposes of section 25(5).

111 Matters continued by this Part have effect until replaced or revoked under this Part

If any matter or thing is continued with a specified effect by the provisions of sections 92 to 110, the matter or thing continues

to have that effect until revoked or replaced under the relevant empowering enactment.

112 Transitional regulations

The Governor-General may from time to time, by Order in Council, make regulations—

- (a) prescribing transitional and savings provisions concerning the coming into force of this Act, which may be in addition to or in place of the transitional and savings provisions of this Part:
- (b) providing that, subject to such conditions as may be specified in the regulations, during a specified transitional period,—
 - (i) specified provisions of this Act (including definitions) do not apply:
 - (ii) specified terms have the meanings given to them by the regulations:
 - (iii) specified provisions repealed or amended or revoked by this Act are to continue to apply.

113 Expiry of section 112

Section 112 expires on the close of 1 July 2005.

Schedule 1

ss 12(2), 19(2)

Provisions relating to programmes

1

Contents of land transport programmes

1 Outstanding payments

- (1) List each approved activity and each activity class included in any earlier national land transport programme for which any payments due from the Authority are outstanding or any payments may become due, and the amount concerned.
- (2) If it is proposed that an approved activity or activity class, or output, be varied, suspended, or abandoned, give an explanation of the proposed action.

1—*continued*

Subclause (1) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by omitting the words “Transfund or”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subclause (1) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by omitting the words “, and approved safety administration outputs in any earlier safety administration programme,”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

2 Activities

- (1) List all activities and activity classes for which any payment is sought, in the current financial year, from the Authority in order of the priority that the organisation thinks should be given to those activities or activity classes.
- (2) For activities and activity classes, indicate their total cost, proposed starting date, and duration.
- (3) Indicate the options and alternatives (including demand management) considered for the activities and activity classes.
- (4) In the case of the Authority, include any activity or activity class to be delivered by the Commissioner.
- (5) In the case of an approved organisation, include any activity or activity classes that the approved organisation recommends for inclusion in the Authority’s land transport programme for the next financial year.

The heading to clause 2 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by omitting the words “and safety administration outputs”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subclause (1) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by omitting the words “Transfund or”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subclause (4) was substituted, as from 1 December 2004, by section 14(1) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subclause (5) was inserted, as from 1 December 2004, by section 14(1) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

1—*continued*

3 Expenditure funded by tolling revenue

- (1) Include expenditure to be funded from tolling revenue.
- (2) In the case of Transit, also include all significant expenditure (as indicated in its performance agreement) from sources other than the Authority.
- (3) In the case of ARTA, also include all significant expenditure from sources other than Transfund.

Subclause (2) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Subclause (3) was inserted, as from 1 December 2004, by section 45 Local Government (Auckland) Amendment Act 2004 (2004 No 57). See clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

4 Objectives of activities and how they contribute to purpose of Act

- (1) State the objective or objectives to be achieved by each activity and each activity class.
- (2) State how each activity or activity class contributes to the purpose of this Act.

5 Assessment of activities

Include an assessment of each activity and each activity class against section 12(3) and (5) and on any other basis that the Authority may, from time to time, require.

Clause 5 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by omitting the words “Transfund or”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

6 Consultation

Include a summary of the consultation carried out in the preparation of the land transport programme.

7 Steps for developing options and alternatives

Include the steps the organisation intends to take in developing land transport options and alternatives.

1—*continued***8 Long-term financial forecast**

Include a long-term financial forecast that contains a forecast of anticipated revenue and expenditure on activities for the current financial year and the 9 following financial years.

9 Policy directions

In the case of Transit and the Authority, include policy directions given under Part 3 of the Crown Entities Act 2004.

Clause 9 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by inserting the words “and the Authority” after the word “Transit”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Clause 9 was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “Part 3 of the Crown Entities Act 2004” for the words “clause 8 of Schedule 4”.

10 Form

A land transport programme must be in the form and contain the other details that the Authority may prescribe.

Clause 10 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by omitting the words “Transfund and”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Clause 10 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by omitting the words “jointly or separately”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

2

Contents of national land transport programme**11 Significant issues**

Identify any significant upcoming national land transport issues reasonably known by the Authority.

Clause 11 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

2—*continued*

12 Approved activities and activity classes

- (1) Include approved activities and activity classes.
- (1A) Include any activity or activity class to be delivered by the Commissioner.
- (2) Include activities that the Authority anticipates approving under section 20 in the next financial year.

Subclause (1A) was inserted, as from 1 December 2004, by section 14(2) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subclause (2) was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

13 Long-term financial forecast

Include a forecast of the Authority’s anticipated revenue and expenditure for the current financial year and the 9 following financial years.

Clause 13 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority’s” for the word “Transfund’s”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

14 Policy directions

Include relevant policy directions under Part 3 of the Crown Entities Act 2004.

Clause 14 was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “Part 3 of the Crown Entities Act 2004” for the words “clause 8 of Schedule 4”.

Schedule 2
Provisions relating to consultation under
this Act

ss 16, 17, 18

1

Consultation principles

1 Principles

Consultation must be undertaken in accordance with the following principles:

- (a) that persons who will or may be affected by, or have an interest in, the decision or matter should be provided by the approved organisation with reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons:
- (b) that persons who will or may be affected by, or have an interest in, the decision or matter should be encouraged by the approved organisation to present their views to the approved organisation:
- (c) that persons who are invited or encouraged to present their views to the approved organisation should be given clear information by the approved organisation concerning the purpose of the consultation and the scope of the decisions to be taken following the consideration of views presented:
- (d) that persons who wish to have their views on the decision or matter considered by the approved organisation should be provided by the approved organisation with a reasonable opportunity to present those views to the approved organisation in a manner and format that is appropriate to the preferences and needs of those persons:
- (e) that the views presented to the approved organisation should be received by the approved organisation with an open mind and should be given by the approved organisation, in making a decision, due consideration:
- (f) that persons who present views to the approved organisation should be provided by the approved organisation with information concerning both the relevant decisions and the reasons for those decisions.

1—*continued*

2 How principles are to be observed

The principles set out in clause 1 are to be observed by an approved organisation in such manner as the approved organisation considers, in its discretion, to be appropriate in any particular instance.

3 Matters to which approved organisation must have regard

An approved organisation must, in exercising its discretion under clause 2, have regard to—

- (a) the views and preferences of persons likely to be affected by, or to have an interest in, the matter; and
- (b) the principle that consideration must be given at—
 - (i) the stage at which the problems and objectives related to the matter are defined;
 - (ii) the stage at which the options that may be reasonably practicable options of achieving an objective are identified;
 - (iii) the stage at which reasonably practicable options are assessed and proposals developed;
 - (iv) the stage at which proposals of the kind described in subparagraph (iii) are adopted; and
- (c) the extent to which the current views and preferences of persons who will or may be affected by, or have an interest in, the decision or matter are known to the approved organisation; and
- (d) the nature and significance of the decision or matter, including its likely impact from the perspective of the persons who will or may be affected by, or have an interest in, the decision or matter; and
- (e) the provisions of Part 1 of the Local Government Official Information and Meetings Act 1987 (if the organisation is a local authority) or the provisions of the Official Information Act 1982 (in any other case); and
- (f) the costs and benefits of any consultation process or procedure.

1—*continued*

4 Relationship with consultation requirements of other enactments

If an approved organisation is authorised or required by this Act or any other enactment to undertake consultation in relation to any decision or matter and the procedure in respect of that consultation is prescribed by this Act or any other enactment, such of the provisions of the principles set out in clause 1 as are inconsistent with specific requirements of the procedure so prescribed are not to be observed by the approved organisation in respect of that consultation.

2

Special consultative procedure

5 Special consultative procedure

If this Act requires an approved organisation to use the special consultative procedure, that organisation must—

- (a) prepare—
 - (i) a draft land transport programme; and
 - (ii) a summary of the information contained in the draft land transport programme (which summary must comply with clause 6); and
- (b) include the draft land transport programme on the agenda for a meeting of the approved organisation; and
- (c) make the draft land transport programme available for public inspection at—
 - (i) the principal public office of the approved organisation; and
 - (ii) such other places as the approved organisation considers necessary in order to provide affected communities, land transport users and providers, Maori, and the public with reasonable access to that draft land transport programme; and
- (d) distribute in accordance with clause 6(1)(c) the summary of the information contained in the draft land transport programme; and
- (e) give public notice, and such other notice as the approved organisation considers appropriate, of the draft

2—continued

- land transport programme and the consultation being undertaken; and
- (f) include in the public notice a statement about how persons interested in the draft land transport programme—
 - (i) may obtain the summary of information about the proposal; and
 - (ii) may inspect the full draft land transport programme; and
 - (g) include in the public notice a statement of the period within which submissions on the draft land transport programme may be made to the approved organisation; and
 - (h) ensure that any person who makes a submission on the draft land transport programme within that period—
 - (i) is sent a written notice acknowledging receipt of that person's submission; and
 - (ii) is given a reasonable opportunity to be heard by the approved organisation (if that person so requests); and
 - (i) ensure that the notice given to a person under paragraph (h)(i) contains information—
 - (i) advising that person of that person's opportunity to be heard; and
 - (ii) explaining how that person may exercise that person's opportunity to be heard; and
 - (j) ensure that, except as otherwise provided by Part 7 of the Local Government Official Information and Meetings Act 1987 (if the approved organisation is a local authority), every meeting at which submissions are heard or at which the approved organisation deliberates on the proposal is open to the public; and
 - (k) subject to the Local Government Official Information and Meetings Act 1987 (if the approved organisation is a local authority) or the Official Information Act 1982 (in any other case), make all written submissions on the proposal available to the public.

*2—continued***6 Summary of information**

- (1) A summary of the information contained in a draft land transport programme must—
- (a) be a fair representation of the major matters in the draft land transport programme; and
 - (b) be in a form determined by the approved organisation; and
 - (c) be distributed as widely as reasonably practicable (in such manner as is determined appropriate by the approved organisation, having regard to the matter to which the draft land transport programme relates) as a basis for general consultation; and
 - (d) indicate where the draft land transport programme may be inspected, and how a copy may be obtained; and
 - (e) state the period within which submissions on the draft land transport programme may be made to the approved organisation.
- (2) This clause applies only in relation to approved organisations that are local authorities.

7 Period for making submissions

The period specified in the statement included under clause 5(g) must be a period of not less than 1 month beginning with the date of the first publication of the public notice.

8 Advice about draft and submissions

This Part does not prevent an approved organisation from requesting or considering, before making a decision, comment or advice from an officer of the organisation or any other person in respect of the draft land transport programme or any submission, or both.

Schedule 3
**Provisions relating to safety
administration programme**

s 28(2)

[Repealed]

Schedule 3 was repealed, as from 1 December 2004, by section 17(d) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Schedule 4
**Provisions relating to Authority and
Transit**

ss 73, 82

The heading to Schedule 4 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the word “Authority” for the word “Transfund”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

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1

**Key provisions about governance and
operation of each entity****Board members' role***[Repealed]*

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

1 Board members' role*[Repealed]*

Clause 1 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

2 Accountability of board members to responsible Minister*[Repealed]*

Clause 2 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Responsible Minister's role*[Repealed]*

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

3 Responsible Minister's role*[Repealed]*

Clause 3 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**4 Responsible Minister accountable to House of
Representatives***[Repealed]*

Clause 4 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Operation of entity—collective board duties*[Repealed]*

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

1—*continued*

5 Social and environmental responsibility

The entity's objectives include the entity's social and environmental responsibility for the purposes of section 49 of the Crown Entities Act 2004 (which relates to the collective board duty to act consistently with the entity's objectives).

Clause 5 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

6 Functions must be performed efficiently, effectively, and consistently with spirit of service to public

[Repealed]

Clause 6 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

7 Entity must operate in financially responsible manner

[Repealed]

Clause 7 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

8 Entity must comply with policy directions

[Repealed]

Clause 8 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

9 Independence

[Repealed]

Clause 9 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Further duties of board members

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

10 Duty to not contravene this Act

[Repealed]

Clause 10 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

1—*continued*

11 Duty to act in good faith and not at expense of entity's interests

[Repealed]

Clause 11 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

12 Duty to exercise reasonable care, diligence, and skill

[Repealed]

Clause 12 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

13 Use and disclosure of information

[Repealed]

Clause 13 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

14 Principles of good conduct for board members

[Repealed]

Clause 14 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Reliance on information and advice

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

15 When board members may rely on certain information and advice

[Repealed]

Clause 15 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Conflict of interest provisions

16 Meaning of interested

Section 66 of the Crown Entities Act 2004 does not apply to a person who is interested in a matter only because he or she is a member of the board of both the Authority and Transit.

1—*continued*

Clause 16 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Clause 16(1)(d) was to be amended, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3) by substituting the words “spouse, civil union partner, or de facto partner” for the words “or spouse”. However, that amendment appears to be redundant as the new clause 16 does not include the words “or spouse”, see above as to the substitution.

17 Obligation to disclose interest

[Repealed]

Clause 17 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

18 Method of disclosure of interest

[Repealed]

Clause 18 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

19 Consequences of interest

[Repealed]

Clause 19 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Delegation

20 Delegation to employees

(1)

(2)

(3) The board must not delegate any functions or powers delegated to the board or the entity by the Minister without the written consent of the Minister.

(4)

Subclauses (1), (2) and (4) were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

1—*continued***21 Delegation to persons outside entity***[Repealed]*

Clause 21 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

22 Effect of delegation*[Repealed]*

Clause 22 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Effect of non-compliance with board duties*[Repealed]*

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

23 Effect of non-compliance with board duties*[Repealed]*

Clause 23 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

2

Board members and employees**Appointment, removal, and conditions of membership of board***[Repealed]*

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

24 Method of appointment*[Repealed]*

Clause 24 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

25 Requirements before appointment*[Repealed]*

Clause 25 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

2—continued

26 Criteria for appointments

- (1) The responsible Minister must not appoint a board member unless he or she has consulted with the persons, representative groups within the land transport sector or elsewhere, government departments, and Crown entities that he or she considers appropriate.

(2)

Subclause (2) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

27 Qualifications of board members

(1)

(2)

(3)

Subclause (3) was substituted, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subclauses (1), (2) and (3) were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

28 Term of appointment

[Repealed]

Clause 28 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

29 Validity of acts

[Repealed]

Clause 29 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

30 Resignation

[Repealed]

Clause 30 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

2—continued

31 Removal from office

[Repealed]

Clause 31 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

32 No compensation for ceasing to hold office

[Repealed]

Clause 32 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

33 Board members ceasing to hold office

[Repealed]

Clause 33 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

34 Board members' remuneration and allowances

[Repealed]

Clause 34 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Employees

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

35 Entity must be good employer

[Repealed]

Clause 35 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

36 Employment of chief executive

[Repealed]

Clause 36 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

2—*continued*

37 Employment of other employees

[Repealed]

Clause 37 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

38 Review of appointments

[Repealed]

Clause 38 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Protections from liability of board members and employees

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

39 Protections for board members and employees from liabilities of entity

[Repealed]

Clause 39 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

40 Immunity of board members and employees from civil liability to third parties

[Repealed]

Clause 40 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

41 Indemnity for board members and employees for costs from civil and criminal proceedings

[Repealed]

Clause 41 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

42 Insurance for board members and employees

[Repealed]

Clause 42 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

2—*continued*

43 Definitions for protections from liability

[Repealed]

Clause 43 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

General

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

44 Board members and employees are officials

[Repealed]

Clause 44 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

45 Superannuation schemes

[Repealed]

Clause 45 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

46 Government service

- (1) Despite anything in this Act, a person who, immediately before becoming an employee of the entity, is a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, deemed to be employed in the Government service so long as that person continues to be an employee of the entity.
- (2) The Government Superannuation Fund Act 1956 applies to that person in all respects as if that person's service as an employee of the entity is Government service.

47 Persons who cease to be contributor to Government Superannuation Fund

Nothing in clause 46 entitles any person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

2—*continued*

48 References to controlling authority

For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with clause 46, to all employees of the entity who are contributors to the Government Superannuation Fund, controlling authority, in relation to those employees, means the board.

49 Application of Government Superannuation Fund Act 1956 to board members and employees

[Repealed]

Clause 49 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

3

Accountability and financial provisions

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

50 Funds

[Repealed]

Clause 50 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

51 Bank accounts

[Repealed]

Clause 51 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

52 Restrictions on investments

[Repealed]

Clause 52 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

3—*continued*

53 Restrictions on borrowing

[Repealed]

Clause 53 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

54 Auditor-General is auditor

[Repealed]

Clause 54 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

55 Official Information Act 1982 and Ombudsmen Act 1975 apply

[Repealed]

Clause 55 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

56 Further Public Finance Act 1989 provisions may apply

[Repealed]

Clause 56 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

57 Application of liquidation provisions of Judicature Act 1908

[Repealed]

Clause 57 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

58 Annual report

[Repealed]

Clause 58 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

4

Administration

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

4—*continued*

59 Method of contracting

[Repealed]

Clause 59 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

60 Attorneys

[Repealed]

Clause 60 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

61 Presumptions and saving of certain transactions

[Repealed]

Clause 61 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

5

Board procedure

Chairperson and deputy chairperson of board

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

62 Appointment

[Repealed]

Clause 62 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

63 Term of appointment

[Repealed]

Clause 63 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

64 Resignation

[Repealed]

Clause 64 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

5—*continued*

65 Removal

[Repealed]

Clause 65 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

66 Exercise of chairperson’s functions, duties, and powers during vacancy

[Repealed]

Clause 66 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Procedure of board

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

67 Procedure generally

[Repealed]

Clause 67 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

68 Notice of meetings

[Repealed]

Clause 68 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

69 Methods of holding meetings

[Repealed]

Clause 69 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

70 Quorum

[Repealed]

Clause 70 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

5—*continued*

71 Presiding at meetings

[Repealed]

Clause 71 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

72 Voting at meetings

[Repealed]

Clause 72 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

73 Unanimous written resolutions

[Repealed]

Clause 73 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Schedule 5

s 84

Matters to be included in statement of intent

The heading to Schedule 5 was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “statement of intent” for the words “performance agreement”.

1

Matters in relation to Authority

This heading was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the word “Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

1

The basis on which the Authority will prepare the national land transport programme.

Clause 1 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

1—*continued*

2

Any requirement to review or revise the national land transport programme and the basis on which that review or revision is to be carried out.

3

Any directions under section 69(1)(p) or section 78(h) or under Part 3 of the Crown Entities Act 2004

Clause 3 was substituted, as from 1 December 2004, by section 15 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Clause 3 was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “section 69(1)(p) or section 78(h) or under Part 3 of the Crown Entities Act 2004” for the words “clause 8 of Schedule 4”.

3A

The following matters:

- (a) the particular activity classes for which funds are to be provided by the Authority:
- (b) the level of funding for each of those activity classes:
- (c) the criteria for setting the proportion of funding to approved organisations for approved activities.

Clause 3A was inserted, as from 1 December 2004, by section 15 Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

4

The basis on which the Authority will approve procurement procedures under section 25.

Clause 4 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

5

Clause 5 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund” in both places it appears. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Clause 5 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

1—*continued*

6

Clause 6 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Clause 6 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

7

Clause 7 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Clause 7 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

8

The management and financial systems under which the Authority will undertake its functions.

Clause 8 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

9

Any borrowings, financial leases, or similar liabilities the Authority intends to incur during that financial year.

Clause 9 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

10

Clause 10 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Clause 10 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

11

A statement of the Authority’s best estimate that the following have for an integrated, safe, responsive, and sustainable land transport system:

1—*continued*

- (a) the various impacts of the outputs described in the statement of forecast service performance required under section 142(1)(b) of the Crown Entities Act 2004; and
- (b) the consequences of those outputs.

Clause 11 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority’s” for the word “Transfund’s”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Paragraph (a) was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

12

The maximum amount (level) of the Authority’s costs and expenses as approved under section 10(4)(b).

Clause 12 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority’s” for the word “Transfund’s”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Clause 12 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

12A

The maximum amount of funding for research, education, or training activities or activity classes as approved under section 21(1).

Clause 12A was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

13

Any steps that the Authority intends to take, having considered ways in which it might foster the development of Maori capacity to contribute to the Authority’s land transport decision making processes, over the period covered by the agreement.

Clause 13 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Clause 13 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority’s” for the word “Transfund’s”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

1—*continued*

14

How the Authority proposes to meet its obligations under section 68(2).

Clause 14 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Clause 14 was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words “and clause 7 of Schedule 4”.

15

Any other matters that the Authority and the Minister agree or the Minister requires.

Clause 15 was amended, as from 1 December 2004, by section 16 Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “the Authority” for the word “Transfund”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

2

Matters in relation to Transit

16

Clause 16 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

17

Clause 17 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

18

Any directions under section 69(1)(p) or section 78(h) or under Part 3 of the Crown Entities Act 2004, relating to either or both of the following:

- (a) activities and activity classes (including any directions relating to evaluation of those activities and activity classes):
- (b) the maximum amounts of those activities and activity classes.

Clause 18 was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “section 69(1)(p) or section 78(h) or under Part 3 of the Crown Entities Act 2004” for the words “clause 8 of Schedule 4”.

*2—continued***19**

Clause 19 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

20

The management and financial systems under which Transit will undertake its functions.

21

Any borrowings, financial leases, or similar liabilities Transit intends to incur during that financial year.

22

Clause 22 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

23

A statement of Transit's best estimate of the various impacts the outputs described in the statement of objectives will have, and the consequences of those outputs, for an integrated, safe, responsive, and sustainable State highway system.

24

Any steps that Transit intends to take, having considered ways in which it might foster the development of Maori capacity to contribute to Transit's land transport decision making processes, over the period covered by the agreement.

25

Any requirement to review or revise its land transport programme and the basis on which that review or revision is to be carried out.

26

How Transit proposes to meet its obligations under section 77(2).

Clause 26 was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words "and clause 7 of Schedule 4".

2—*continued*

27

Any other matters that Transit and the Minister agree or the Minister requires.

Schedule 6

s 90

Consequential amendments to other Acts

Christchurch-Lyttelton Road Tunnel Authority Dissolution Act 1978 (1978 No 51)

Repeal the definition of **Account** in section 2 and substitute:

“**Account** means the national land transport account kept under section 10 of the Land Transport Management Act 2003.”.

Repeal the definitions of **Board** and **Transit New Zealand** in section 2 and substitute:

“**Board** means the body corporate called Transit that is continued by section 75 of the Land Transport Management Act 2003

“**Transit** means the body corporate called Transit that is continued by section 75 of the Land Transport Management Act 2003”.

Omit from section 6(2) the words “to section 17 of the Transit New Zealand Act 1989” and substitute the words “with the prior approval of Transfund New Zealand”.

Goods and Services Tax Act 1985 (1985 No 141)

Repeal section 5(13A) and substitute:

“(13A) For the purposes of this Act, if a registered person receives any refund of excise duty or excise-equivalent duty paid out of the Crown Bank Account under section 41 of the Land Transport Management Act 2003, that refund is, to the extent that it relates to excise duty or excise-equivalent duty incurred for the principal purpose of making taxable supplies, deemed to be consideration received for a supply of services by that registered person in the course or furtherance of that person’s taxable activity.”

Land Transport Act 1998 (1998 No 110)

Repeal the definition of **Board** in section 2(1) and substitute:

“**Board** and **Transfund** mean the body corporate called Transfund that is continued by section 66 of the Land Transport Management Act 2003”.

Add to the definition of **enforcement authority**:

“(c) a public road controlling authority that is an enforcement authority for the purposes of an Order in Council made under section 46 of the Land Transport Management Act 2003, in relation to an infringement offence that is a toll offence.”.

Insert in the definition of **infringement offence** in section 2(1), after paragraph (c):

“(ca) a toll offence.”.

Add to the definition of **moving vehicle offence** in section 2(1) the word “; or” and also add:

“(d) a toll offence.”

Insert in section 2(1), after the definition of **territorial authority**:

“**toll** has the same meaning as in section 5 of the Land Transport Management Act 2003

“**toll offence** means an offence against section 54(1) of the Land Transport Management Act 2003.”.

Repeal the definition of **Transit New Zealand** in section 2(1) and substitute:

“**Transit** and **Transit New Zealand** mean the body corporate called Transit that is continued by section 75 of the Land Transport Management Act 2003.”.

Insert in section 113(1)(a), after the words “the Railway Safety and Corridor Management Act 1992,”, the words “the Land Transport Management Act 2003,”.

Insert in section 145(1), after the words “traffic control device,”, the words “the fact that a toll has not been paid in respect of the vehicle,”.

Insert in section 167(1), after paragraph (f):

“(fa) setting the infringement fee for a toll offence.”.

Insert in section 168(1)(a), after the words “the Transit New Zealand Act 1989,”, the words “the Land Transport Management Act 2003,”.

Repeal section 174 and substitute:

“174 Effect of national land transport strategy

- “(1) In exercising or performing their functions, duties, and powers, the Authority, Transfund, and Transit must ensure that they take into account any current national land transport strategy.
- “(2) The Commissioner must, except to the extent that his or her statutory functions or duties or common law obligations in any particular case otherwise require, ensure that in exercising or performing his or her functions, duties, and powers he or she takes into account any current national land transport strategy.
- “(3) The Secretary must ensure that the actions of the Ministry in relation to sections 28 and 34 of the Land Transport Management Act 2003 take into account any current national land transport strategy.”

Repeal section 175(2) and substitute:

- “(2) Every regional land transport strategy must—
- “(a) contribute to the overall aim of achieving an integrated, safe, responsive, and sustainable land transport system; and
 - “(b) take into account how the strategy—
 - “(i) assists economic development; and
 - “(ii) assists safety and personal security; and
 - “(iii) improves access and mobility; and
 - “(iv) protects and promotes public health; and
 - “(v) ensures environmental sustainability; and
 - “(c) take into account any national land transport strategy and National Energy Efficiency and Conservation Strategy; and
 - “(d) take into account the land transport funding likely to be available within the region during the period covered by the strategy; and
 - “(e) avoid, to the extent reasonable in the circumstances, adverse effects on the environment; and
 - “(f) take into account the views of affected communities; and
 - “(g) take into account the views of land transport network providers; and

- “(h) take into account the need for persons and organisations preparing regional land transport strategies to give early and full consideration to land transport options and alternatives in a way that contributes to the objectives referred to in paragraphs (e) and (f) when preparing a regional land transport strategy; and
- “(i) take into account the need to encourage persons and organisations preparing regional land transport strategies to provide early and full opportunities for persons and organisations listed in section 179(1) to contribute to the development of those regional land transport strategies; and
- “(j) identify an appropriate role for each land transport mode in the region, including freight traffic, public passenger transport, cycling, and pedestrian traffic; and
- “(k) include any regional passenger transport plan (within the meaning of section 47 of the Transport Services Licensing Act 1989) that has been prepared by the regional council that has prepared the strategy; and
- “(l) identify land transport outcomes sought by the region and the strategic options for achieving those outcomes; and
- “(m) identify any strategic options for which co-operation is required with other regions; and
- “(n) identify persons or organisations who should be involved in the further development of strategic options; and
- “(o) include a demand management strategy that has targets and timetables appropriate for the region; and
- “(p) provide for the strategy to be independently audited; and
- “(q) take into account any guidelines issued by the Minister for the purposes of this section.”

Repeal section 176(1) and substitute:

- “(1) A regional land transport strategy prepared under section 175—
 - “(a) must, at all times, be kept current for a period of not less than 3 years in advance but not more than 10 years; and

“(b) may be renewed from time to time, but must be renewed at least once every 3 years.”

Repeal section 176(3) and substitute:

“(3) In reviewing its regional land transport strategy, a regional council must take into account any current national land transport strategy.”

Repeal section 178(2) and substitute:

“(2) Each regional land transport committee consists of suitable persons appointed by the relevant regional council to represent—

“(a) the objectives of economic development, safety and personal security, public health, access and mobility, and environmental sustainability; and

“(b) cultural interests; and

“(c) the council; and

“(d) other territorial authorities in the region; and

“(e) the Authority; and

“(f) Transfund.”

Omit from section 178(3) the words “and the regional programme prepared under section 42F of the Transit New Zealand Act 1989”.

Repeal section 179 and substitute:

“179 Consultation requirements for preparation of regional land transport strategies

“(1) When preparing a regional land transport strategy, a regional council must consult—

“(a) Transfund; and

“(b) Transit; and

“(c) the Authority; and

“(d) the Commissioner; and

“(e) the territorial authorities in the region; and

“(f) the adjoining regional councils and territorial authorities; and

“(g) the Historic Places Trust of New Zealand; and

“(h) land transport users and providers; and

“(i) the public in the region; and

“(j) the district health boards in the region; and

- “(k) every affected approved public organisation in the region; and
 - “(l) affected communities; and
 - “(m) Maori of the region; and
 - “(n) the Accident Compensation Corporation.
- “(2) In carrying out the consultation required by subsection (1), a regional council must use the special consultative procedure under section 83 of the Local Government Act 2002.
- “(3) Section 83 of the Local Government Act 2002 applies for the purposes of this section with the necessary modifications.
- “(4) A regional council need not consult any organisation or person referred to in subsection (1) about any matter if it has already consulted that organisation or person about the matter in the course of preparing its current long-term council community plan in accordance with the Local Government Act 2002.
- “(5) A regional council that is preparing a regional land transport strategy may require from any territorial authority within its region such information as the council considers it requires in order to properly perform its functions under this Act in relation to that strategy, and the territorial authority must promptly comply with that requirement.”

Repeal section 181 and substitute:

“181 Effect of regional land transport strategies

- “(1) In exercising or performing their functions, duties, and powers, the Authority, Transfund, and Transit must ensure that they take into account any current regional land transport strategies.
- “(2) The Commissioner must, except to the extent that his or her statutory functions or duties or common law obligations in any particular case otherwise require, ensure that in exercising or performing his or her functions, duties, and powers he or she takes into account any current regional land transport strategies.
- “(3) The Secretary must ensure that the actions of the Ministry in relation to sections 28 to 34 of the Land Transport Management Act 2003 take into account any current regional land transport strategies.”

Insert in section 183(1), after the words “the Transit New Zealand Act 1989”, the words “and the Land Transport Management Act 2003”.

Omit from section 190(1)(h) the words “Transit New Zealand Act 1989” and substitute the words “Land Transport Management Act 2003”.

Insert in section 208(1), after the words “this Act”, the words “or Part 2 of the Land Transport Management Act 2003”.

Add to section 223(1)(a)(ii) the words “or Part 2 of the Land Transport Management Act 2003”.

Local Government Act 1974 (1974 No 66)

Repeal Part 34B.

Repeal the definitions of **land transport**, **passenger service**, and **passenger transport operation** in section 707ZZI and substitute:

“**land transport** has the same meaning as in section 5 of the Land Transport Management Act 2003

“**passenger service** means a public transport service as defined in section 5 of the Land Transport Management Act 2003

“**passenger transport operation**—

- “(a) means any activity of any description carried on to provide any service for the carriage for reward of persons by any means, including activities incidental to or connected with the service or capable of being conveniently carried on in association with any such activities; but
- “(b) does not include any agreement entered into by a local authority for the provision of a passenger service by some other person.”.

Omit from section 707ZZK(5) the words “Notwithstanding the provisions of sections 594R(2) and 594ZS”.

New Zealand Railways Corporation Act 1981 (1981 No 119)

Omit from section 119A the words “or the Land Transport Act 1998,” and substitute the words “the Land Transport Act 1998, or the Land Transport Management Act 2003,”.

Privacy Act 1993 (1993 No 28)

Add to the third column of the item in Schedule 5 relating to the motor vehicles register that appears under the heading “Ministry of Transport Records”:

“An enforcement authority under the Land Transport Management Act 2003.”

Public Works Act 1981 (1981 No 35)

Repeal the definition of **Transit New Zealand** in section 2 and substitute:

“**Transit New Zealand** means the body corporate called Transit New Zealand that is continued by section 75 of the Land Transport Management Act 2003.”

Road User Charges Act 1977 (1977 No 124)

Repeal section 22(1) and substitute:

“(1) All road user charges, additional charges under section 21A of this Act, assessments under section 18C or section 18D of this Act, and other amounts received under this Act must, subject to section 9(3) of the Land Transport Management Act 2003, be paid into the Crown Bank Account and are land transport revenue within the meaning of section 6 of that Act.”

Transit New Zealand Act 1989 (1989 No 75)

Repeal the definitions of **administration**, **approved**, and **approved safety (administration) programme** in section 2(1).

Repeal the definitions of **Authority** and **Board** in section 2(1) and substitute:

“**Authority** means the body corporate called Transit New Zealand that is continued by section 75 of the Land Transport Management Act 2003

“**Board** means the body corporate called Transfund New Zealand that is continued by section 66 of the Land Transport Management Act 2003.”

Repeal the definitions of **capital project**, **competitive pricing procedure**, **district roading programme**, **employee of the Board**, and **fees and charges** in section 2(1).

Repeal the definition of land transport in section 2(1) and substitute: “**land transport** has the same meaning as in section 5 of the Land Transport Management Act 2003”

Repeal the definitions of **national roading programme**, **National Roads Account or Account**, **outputs**, **passenger service**, **passenger transport company**, **passenger transport operation**, **performance agreement**, **planning, design, and supervision**, **regional programme**, **registered service**, **safety (administration)**, **safety (administration) programme**, **State Highways Account**, and **State highways programme** in section 2(1).

Repeal section 2(3).

Repeal Parts 1A, 1, 2, and 3 and substitute:

**“Part 1
“Transfund and Transit**

“Overview

“4 Overview

In general terms, the scheme of the relevant legislation is as follows:

- “(a) this Act deals with the roading powers of Transit:
- “(b) Part 2 of the Land Transport Management Act 2003 deals with land transport funding:
- “(c) Part 3 of the Land Transport Management Act 2003 deals with governance matters relating to Transfund and Transit.

“Governance

“5 Transfund

Transfund New Zealand is the body corporate continued by section 66 of the Land Transport Management Act 2003.

“6 Transit

Transit New Zealand is the body corporate continued by section 75 of the Land Transport Management Act 2003.

Part 1—*continued***“7 Functions, duties, and powers**

Transfund and Transit each has the functions, duties, and powers conferred or imposed on them by the Land Transport Management Act 2003, this Act, and any other enactment.

*“Land transport funding***“8 Funding system**

Transfund funds land transport activities in accordance with Part 2 of the Land Transport Management Act 2003”

Repeal section 60(4) and substitute:

“(4) A declaration under subsection (1) that affects or is likely to affect Maori land, land registered in the name of Pootatau Te Wherowhero under section 19 of the Waikato Raupatu Claims Settlement Act 1995, land subject to any other Maori claims settlement Act, or Maori historical, cultural, or spiritual interests, may not be made or revoked unless Transit has consulted,—

“(a) in the case of land registered in the name of Pootatau Te Wherowhero or interests relating to that land, the land holding trustee (as defined in section 7 of the Waikato Raupatu Claims Settlement Act 1995):

“(b) if any other Maori claims settlement Act requires consultation about the declaration or revocation, in accordance with that Act:

“(c) in any other case, every iwi or hapu that in the opinion of Transit will or may be affected by the declaration or revocation.

“(4A) Transit must be satisfied after that consultation that the declaration should be made.”

Repeal section 71(3) and substitute:

“(3) No request may be made under subsection (1) that affects or is likely to affect Maori land, land registered in the name of Pootatau Te Wherowhero under section 19 of the Waikato Raupatu Claims Settlement Act 1995, land subject to any other Maori claims settlement Act, or Maori historical, cultural, or spiritual interests, unless Transit has consulted,—

“(a) in the case of land registered in the name of Pootatau Te Wherowhero or interests relating to that land, the land holding trustee (as defined in section 7 of the Waikato Raupatu Claims Settlement Act 1995):

“(b) if any other Maori claims settlement Act requires consultation about the request, in accordance with that Act:

“(c) in any other case, every iwi or hapu that, in the opinion of Transit, will or may be affected by the request.

“(3A) Transit must be satisfied after such consultation that the request should be made.”

Repeal section 104A.

Repeal Schedules 1A and 1B, and Schedule 1.

Transport Act 1962 (1962 No 135)

Repeal the definition of Transit New Zealand in section 2(1) and substitute:

“**Transit** means the body corporate called Transit that is continued by section 75 of the Land Transport Management Act 2003.”

Transport Services Licensing Act 1989 (1989 No 74)

Repeal the definition of **Transit New Zealand** in section 2(1) and substitute:

“**Transit** means the body corporate called Transit that is continued by section 75 of the Land Transport Management Act 2003.”

Omit from section 22(2) the words “and having regard to the requirements of section 594ZZI of the Local Government Act 1974.”

Legislative history

3 December 2002	Introduction (Bill 19-1)
10 December 2002	First reading and referral to Transport and Industrial Relations Committee
13 October 2003	Reported from Transport and Industrial Relations Committee (Bill 19-2)
21 October 2003	Second reading
4, 5 November 2003	Committee of the whole House (Bill 19-3)
6 November 2003	Third reading
