

Reprint  
as at 1 October 2017



## Land Transport Management Act 2003

Public Act 2003 No 118  
Date of assent 12 November 2003  
Commencement see section 2

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Transport.**

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## 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.

Section 2(1): sections 40–44, 92, and 103(1) and (2) brought into force, on 9 September 2004, by the Land Transport Management Act Commencement Order 2004 (SR 2004/237).

#### 3 Purpose

The purpose of this Act is to contribute to an effective, efficient, and safe land transport system in the public interest.

Section 3: replaced, on 13 June 2013, by section 4 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### 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 Māori to contribute to land transport decision-making processes, sections 18, 18A, 18G, 18H, and 100(1)(f) provide principles and requirements that are intended to facilitate participation by Māori in land transport decision-making processes.

Section 4: substituted, on 1 August 2008, by section 5 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 4: amended, on 13 June 2013, by section 5 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### 5 Interpretation

- (1) In this Act, unless the context otherwise requires,—

**activity**—

- (a) means a land transport output or capital project; and
- (b) includes any combination of activities

**activity class** means a grouping of similar activities

**administration** means the activities or components of activities that in the opinion of the Agency are, or reasonably ought to be, provided in administering the delivery of land transport-related activities

**Agency** means the New Zealand Transport Agency established under section 93

**approved activity** means an activity approved under section 20

**approved organisation** means—

- (a) *[Repealed]*
- (b) a regional council;
- (c) a territorial authority;
- (d) an approved public organisation

**approved public organisation** means a public organisation approved under section 23

**Auckland** has the same meaning as in section 4(1) of the Local Government (Auckland Council) Act 2009

**Auckland Council** means the governing body of the Auckland Council

**Auckland Transport** means the entity established under section 38 of the Local Government (Auckland Council) Act 2009

**bus service** means a service—

- (a) for the carriage of passengers for hire or reward by means of—
  - (i) a large passenger service vehicle; or
  - (ii) a small passenger service vehicle; and
- (b) that is neither—
  - (i) an excluded passenger service; nor
  - (ii) a shuttle service

**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

**combination of activities** means 2 or more activities from—

- (a) the same activity class;
- (b) 2 or more activity classes

**commercial public transport service**—

- (a) means a public transport service that is not supplied under contract with the regional council; and

- (b) includes, to the extent that the regional council has not contracted for the supply of only a part of the service, only that part

**Commissioner** means the Commissioner of Police

**company** has the same meaning as in section 2(1) of the Companies Act 1993

**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

**event** includes a sporting, cultural, religious, or entertainment event, conference, meeting, convention, or exhibition

**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

**excluded passenger service** means a service for the carriage of passengers for hire or reward, and that—

- (a) is contracted or funded by the Ministry of Education for the sole or primary purpose of transporting school children to and from school; or
- (b) is not available to the public generally, and is operated for the sole or primary purpose of transporting to or from a predetermined event all the passengers carried by the service; or
- (c) is not available to the public generally, and is operated for the sole or primary purpose of tourism; or
- (d) does not fall within any of paragraphs (a) to (c), and is not operated to a schedule

**exempt service** means a public transport service that is exempt under section 130(2) or treated as exempt under section 153(2)

**financial year** means a period of 12 months beginning on 1 July and ending on 30 June

**GPS on land transport** means the government policy statement on land transport issued under section 66; and includes any amendments made to the statement under section 90

**impact** means the contribution made to an objective or outcome, including by a specified activity class or activity classes

**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 disbursement account** means an account kept under section 24

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

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

**large passenger service vehicle** has the same meaning as in section 2(1) of the Land Transport Act 1998

**listed company** means a company whose shares are quoted on an official list of a recognised exchange

**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

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

**Māori 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 Māori 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

**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 Agency to be minor and ancillary roading works; but
- (b) does not include in-house professional services or works associated with a State highway

**motor spirits** does not include aviation spirits of a kind specified in the Excise and Excise-equivalent Duties Table (as defined in section 76A 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 energy efficiency and conservation strategy** means a strategy issued under the Energy Efficiency and Conservation Act 2000

**national land transport fund** or **fund** means the fund established under section 10

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

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

**notify** means to notify in writing or electronically; and **notification** has a corresponding meaning

**outcome** has the same meaning as in section 2 of the Public Finance Act 1989

**outputs** means goods or services

**passenger service** has the same meaning as in section 2(1) of the Land Transport Act 1998

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

**Police** means the Police of New Zealand within the meaning of the Policing Act 2008

**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:
- (cb) a company named in Schedule 4A 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 road controlling authority**, in relation to a concession road or a toll road, means the following persons, regardless of whether any other person is also a controlling authority for the road:

- (a) the Agency; or
- (b) a territorial authority; or
- (c) Auckland Transport

**public transport service**—

- (a) means, subject to paragraph (b), a service for the carriage of passengers for hire or reward by means of—
  - (i) a large passenger service vehicle; or
  - (ii) a small passenger service vehicle; or
  - (iii) a ferry; or
  - (iv) a hovercraft; or
  - (v) a rail vehicle; or
  - (vi) any other mode of transport (other than air transport) that is available to the public generally; but
- (b) in relation to Part 5, does not include—
  - (i) an excluded passenger service; or
  - (ii) a shuttle service

**rail vehicle** has the same meaning as in section 4(1) of the Railways Act 2005

**railway line access provider** means a person who controls the use of a railway line by rail operators (including that person if it is also a rail operator), whether or not that person engages rail personnel to exercise or assist in exercising that control on its behalf; but does not include those rail personnel

**regional council**—

- (a) means a regional council within the meaning of section 5(1) of the Local Government Act 2002; but
- (b) when used in—

- (i) Parts 2 and 4, includes a unitary authority except the Auckland Council:
- (ii) Part 3, includes a unitary authority:
- (iii) Part 5, includes Auckland Transport, a unitary authority except the Auckland Council, and any territorial authority to which the regional council has transferred the functions, powers, and duties of a regional council under that Part

**regional land transport plan** means a regional land transport plan prepared under Part 2, as from time to time amended or varied

**regional public transport plan** means a regional public transport plan adopted under section 119, as from time to time varied or renewed

**regional transport committee** means—

- (a) a regional transport committee established under section 105; or
- (b) in the case of Auckland,—
  - (i) the governing body of Auckland Transport; or
  - (ii) a joint regional transport committee that includes Auckland Transport as a member

**road**—

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

**road controlling authority**,—

- (a) in relation to a road, means the Minister, department of State, Crown entity, State enterprise, or territorial authority that controls the road; but
- (b) in relation to a road within Auckland that is controlled by Auckland Transport, means Auckland Transport

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

**Route K** has the same meaning as in section 3 of the Tauranga District Council (Route K Toll) Empowering Act 2000 (despite the repeal of that Act or any subsequent renaming of the road)

**Secretary** means the chief executive of the Ministry

**service** includes an operation carried out on 1 occasion only

**shuttle** means a motor vehicle that—

- (a) is a small passenger vehicle that was originally designed to carry at least 8 persons but not more than 12 persons (including the driver); and

- (b) is used for hire or reward for the carriage of passengers who must begin or end their journey at an airport, a bus or ferry terminal, or a railway station

**shuttle service** means a passenger service carried on by means of a shuttle or shuttles

**small passenger service vehicle** has the same meaning as in section 2(1) of the Land Transport Act 1998

**State highway** means a road, whether or not constructed or vested in the Crown, that is declared to be a State highway under section 11 of the National Roads Act 1953, section 60 of the Government Roading Powers Act 1989 (formerly known as the Transit New Zealand Act 1989), or under section 103; and includes—

- (a) all land along or contiguous with its route that is the road; and
- (b) any part of an intersection that is within the route of the State highway; and
- (c) for the purposes of regional land transport plans, the national land transport programme, and any expenditures approved under section 20 by the Agency, a proposed State highway; and
- (d) land that becomes a State highway under section 88(2) of the Government Roading Powers Act 1989

**statutorily independent function** means,—

- (a) in the case of the Agency, a function specified in section 95(2):
- (b) a matter in respect of which this Act provides must be carried out independently

**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 payment point** means the point at which a vehicle enters a tolling area of a road described in an Order in Council made under section 46 or 48A as a road that may be tolled

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

**traffic management**, in relation to a public transport service, includes—

- (a) the capacity of transport infrastructure to accommodate the vehicles or other modes of transport operated as part of the service; and

- (b) the compatibility of the transport infrastructure intended to support the service with vehicles or other modes of transport operated as part of the service

**transport-disadvantaged** means people who the regional council has reasonable grounds to believe are the least able to travel to basic community activities and services (for example, work, education, health care, welfare, and shopping)

**unit** means a public transport service, or group of public transport services,—

- (a) that a regional council identifies as integral to the region's public transport network; and
- (b) that operates, or will operate, on the entire length of 1 or more routes specified in the regional council's regional public transport plan; and
- (c) that includes all of the public transport services operating to a timetable that applies to the entire route or routes specified for the unit

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

**working day** has the same meaning as in section 5(1) of the Local Government Act 2002.

- (2) Every reference in this Act to a road or a State highway, unless the context otherwise requires, includes the land on which the road or State highway exists, and also includes all bridges, culverts, ferries, fords, signs, signals, barriers, or other structures forming or intended by the territorial authority or the Agency to form part of the road, State highway, or land.
- (3) For the purposes of performing any function or exercising any power or carrying out any duty in relation to construction, maintenance, financial assistance, or control under this Act, the Agency may from time to time determine, either generally or in relation to any specified road or to any portion or side of any specified road, what part of a road is a carriageway, footway, water table, drain, dividing strip, traffic island, safety zone, plantation, verge, shoulder, parking space, curb, channel, or other thing, and every such determination of the Agency is final but may at any time be amended or revoked by the Agency.
- (4) A determination by the Agency for the purposes of subsection (3) in relation to any road or portion of a road may be made by express resolution of the Agency or by way of approval by the Agency of a plan that delineates the several parts of the road or portion of the road.
- (5) All references to a main highway in any other Act, or in any regulation, rule, bylaw, order, or other enactment, or in any contract, agreement, deed, instrument, application, licence, notice, declaration, or other document are, unless inconsistent with the context or with the provisions of this Act or the Government Roding Powers Act 1989, to be read as references to a State highway.
- (6) All references to a regional land transport programme in any other Act, or in any regulation, rule, bylaw, order, or other enactment, or in any contract, agree-

ment, deed, instrument, application, licence, notice, declaration, or other document are, unless inconsistent with the context or with the provisions of this Act, to be read as references to a regional land transport plan.

Section 5(1) **activity**: replaced, on 13 June 2013, by section 6(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **activity class**: substituted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **administration**: amended, on 1 August 2008, by section 6(5) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **administration**: amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **affected community**: repealed, on 13 June 2013, by section 6(11) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **Agency**: inserted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **approved organisation** paragraph (a): repealed, on 1 August 2008, by section 6(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **approved safety administration programme**: repealed, on 1 December 2004, by section 3(1) of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **ARTA**: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(1) **Auckland**: inserted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(1) **Auckland Council**: replaced, on 13 June 2013, by section 6(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **Auckland local authority**: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(1) **Auckland Region**: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(1) **Auckland Regional Council**: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(1) **Auckland territorial authority**: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(1) **Auckland Transport**: inserted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(1) **Authority**: repealed, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **board**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **board member**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **bus service**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **collecting body**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **combination of activities**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **commercial public transport service**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **company**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **concession agreement**: repealed, on 13 June 2013, by section 6(11) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **concession road**: repealed, on 13 June 2013, by section 6(11) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **concessionaire**: repealed, on 13 June 2013, by section 6(11) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **entity**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **event**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **excluded passenger service**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **exempt service**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **fees and charges**: repealed, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 5(1) **financial year**: substituted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **GPS**: repealed, on 13 June 2013, by section 6(11) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **GPS on land transport**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **impact**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **interested**: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(1) **land transport**: substituted, on 1 December 2004, by section 3(2) of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **land transport programme**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **large passenger service vehicle**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **listed company**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **Minister or responsible Minister**: substituted, on 1 December 2004, by section 3 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **minor and ancillary works** paragraph (a): amended, on 1 August 2008, by section 6(6) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **minor and ancillary works**: amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **motor spirits**: substituted, on 1 January 2010, by section 11(4) of the Customs and Excise Amendment Act 2009 (2009 No 61).

Section 5(1) **national energy efficiency and conservation strategy**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **national land transport account**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **national land transport fund** or **fund**: substituted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **national land transport programme**: amended, on 13 June 2013, by section 6(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **national land transport strategy**: repealed, on 13 June 2013, by section 6(11) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **notify**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **outcome**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **passenger service**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **performance agreement**: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(1) **Police**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **Police**: amended, on 1 October 2008, pursuant to section 130(4) of the Policing Act 2008 (2008 No 72).

Section 5(1) **public organisation** paragraph (c): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(1) **public organisation** paragraph (ca): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(1) **public organisation** paragraph (cb): inserted, on 18 July 2013, by section 57 of the Public Finance Amendment Act 2013 (2013 No 50).

Section 5(1) **public road controlling authority**: substituted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(1) **public transport service**: replaced, on 13 June 2013, by section 6(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **rail vehicle**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **railway line access provider**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **regional council**: replaced, on 13 June 2013, by section 6(6) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **regional land transport committee**: repealed, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **regional land transport plan**: inserted, on 13 June 2013, by section 6(7) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **regional land transport programme**: repealed, on 13 June 2013, by section 6(7) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **regional land transport strategy**: repealed, on 13 June 2013, by section 6(11) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **regional public transport plan**: replaced, on 13 June 2013, by section 6(8) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **regional transport committee**: replaced, on 13 June 2013, by section 6(9) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **registered owner**: repealed, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 5(1) **registered service**: repealed, on 13 June 2013, by section 6(11) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **road**: replaced, on 13 June 2013, by section 6(10) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **road controlling authority**: substituted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(1) **Route K**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **safety administration**: repealed, on 1 December 2004, by section 3(1) of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **safety administration programme**: repealed, on 1 December 2004, by section 3(1) of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **service**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **shuttle**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **shuttle service**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **small passenger service vehicle**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **State highway**: substituted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **State highway** paragraph (c): amended, on 13 June 2013, by section 6(12) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **State highway** paragraph (c): amended, on 13 June 2013, by section 6(13) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **State highway** paragraph (d): inserted, on 13 June 2013, by section 6(14) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **statutorily independent function** paragraph (a): amended, on 1 August 2008, by section 6(9)(a) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **statutorily independent function** paragraph (a): amended, on 1 August 2008, by section 6(9)(b) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **statutorily independent function** paragraph (a): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **statutorily independent function** paragraph (b): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(1) **taxi service**: repealed, on 1 October 2017, by section 110(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 5(1) **toll payment point**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **traffic management**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **Transfund**: repealed, on 1 December 2004, by section 3(1) of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **Transit**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **transport-disadvantaged**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **unit**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(1) **unitary authority**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **working day**: inserted, on 13 June 2013, by section 6(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 5(2): added, on 1 August 2008, by section 6(10) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(3): added, on 1 August 2008, by section 6(10) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(4): added, on 1 August 2008, by section 6(10) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(5): added, on 1 August 2008, by section 6(10) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(6): inserted, on 13 June 2013, by section 6(15) of the Land Transport Management Amendment Act 2013 (2013 No 35).

## 6 Meaning of land transport revenue

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

- (a) all road user charges (excluding applicable refunds, and goods and services tax payable under the Goods and Services Tax Act 1985) calculated in accordance with regulations made under section 85 of the Road User Charges Act 2012 and any assessments for unpaid road user charges under Part 3 of that Act;
- (b) all excise duty and excise-equivalent duty on motor spirits, compressed natural gas, or liquefied petroleum gas under the Customs and Excise Act 1996 (excluding applicable refunds or drawbacks of duties, and goods and services tax payable under the Goods and Services Tax Act 1985);
- (c) all fees and charges (excluding applicable refunds, and goods and services tax payable under the Goods and Services Tax Act 1985) identified, in regulations made for the purposes of Part 1 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 or Part 17 of the Land Transport Act 1998, as land transport revenue for the purposes of this Act;
- (d) the amount of interest, calculated according to a formula determined by the Minister and the Minister of Finance, earned from the investment of cash held by the Crown from the revenues referred to in paragraphs (a) to (c);
- (e) all other public money that is required by any enactment to be treated as land transport revenue for the purposes of this Act.

Section 6: substituted, on 1 August 2008, by section 7 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 6(a): amended, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

Section 6(c): amended, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

## **7 Act binds the Crown**

This Act binds the Crown.

### **7A Application of Act to Chatham Islands**

- (1) Except as expressly provided in this Act, this Act applies to the Chatham Islands as if the Chatham Islands Council were a unitary authority.
- (2) Sections 13 to 18H (which relate to regional land transport plans) apply with the necessary modifications to the Chatham Islands Council as if that council were a unitary authority to which paragraph (b)(i) of the definition of regional council in section 5(1) applies, except that the Chatham Islands Council, rather than a regional transport committee, prepares and consults on a regional land transport plan for the Chatham Islands.
- (3) *[Repealed]*
- (4) Nothing in sections 105 to 107 (which relate to regional transport committees) applies to the Chatham Islands Council.

Section 7A: inserted, on 1 August 2008, by section 8 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 7A(2): replaced, on 13 June 2013, by section 7(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 7A(3): repealed, on 13 June 2013, by section 7(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **Part 2**

### **Planning and funding of land transport system**

Part 2 heading: amended, on 1 August 2008, by section 9 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **Subpart 1—Planning and funding system**

Subpart 1 heading: amended, on 1 August 2008, by section 10 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### *National land transport fund*

## **8 National land transport fund**

*[Repealed]*

Section 8: repealed, on 1 August 2008, by section 11 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **9 The Crown's authority to incur certain land transport expenses and capital expenditure**

- (1) In accordance with any regulations made under section 109(b)(i), the Crown may, without further appropriation than this subsection, incur expenses or capital expenditure in a financial year up to an amount agreed by the responsible Minister and the Minister of Finance that is not more than the excise duty and excise-equivalent duty estimated to have been paid by users of pleasure craft (within the meaning of section 2(1) of the Maritime Transport Act 1994) in that financial year, for the following activities and services:
  - (a) search and rescue activities, whether in relation to pleasure craft or otherwise; and
  - (b) recreational boating safety and safety awareness; and
  - (c) maritime safety services that benefit the users of pleasure craft; and
  - (d) administration by the Secretary in relation to the activities and services described in paragraphs (a) to (c).
- (2) The Crown may utilise land transport revenue to fund—
  - (a) Police activities or combinations of Police activities up to the amount approved by the responsible Minister under section 18L;
  - (b) activities carried out by the Ministry or the Agency that are related to the protection of the land transport revenue base and the maintenance of the integrity of the revenue system (up to the amount approved by the responsible Minister and the Minister of Finance), including—
    - (i) the management of—
      - (A) fuel excise duty refunds under section 41 of this Act;
      - (B) road user charges refunds under sections 30 to 33 of the Road User Charges Act 2012;
    - (ii) the assessment of unpaid road user charges under Part 3 of the Road User Charges Act 2012 (including administrative and legal work associated with the independent review of, and appeal against, assessments of unpaid road user charges);
    - (iii) forecasting of land transport revenue;
    - (iv) land transport revenue-related strategy and policy activities;
    - (v) monitoring the performance of the land transport revenue system.
- (3) The Crown may, without further appropriation than this subsection, incur expenses or capital expenditure up to an amount equal to the land transport revenue for that financial year less the amounts for the year that are referred to in subsections (1) and (2) for—
  - (a) activities and combinations of activities approved under section 20; and

- (b) expenses resulting from, and repayment of, any borrowing in accordance with section 10(1)(b).
- (4) The Crown may, without further appropriation than this subsection, incur expenses or capital expenditure in any financial year up to any positive amount calculated under subsection (5) for—
  - (a) activities and combinations of activities approved under section 20; and
  - (b) expenses resulting from, and repayment of, any borrowing in accordance with section 10(1)(b).
- (5) The amount referred to in subsection (4) is to be calculated in accordance with the following formula:

$$a - b = c$$

where—

- a is land transport revenue from any previous financial years; and
- b is the expenses and capital expenditure incurred under subsections (1), (2), (3), and (4) for those previous financial years; and
- c is the calculated amount.

Section 9: substituted, on 1 August 2008, by section 12 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 9(2): replaced, on 13 June 2013, by section 8 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### *National land transport account*

*[Repealed]*

Heading: repealed, on 1 August 2008, by section 13 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **10 National land transport fund**

- (1) The national land transport fund is the cumulative balance of—
  - (a) the inflows specified in subsection (2), less any expenses and capital expenditure and repayment items of the type outlined in subsection (3) that have been accrued at any point in time; and
  - (b) the proceeds of any borrowing undertaken for the purpose of managing the national land transport programme, including (but not limited to) its cashflow, by—
    - (i) the Agency, in accordance with section 162 of the Crown Entities Act 2004; or
    - (ii) the Crown, in accordance with subpart 1 of Part 6 of the Public Finance Act 1989.
- (2) The inflows of the national land transport fund are—

- (a) land transport revenue, less any expenses or capital expenditure incurred under section 9(1):
  - (b) any revenue received by the Agency for the management of Crown land, including leases and licences:
  - (ba) any toll revenue collected in respect of a road tolling scheme if—
    - (i) the Minister has approved that toll revenue inflow in writing; and
    - (ii) the activities to be funded by that toll revenue inflow are specified, in accordance with section 46(3)(g), in an Order in Council made under section 46(1)(a):
  - (c) any proceeds from the sale of land held or acquired for the purposes of a State highway or any proposed State highway:
  - (d) any interest earned by the Agency from the investment of cash from the moneys referred to in paragraphs (a) to (c):
  - (e) any other public money provided to meet expenses or capital expenditure, incurred or to be incurred in accordance with an appropriation or other authority by or under an Act in respect of approved activities or combinations of activities of a type described in subsection (3).
- (3) The national land transport fund must be used to pay for—
- (a) Police activities or combinations of Police activities approved under section 18L:
  - (b) activities or combinations of activities (including those relating to State highways) approved under section 20 for which the Agency is responsible for delivery or managing delivery:
  - (c) regional councils' activities or combinations of activities approved under section 20:
  - (d) territorial authorities' activities or combinations of activities approved under section 20 (other than public transport services activities):
  - (e) regional and territorial authorities' activities or combinations of activities approved under section 20 that have been authorised by a transfer of responsibility under section 17 of the Local Government Act 2002:
  - (f) approved public organisations' activities or combinations of activities approved under section 20:
  - (g) expenses resulting from, and repayment of, any borrowing in accordance with subsection (1)(b).
- (4) *[Repealed]*
- (5) *[Repealed]*
- (6) *[Repealed]*

Section 10: substituted, on 1 August 2008, by section 14 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 10(1)(b): amended, on 13 June 2013, by section 9(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 10(2)(ba): inserted, on 13 June 2013, by section 9(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 10(4): repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 10(5): repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 10(6): repealed, on 13 June 2013, by section 9(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **11 Annual report on national land transport fund**

- (1) After the end of each financial year, the Agency must prepare an annual report on the national land transport fund.
- (2) The annual report required under subsection (1) must be prepared in accordance with generally accepted accounting practice, and must include—
  - (a) a statement of inflows and expenses and capital expenditure of the national land transport fund for the financial year to which the report relates and the previous 2 financial years:
  - (b) a statement of cash flows in respect of the national land transport fund for the financial year to which the report relates:
  - (c) a statement of the financial position of the national land transport fund (including its closing balance):
  - (d) a statement of commitments:
  - (e) a statement of performance for each activity class funded by the national land transport fund for the financial year to which the report relates, unless the Minister has approved the inclusion of the information in the Agency's annual report under section 150 of the Crown Entities Act 2004:
  - (f) an explanation of how the funding of activities or combinations of activities under the national land transport programme has contributed to the achievement of any outcomes, objectives or impacts set out in the relevant GPS on land transport:
  - (g) an explanation of how the national land transport fund has been managed with respect to the closing balance.
- (3) The provisions of the Crown Entities Act 2004 in respect of the preparation, audit, presentation, and publication of a Crown entity's annual report (including its financial statements) apply, with all necessary modifications, to the annual report required under subsection (1).
- (4) The Agency must make a copy of the annual report publicly available in accordance with section 108.

Section 11: substituted, on 1 August 2008, by section 15 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 11(2)(f): amended, on 13 June 2013, by section 10 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### *Regional land transport plans*

Heading: substituted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Heading: amended, on 13 June 2013, by section 11 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **12 Overview of regional land transport programmes**

*[Repealed]*

Section 12: repealed, on 13 June 2013, by section 12 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **12A Authority's land transport programme**

*[Repealed]*

Section 12A: repealed, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **13 Responsibility for preparing and approving regional land transport plans**

- (1) Every 6 financial years, each regional council, in the case of every region except Auckland, must—
  - (a) ensure that the relevant regional transport committee prepares, on the regional council's behalf, a regional land transport plan; and
  - (b) approve the regional land transport plan by a date appointed by the Agency.
- (2) Every 6 financial years, Auckland Transport, in the case of Auckland, must—
  - (a) prepare an Auckland regional land transport plan; and
  - (b) approve the Auckland regional land transport plan by a date appointed by the Agency.
- (3) *[Repealed]*
- (4) *[Repealed]*
- (5) *[Repealed]*

Section 13: substituted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 13 heading: amended, on 13 June 2013, by section 13(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 13(1): amended, on 13 June 2013, by section 13(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 13(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 13(1)(a): amended, on 13 June 2013, by section 13(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 13(1)(b): amended, on 13 June 2013, by section 13(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 13(2): amended, on 13 June 2013, by section 13(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 13(2): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 13(2)(a): amended, on 13 June 2013, by section 13(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 13(2)(b): amended, on 13 June 2013, by section 13(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 13(3): repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 13(4): repealed, on 13 June 2013, by section 13(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 13(5): repealed, on 13 June 2013, by section 13(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **14 Core requirements of regional land transport plans**

Before a regional transport committee submits a regional land transport plan to a regional council or Auckland Transport (as the case may be) for approval, the regional transport committee must—

- (a) be satisfied that the regional land transport plan—
  - (i) contributes to the purpose of this Act; and
  - (ii) is consistent with the GPS on land transport; and
- (b) have considered—
  - (i) alternative regional land transport objectives that would contribute to the purpose of this Act; and
  - (ii) the feasibility and affordability of those alternative objectives; and
- (c) have taken into account any—
  - (i) national energy efficiency and conservation strategy; and
  - (ii) relevant national policy statements and any relevant regional policy statements or plans that are for the time being in force under the Resource Management Act 1991; and
  - (iii) likely funding from any source.

Section 14: replaced, on 13 June 2013, by section 14 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **15 Core requirements of regional land transport programmes prepared by Auckland Transport**

*[Repealed]*

Section 15: repealed, on 13 June 2013, by section 15 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**16 Form and content of regional land transport plans**

- (1) A regional land transport plan must set out the region's land transport objectives, policies, and measures for at least 10 financial years from the start of the regional land transport plan.
- (2) A regional land transport plan must include—
  - (a) a statement of transport priorities for the region for the 10 financial years from the start of the regional land transport plan; and
  - (b) a financial forecast of anticipated revenue and expenditure on activities for the 10 financial years from the start of the regional land transport plan; and
  - (c) all regionally significant expenditure on land transport activities to be funded from sources other than the national land transport fund during the 6 financial years from the start of the regional land transport plan; and
  - (d) an identification of those activities (if any) that have inter-regional significance.
- (3) For the purpose of seeking payment from the national land transport fund, a regional land transport plan must contain, for the first 6 financial years to which the plan relates,—
  - (a) for regions other than Auckland, activities proposed by approved organisations in the region relating to local road maintenance, local road renewals, local road minor capital works, and existing public transport services; and
  - (b) in the case of Auckland, activities proposed by Auckland Transport; and
  - (c) the following activities that the regional transport committee decides to include in the regional land transport plan:
    - (i) activities proposed by approved organisations in the region or, in the case of Auckland, by the Auckland Council, other than those activities specified in paragraphs (a) and (b); and
    - (ii) activities relating to State highways in the region that are proposed by the Agency; and
    - (iii) activities, other than those relating to State highways, that the Agency may propose for the region and that the Agency wishes to see included in the regional land transport plan; and
  - (d) the order of priority of the significant activities that a regional transport committee includes in the regional land transport plan under paragraphs (a), (b), and (c); and
  - (e) an assessment of each activity prepared by the organisation that proposes the activity under paragraph (a), (b), or (c) that includes—
    - (i) the objective or policy to which the activity will contribute; and

- (ii) an estimate of the total cost and the cost for each year; and
  - (iii) the expected duration of the activity; and
  - (iv) any proposed sources of funding other than the national land transport fund (including, but not limited to, tolls, funding from approved organisations, and contributions from other parties); and
  - (v) any other relevant information; and
- (f) the measures that will be used to monitor the performance of the activities.
- (4) An organisation may only propose an activity for inclusion in the regional land transport plan if it or another organisation accepts financial responsibility for the activity.
- (5) For the purpose of the inclusion of activities in a national land transport programme,—
- (a) a regional land transport plan must be in the form and contain the detail that the Agency may prescribe in writing to regional transport committees; and
  - (b) the assessment under subsection (3)(e) must be in a form and contain the detail required by the regional transport committee, taking account of any prescription made by the Agency under paragraph (a).
- (6) A regional land transport plan must also include—
- (a) an assessment of how the plan complies with section 14; and
  - (b) an assessment of the relationship of Police activities to the regional land transport plan; and
  - (c) a list of activities that have been approved under section 20 but are not yet completed; and
  - (d) an explanation of the proposed action, if it is proposed that an activity be varied, suspended, or abandoned; and
  - (e) a description of how monitoring will be undertaken to assess implementation of the regional land transport plan; and
  - (f) a summary of the consultation carried out in the preparation of the regional land transport plan; and
  - (g) a summary of the policy relating to significance adopted by the regional transport committee under section 106(2); and
  - (h) any other relevant matters.
- (7) For the purposes of this section, **existing public transport services** means the level of public transport services in place in the financial year before the commencement of the regional land transport plan, and any minor changes to those services.

Section 16: replaced, on 13 June 2013, by section 16 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **17 Form and content of Auckland Transport's regional land transport programmes**

*[Repealed]*

Section 17: repealed, on 13 June 2013, by section 17 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **18 Consultation requirements**

- (1) When preparing a regional land transport plan, a regional transport committee—
  - (a) must consult in accordance with the consultation principles specified in section 82 of the Local Government Act 2002; and
  - (b) may use the special consultative procedure specified in section 83 of the Local Government Act 2002.
- (2) If consulting the Auckland Council, a regional land transport committee or Auckland Transport must consult both the governing body and each affected local board of the Council.

Section 18: substituted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 18(1): replaced, on 13 June 2013, by section 18 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18(2): added, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## **18A Combining consultation processes**

- (1) *[Repealed]*
- (2) A regional transport committee complies with section 18(1) if the required consultation on the regional land transport plan is carried out in conjunction with the relevant regional council's consultation on its long-term plan or its annual plan under the Local Government Act 2002.
- (3) Auckland Transport complies with section 18(1) if the required consultation on the regional land transport plan is carried out in conjunction with the Auckland Council's consultation on its long-term plan or its annual plan under the Local Government Act 2002.
- (4) Auckland Transport is not required to consult any organisation or person if the Auckland Council has already consulted the organisation or person—
  - (a) in the course of preparing the Council's current long-term plan or annual plan; and
  - (b) in accordance with the Local Government Act 2002.

Section 18A: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 18A heading: replaced, on 13 June 2013, by section 19(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18A(1): repealed, on 13 June 2013, by section 19(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18A(2): substituted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 18A(2): amended, on 13 June 2013, by section 19(3)(a) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18A(2): amended, on 13 June 2013, by section 19(3)(b) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18A(2): amended, on 27 November 2010, by section 50 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 18A(3): substituted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 18A(3): amended, on 13 June 2013, by section 19(4)(a) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18A(3): amended, on 13 June 2013, by section 19(4)(b) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18A(3): amended, on 27 November 2010, by section 50 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 18A(4): added, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 18A(4): amended, on 13 June 2013, by section 19(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18A(4)(a): amended, on 27 November 2010, by section 50 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **18B Process for approving regional land transport plans prepared for regional councils**

- (1) A regional transport committee that has prepared a regional land transport plan on behalf of a regional council must, after it has consulted under sections 18 and 18A, lodge the regional land transport plan with the regional council.
- (2) If a regional transport committee decides not to include in its regional land transport plan an activity or combination of activities proposed by an approved organisation or the Agency, the regional transport committee must, at the same time as it lodges the plan with the regional council under subsection (1), give the approved organisation or the Agency (as the case may require) written advice of the decision and the reasons for the decision.
- (3) The relevant regional council may, after considering a regional land transport plan that has been lodged with it under subsection (1), decide—
  - (a) to approve the regional land transport plan, without modification; or
  - (b) to refer the regional land transport plan back to the regional transport committee with a request that the regional transport committee reconsider 1 or more aspects of the regional land transport plan.

- (4) If a regional council refers a regional land transport plan back to its regional transport committee, the regional transport committee may, after reconsidering the aspects referred back to it by the regional council in its request, forward to the regional council either or both of the following:
- (a) an amended regional land transport plan that has been consulted on in accordance with sections 18 and 18A:
  - (b) any additional information that has been requested by the regional council or that the regional transport committee considers will help the regional council with its decision.
- (5) Despite subsection (4)(a), a regional transport committee may forward an amended regional land transport plan to the regional council without consulting in accordance with sections 18 and 18A if the amendment or amendments to the regional land transport plan are not significant.
- (6) If a regional council receives an amended regional land transport plan, or a regional land transport plan with additional information, under subsection (4), it must—
- (a) approve the plan or amended plan and forward it to the Agency; or
  - (b) forward the plan or amended plan to the Agency stating that it is not approved along with a statement of its reasons.
- (7) If the Agency receives an amended regional land transport plan, or a regional land transport plan with additional information, under subsection (6)(b), the Agency must, when developing the national land transport programme,—
- (a) treat the regional land transport plan or amended regional land transport plan as approved; and
  - (b) consider the regional council's statement of reasons.
- (8) Section 18F applies, with the necessary modifications, to any plan or amended plan and statement of reasons forwarded under subsection (6).

Section 18B: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 18B heading: amended, on 13 June 2013, by section 20(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(1): amended, on 13 June 2013, by section 20(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(2): amended, on 13 June 2013, by section 20(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(3): amended, on 13 June 2013, by section 20(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(3)(a): amended, on 13 June 2013, by section 20(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(3)(b): amended, on 13 June 2013, by section 20(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(4): amended, on 13 June 2013, by section 20(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(4)(a): amended, on 13 June 2013, by section 20(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(5): amended, on 13 June 2013, by section 20(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(6): amended, on 13 June 2013, by section 20(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(6)(a): amended, on 13 June 2013, by section 20(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(6)(b): amended, on 13 June 2013, by section 20(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(7): amended, on 13 June 2013, by section 20(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(7)(a): amended, on 13 June 2013, by section 20(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18B(8): amended, on 13 June 2013, by section 20(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **18C Reasons for not including activities in Auckland's regional land transport plan**

If Auckland Transport decides not to include in its regional land transport plan an activity proposed by the Auckland Council or the Agency, Auckland Transport must, when forwarding its plan to the Agency, give the Auckland Council or the Agency (as the case may require) written advice of the decision and the reasons for the decision.

Section 18C: replaced, on 13 June 2013, by section 21 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **18CA Review of regional land transport plans**

- (1) A regional transport committee must complete a review of the regional land transport plan during the 6-month period immediately before the expiry of the third year of the plan.
- (2) In carrying out the review, the regional transport committee must have regard to the views of representative groups of land transport users and providers.

Section 18CA: inserted, on 13 June 2013, by section 21 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **18D Variation of regional land transport plans**

- (1) A regional transport committee may prepare a variation to its regional land transport plan during the 6 years to which it applies if—
  - (a) the variation addresses an issue raised by a review carried out under section 18CA; or
  - (b) good reason exists for making the variation.
- (2) A variation may be prepared by a regional transport committee—
  - (a) at the request of an approved organisation or the Agency; or

- (b) on the regional transport committee's own motion.
- (3) A variation may be prepared by Auckland Transport—
  - (a) at the request of the Agency or the Auckland Council; or
  - (b) on Auckland Transport's own motion.
- (4) The regional transport committee or Auckland Transport must consider any variation request promptly.
- (5) The provisions of this Act that apply to the preparation of a regional land transport plan apply with the necessary modifications to a variation of a regional land transport plan; however, consultation is not required for any variation that—
  - (a) is not significant; or
  - (b) arises from the declaration or revocation of a State highway.
- (6) Section 18B applies, with the necessary modifications, to the approval by a regional council of a variation of a regional land transport plan.
- (7) The Agency must consider promptly whether to vary the national land transport programme after receiving a varied regional land transport plan forwarded to it by a regional council or Auckland Transport.
- (8) A variation of a regional land transport plan does not create an obligation on the Agency to vary the national land transport programme, but the Agency must give written reasons for any decision not to do so.
- (9) This section does not apply if section 18E applies.

Section 18D: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 18D heading: amended, on 13 June 2013, by section 22(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18D(1): replaced, on 13 June 2013, by section 22(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18D(3): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 18D(3)(a): amended, on 13 June 2013, by section 22(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18D(3)(b): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 18D(4): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 18D(5): amended, on 13 June 2013, by section 22(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18D(6): amended, on 13 June 2013, by section 22(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18D(6): amended, on 13 June 2013, by section 22(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18D(7): amended, on 13 June 2013, by section 22(6) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18D(7): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 18D(8): amended, on 13 June 2013, by section 22(6) of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **18E Changes to certain activities or combinations of activities**

- (1) This section applies to any activities or combinations of activities that have been identified by an approved organisation under section 16(3)(a) and included in a regional land transport plan.
- (2) If an approved organisation has good reason to change any activities or combinations of activities to which this section applies, it may request the Agency to vary the national land transport programme to take account of that change, and must inform the regional transport committee that it has made that request.
- (3) A request must be made in a form and with the detail prescribed by the Agency in writing to approved organisations.
- (4) The Agency must consider promptly any request made under this section to vary the national land transport programme.
- (5) A request made under this section does not create an obligation to vary the national land transport programme but the Agency must give written reasons for any decision not to do so.
- (6) If the Agency approves a variation under subsection (4), the relevant regional land transport plan is to be read as if the approved variation had been included in the approved plan.
- (7) This section does not apply to approved organisations in Auckland.

Section 18E: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 18E(1): amended, on 13 June 2013, by section 23(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18E(1): amended, on 13 June 2013, by section 23(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18E(6): amended, on 13 June 2013, by section 23(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18E(7): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### **18F Availability of regional land transport plans**

- (1) A regional council or Auckland Transport (as the case may require) must, by a date or dates appointed by the Agency,—
  - (a) forward copies of its approved regional land transport plan to—
    - (i) the Secretary; and
    - (ii) the Agency; and
    - (iii) the Commissioner; and
    - (iv) approved organisations in the region; and

- (v) in the case of Auckland, the Auckland Council; and
  - (b) make the approved regional land transport plan publicly available in accordance with section 108.
- (2) In addition, Auckland Transport must make available information about the current funding arrangements, or proposed funding arrangements, in respect of each activity or combination of activities included in its regional land transport plan—
- (a) for inspection by the public, free of charge; and
  - (b) on an Internet site in a format that is readily accessible and, if practicable, that can be used by the visually impaired.

Section 18F: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 18F heading: amended, on 13 June 2013, by section 24(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18F(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 18F(1)(a): amended, on 13 June 2013, by section 24(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18F(1)(a)(v): inserted, on 13 June 2013, by section 24(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18F(1)(b): amended, on 13 June 2013, by section 24(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18F(2): amended, on 13 June 2013, by section 24(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18F(2): added, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### **18G Separate consultation with Māori on particular activities**

- (1) An approved organisation, the Auckland Council, or the Agency (as the case may require) must do everything reasonably practicable to separately consult Māori affected by any activity proposed by the approved organisation, the Auckland Council, or the Agency that affects or is likely to affect—
- (a) Māori land; or
  - (b) land subject to any Māori claims settlement Act; or
  - (c) Māori historical, cultural, or spiritual interests.
- (2) The relevant approved organisation, the Auckland Council, or the Agency (as the case may be) 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.

Section 18G: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 18G(1): amended, on 13 June 2013, by section 25(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18G(2): amended, on 13 June 2013, by section 25(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **18H Māori contribution to decision making**

- (1) The Agency and approved public organisations must, with respect to funding from the national land transport fund,—
  - (a) establish and maintain processes to provide opportunities for Māori to contribute to the organisation’s land transport decision-making processes; and
  - (b) consider ways in which the organisation may foster the development of Māori capacity to contribute to the organisation’s land transport decision-making processes; and
  - (c) provide relevant information to Māori for the purposes of paragraphs (a) and (b).
- (2) Subsection (1) does not limit the ability of the Agency or an approved public organisation to take similar action in respect of any other population group.

Section 18H: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### *Police activities or combinations of Police activities*

Heading: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### **18I Recommendations for Police activities or combinations of Police activities**

Every 3 financial years the Agency must, by a date appointed by the Minister, prepare its recommendations for any Police activities or combinations of Police activities that are to be funded under section 10(3)(a) for the following 3 financial years.

Section 18I: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### **18J Requirements before recommending Police activities or combinations of Police activities**

- (1) Before recommending any Police activities or combinations of Police activities that are to be funded under section 10(3)(a), the Agency must consult the Commissioner and the Secretary.
- (2) The Agency must, in recommending any Police activities or combinations of Police activities for funding under section 10(3)(a),—
  - (a) be satisfied that those Police activities or combinations of Police activities—
    - (i) contribute to the purpose of this Act; and
    - (ii) are consistent with the GPS on land transport.
  - (b) *[Repealed]*

(c) *[Repealed]*

Section 18J: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 18J(2)(a)(i): replaced, on 13 June 2013, by section 26(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18J(2)(a)(ii): replaced, on 13 June 2013, by section 26(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18J(2)(b): repealed, on 13 June 2013, by section 26(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 18J(2)(c): repealed, on 13 June 2013, by section 26(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **18K Content of recommendations under section 18I**

The Agency must ensure that its recommendations under section 18I include—

- (a) the recommended funding contribution under section 10(3)(a) for the proposed Police activities or combinations of Police activities; and
- (b) a list of the Police activities or combinations of Police activities that are proposed to be funded under section 10(3)(a); and
- (c) the performance measures associated with the delivery of those proposed Police activities or combinations of Police activities; and
- (d) the revenue to be received by the Commissioner from sources (other than the national land transport fund) applicable to the Police activities or combinations of Police activities for which funding is sought from the national land transport fund; and
- (e) a long-term financial forecast that contains a forecast of anticipated revenue and expenditure on any Police activities or combinations of Police activities for the following 10 financial years.

Section 18K: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### **18L Approval of recommendations**

- (1) After considering the Agency's recommendations under section 18I, the responsible Minister, in consultation with the Minister of Police, must approve or decline those recommendations for payment under section 10(3)(a).
- (2) The responsible Minister must notify the Agency and the Commissioner of the responsible Minister's decision to approve or decline the Agency's recommendations.

Section 18L: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### **18M Variation of approval**

- (1) The Agency may recommend a variation of an approval under section 18L(1).

- (2) After considering the Agency's recommendation, the responsible Minister, in consultation with the Minister of Police, must approve or decline the variation, and, if approved, the variation forms part of the approval it varies.
- (3) The responsible Minister must notify the Agency and the Commissioner of the responsible Minister's decision to approve or decline the Agency's recommendation for variation.

Section 18M: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### *National land transport programme*

#### **19 Overview of national land transport programme**

*[Repealed]*

Section 19: repealed, on 13 June 2013, by section 27 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **19A Responsibility for preparing and adopting national land transport programme**

- (1) Every 3 financial years, the Agency must prepare and adopt a national land transport programme for the following 3 financial years.
- (2) The Agency must adopt a national land transport programme before 1 September of the first financial year to which it applies.
- (3) *[Repealed]*
- (4) A national land transport programme adopted under this section is to be treated as if it were adopted before the start of the financial year to which it applies.
- (5) Following the adoption of a national land transport programme under this section, the Agency must consider whether to amend its statement of intent, under section 148 of the Crown Entities Act 2004, to take into account any relevant particulars of the national land transport programme.

Section 19A: inserted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 19A(2): amended, on 13 June 2013, by section 28(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 19A(3): repealed, on 13 June 2013, by section 28(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 19A(4): amended, on 13 June 2013, by section 28(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **19B Core requirements for national land transport programme**

The Agency must, in preparing a national land transport programme,—

- (a) ensure that the national land transport programme—
  - (i) contributes to the purpose of this Act; and
  - (ii) *[Repealed]*

- (iii) gives effect to the GPS on land transport; and
- (b) take into account any—
  - (i) *[Repealed]*
  - (ii) *[Repealed]*
  - (iii) regional land transport plans; and
  - (iv) national energy efficiency and conservation strategy; and
  - (v) relevant national policy statement and any relevant regional policy statements or plans that are for the time being in force under the Resource Management Act 1991; and
  - (vi) *[Repealed]*

Section 19B: inserted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 19B(a)(i): replaced, on 13 June 2013, by section 29(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 19B(a)(ii): repealed, on 13 June 2013, by section 29(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 19B(a)(iii): amended, on 13 June 2013, by section 29(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 19B(b)(i): repealed, on 13 June 2013, by section 29(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 19B(b)(ii): repealed, on 13 June 2013, by section 29(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 19B(b)(iii): amended, on 13 June 2013, by section 29(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 19B(b)(v): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 19B(b)(vi): repealed, on 13 June 2013, by section 29(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **19C Content of national land transport programme**

A national land transport programme must include the following matters:

- (a) an indication of any significant forthcoming national land transport issues known to the Agency; and
- (b) an assessment as to how the programme complies with section 19B; and
- (c) a list of the activity classes identified in the GPS on land transport to be funded from the national land transport fund, and their proposed level of funding; and
- (d) approved activities and combinations of activities; and
- (e) any Police activities or combinations of Police activities approved under section 18L to be delivered by the Commissioner; and
- (f) activities and combinations of activities that the Agency anticipates being funded from the national land transport fund if they are—

- (i) included in a regional land transport plan; or
- (ii) activities or combinations of activities (other than those relating to State highways) for which the Agency is responsible for delivery or managing delivery; and
- (g) an indication of any nationally or regionally significant activities that are likely to be considered for funding in the 3 financial years that follow the 3 financial years covered by the national land transport programme; and
- (h) a statement of the Agency's anticipated revenue and expenditure in respect of the national land transport programme for 10 financial years from the start of the programme; and
- (i) relevant directions under Part 3 of the Crown Entities Act 2004 or any other Act.

Section 19C: inserted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 19C(c): amended, on 13 June 2013, by section 30(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 19C(f)(i): amended, on 13 June 2013, by section 30(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **19D Notification about decision not to include activities in national land transport programme**

- (1) This section applies to the following decisions by the Agency in relation to an activity or combination of activities:
  - (a) a decision not to include an activity or a combination of activities in the national land transport programme;
  - (b) a decision to include an activity or a combination of activities in the national land transport programme, but at a different level of priority to that accorded to the activity or combination of activities in the relevant regional land transport plan.
- (2) If this section applies, the Agency must give the relevant regional transport committee or Auckland Transport (as the case may require) written advice of the Agency's decision and its reasons for making that decision.

Section 19D: inserted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 19D(1)(b): amended, on 13 June 2013, by section 31 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 19D(2): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

#### **19E Variation of national land transport programme**

- (1) The Agency may vary the national land transport programme during the 3 financial years to which it applies.

- (2) The provisions of this Act that apply to the preparation of the national land transport programme apply with the necessary modifications to a variation of the national land transport programme.
- (3) If the GPS on land transport is amended under section 90(1), the Agency must vary the national land transport programme as soon as practicable if necessary to give effect to the amendment.
- (4) Despite subsection (2), the Agency need not make a varied national land transport programme publicly available under section 108 if it is satisfied that the variation is not significant.

Section 19E: inserted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 19E(3): replaced, on 13 June 2013, by section 32 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **19F Availability of national land transport programme**

The Agency must make a copy of the national land transport programme publicly available in accordance with section 108.

Section 19F: inserted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### *Approval of activities and combinations of activities*

Heading: inserted, on 1 August 2008, by section 18 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **20 Approval of activities and combinations of activities**

- (1) The Agency may approve an activity or combination of activities as qualifying for payments from the national land transport fund.
- (2) In approving a proposed activity or combination of activities, the Agency must be satisfied that—
  - (a) the activity or combination of activities 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 19B; and
  - (c) the activity or combination of activities is—
    - (i) consistent with the GPS on land transport; and
    - (ii) efficient and effective; and
  - (d) the activity or combination of activities contributes to the Agency's objective; and
  - (e) the activity or combination of activities has, to the extent practicable, been assessed against other land transport options and alternatives; and
  - (f) the relevant consultation requirements of this Act have been complied with.

- (3) In approving a proposed activity or combination of activities, the Agency must—
- (a) take into account—
    - (i) any national energy efficiency and conservation strategy; and
    - (ii) any relevant national policy statements and relevant regional policy statements that are for the time being in force under the Resource Management Act 1991; and
  - (b) act in accordance with its operating principles.
- (4) Despite subsections (2) and (3), the Agency may approve for payment under subsection (1) any activity or combination of activities that, in the opinion of the Agency,—
- (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) When approving an activity or combination of activities as qualifying for payments from the national land transport fund, the Agency must be satisfied that the expenditure on the national land transport programme and any expenses associated with any borrowing undertaken in accordance with section 10(1)(b) in the relevant financial year will not exceed the lesser of—
- (a) the maximum level of expenditure for the national land transport programme outlined in the GPS on land transport for that financial year and the actual or anticipated amount of the closing balance of the national land transport fund at the end of the previous financial year; or
  - (b) the sum of—
    - (i) the anticipated inflows to the national land transport fund in that financial year; and
    - (ii) the actual or anticipated amount of the closing balance of the national land transport fund at the end of the previous financial year; and
    - (iii) the allowable variation for that financial year specified in the GPS on land transport.

Section 20: substituted, on 1 August 2008, by section 18 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 20(2)(c): replaced, on 13 June 2013, by section 33(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 20(2)(d): replaced, on 13 June 2013, by section 33(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 20(3): replaced, on 13 June 2013, by section 33(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 20(5)(a): amended, on 13 June 2013, by section 33(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 20(5)(b)(iii): amended, on 13 June 2013, by section 33(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **20A Methods of assessment**

The Agency may apply different methods of assessment for the purpose of approving different activities or combinations of activities.

Section 20A: substituted, on 1 August 2008, by section 18 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **20B Agency may impose terms and conditions**

The Agency may approve activities or combinations of activities subject to any terms and conditions, which must be relevant and reasonable, that the Agency thinks fit.

Section 20B: inserted, on 1 August 2008, by section 18 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **20C Agency must set rate of funding assistance**

The Agency must set the rate of funding assistance from the national land transport fund for activities or combinations of activities in accordance with any criteria set by the Minister.

Section 20C: inserted, on 1 August 2008, by section 18 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **20D Funding decisions to be made available**

- (1) If the Agency decides to approve or decline funding for an activity or a combination of activities under section 20, the Agency must—
  - (a) ensure that every decision that it makes under that section and its reasons for making that decision are made available to any affected approved organisation; and
  - (b) give any organisation or any person responsible for that activity or combination of activities written advice of its decision and reasons for its decision.
- (2) After approving or declining funding for activities or combinations of activities, the Agency must place a copy of the decision, and the reasons for the decision, on its Internet site.
- (3) In complying with subsection (2), the Agency may decide to withhold information if the disclosure of that information would be contrary to the interests specified in section 6 or 9(2)(a), (b), (ba), (h), (i), or (j) of the Official Information Act 1982.
- (4) If the Agency decides to withhold information under subsection (3), it must provide its reasons for doing so on its Internet site.
- (5) Information withheld under subsection (3) may be requested under the Official Information Act 1982.

Section 20D: inserted, on 1 August 2008, by section 18 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **21 Funding for land transport research, education, or training**

*[Repealed]*

Section 21: repealed, on 1 August 2008, by section 19 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **22 Funding for Māori roadways**

- (1) The Agency may, in accordance with this Part, approve an activity relating to a Māori roadway as qualifying for payments to the Agency from the national land transport fund as if the roadway were a State highway.
- (2) The Agency may, in accordance with this Part, approve an activity relating to a Māori roadway as qualifying for payments to a territorial authority from the national land transport fund as if the roadway were a local road.
- (3) The Agency and territorial authorities may receive funding for a Māori roadway if the activity is included in a regional land transport plan.

Section 22(1): amended, on 1 August 2008, by section 20(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 22(1): amended, on 1 August 2008, by section 20(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 22(1): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 22(2): amended, on 1 August 2008, by section 20(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 22(2): amended, on 1 August 2008, by section 20(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 22(2): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 22(3): substituted, on 1 August 2008, by section 20(5) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 22(3): amended, on 13 June 2013, by section 34 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### *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(3)(f);
  - (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 Auckland Transport are deemed to be approved public organisations under this section.

Section 23(1)(a): amended, on 1 August 2008, by section 21 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 23(4): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### *Land transport disbursement accounts*

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

- (1) Every approved organisation must operate a land transport disbursement account into which must be paid all money received from the Agency pursuant to an approval under section 20.
- (2) The Agency need not have a land transport disbursement account, but must—
  - (a) comply with section 96; and
  - (b) ensure that all payments are made in accordance with a procurement procedure unless exempt by or under section 26.
- (3) All expenditure from a land transport disbursement account must be accounted for in a manner prescribed by the Agency after consultation with the Auditor-General.
- (4) Payments may be made out of a land transport disbursement account only for approved activities or combinations of activities, and only—
  - (a) within the limits and terms and conditions of the approval granted under sections 20 and 20B; and
  - (b) in accordance with a procurement procedure unless exempt by or under section 26.
- (5) 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) use that money at any time for payments in accordance with this section.

Section 24: substituted, on 1 August 2008, by section 22 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Procurement procedures*

**25 Procurement procedures**

- (1) For the purposes of this Part, the Agency must approve 1 or more procurement procedures that are designed to obtain the best value for money spent by the Agency and approved organisations, having regard to the purpose of this Act.
- (2) In approving a procurement procedure, the Agency 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) Every approved procurement procedure must specify how procurement is to be carried out (which may differ for different kinds of procurement).
- (4) It is a condition of every procurement procedure that the Agency or an approved organisation must procure outputs from a provider other than the Agency or that organisation (as the case may require), or its 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 Agency.
- (6) Nothing in this section compels an organisation or person to accept the lowest tender received by it for the provision of any outputs.

Section 25(1): amended, on 1 August 2008, by section 23(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 25(1): amended, on 1 August 2008, by section 23(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 25(1): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 25(2): amended, on 1 August 2008, by section 23(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 25(2): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 25(3): amended, on 1 August 2008, by section 23(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 25(4): substituted, on 1 August 2008, by section 23(5) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 25(5): amended, on 1 August 2008, by section 23(6) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 25(5): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

**26 Payments exempt from procurement procedure**

Section 25 does not apply in relation to any payment—

- (a) approved by the Agency on the ground that the costs of the procurement process would be disproportionate to the value of the proposed activity or combination of activities; or
- (b) made in respect of any approved administration activity that is approved by the Agency for the purpose of this section; or
- (c) made in respect of in-house professional services that are—
  - (i) approved by the Agency; and
  - (ii) undertaken by the Agency or an approved organisation using the Agency's or approved 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 Auckland Transport's land transport disbursement account if the payment is made to the Auckland Council's land transport disbursement account; or
- (e) made in respect of any public transport service identified as integral to a public transport network in relation to any 12-month period that follows the withdrawal or proposed withdrawal of the operator from the provision of the 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)

Section 26(a): amended, on 1 August 2008, by section 24(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 26(a): amended, on 1 August 2008, by section 24(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 26(a): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 26(b): amended, on 1 August 2008, by section 24(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 26(b): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 26(c)(i): amended, on 1 August 2008, by section 24(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 26(c)(i): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 26(c)(ii): substituted, on 1 August 2008, by section 24(5) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 26(da): substituted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 26(e): replaced, on 13 June 2013, by section 35 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **26A Notice of exemption or approval of certain procurement procedures**

If the Agency grants itself an exemption under section 26(a) or approves a procurement procedure under section 25(1) to meet its own procurement requirements, it must publish the details of its exemption or approval (as the case may be) and its reasons on its Internet site.

Section 26A: inserted, on 1 August 2008, by section 25 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### *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 fund.
- (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

Section 27(2): amended, on 1 August 2008, by section 26 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### *Safety administration programme*

*[Repealed]*

Heading: repealed, on 1 December 2004, by section 17(a) of the Land Transport Management Amendment Act 2004 (2004 No 97).

## **28 Safety administration programme**

*[Repealed]*

Section 28: repealed, on 1 December 2004, by section 17(a) of the Land Transport Management Amendment Act 2004 (2004 No 97).

## **29 Approval of safety administration programme**

*[Repealed]*

Section 29: repealed, on 1 December 2004, by section 17(b) of the Land Transport Management Amendment Act 2004 (2004 No 97).

**30 Agencies must adhere to safety administration programme**

*[Repealed]*

Section 30: repealed, on 1 December 2004, by section 17(b) of the Land Transport Management Amendment Act 2004 (2004 No 97).

**31 Secretary must make safety administration programme available to public**

*[Repealed]*

Section 31: repealed, on 1 December 2004, by section 17(b) of the Land Transport Management Amendment Act 2004 (2004 No 97).

**32 Secretary may submit supplementary safety administration programme**

*[Repealed]*

Section 32: repealed, on 1 December 2004, by section 17(b) of the Land Transport Management Amendment Act 2004 (2004 No 97).

**33 Minister may approve supplementary safety administration programme**

*[Repealed]*

Section 33: repealed, on 1 December 2004, by section 17(b) of the Land Transport Management Amendment Act 2004 (2004 No 97).

**34 Reports on outputs and programmes**

*[Repealed]*

Section 34: repealed, on 1 August 2008, by section 27 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*General provisions*

**35 Needs of transport-disadvantaged must be considered**

In preparing any programme or plan under this Part, the Agency, the Commissioner, the Secretary, every local authority, Auckland Transport, and every approved public organisation must consider the needs of persons who are transport-disadvantaged.

Compare: 1989 No 75 s 42K

Section 35 heading: amended, on 13 June 2013, by section 36(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 35: amended, on 13 June 2013, by section 36(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 35: amended, on 13 June 2013, by section 36(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 35: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 35: amended, on 1 August 2008, by section 28(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 35: amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

**36 Agency may reduce, refuse, or withhold payments in certain cases**

- (1) This section applies if the Agency 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 Agency 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 Agency 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 Agency 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 Agency.

Section 36 heading: amended, on 1 August 2008, by section 29(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(1): amended, on 1 August 2008, by section 29(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(1): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 36(2): amended, on 1 August 2008, by section 29(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(2): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 36(3): amended, on 1 August 2008, by section 29(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(3): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 36(4): amended, on 1 August 2008, by section 29(5) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(4): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

**37 Disputes**

- (1) This section applies to any dispute or difference between an organisation and the Agency 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 Agency 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 Agency is qualified to be an arbitrator under this section.
- (4) The organisation and the Agency 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

Section 37(1): amended, on 1 August 2008, by section 30(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 37(1): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 37(1)(b): amended, on 1 August 2008, by section 30(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 37(1)(b): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 37(3): amended, on 1 August 2008, by section 30(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 37(3): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 37(4): amended, on 1 August 2008, by section 30(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 37(4): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

**38 Provision of information**

- (1) The Agency may require an approved organisation to provide any information that the Agency 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.
- (4) *[Repealed]*

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

Section 38(1): amended, on 1 August 2008, by section 31(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 38(1): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 38(4): repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### **38AA Duty to co-operate**

- (1) It is the duty of the Secretary, the Agency, and approved organisations to give reasonable assistance to each other to enable them to perform their respective functions and duties, and exercise their respective powers, under this Act.
- (2) In acting under this Act, the Agency, Auckland Transport, and the Auckland Council must work co-operatively with each other and the New Zealand Railways Corporation, the Police, and other organisations that have responsibilities in relation to the Auckland transport system and State highways and railways within Auckland, to help ensure a co-ordinated approach to decision making about Auckland transport.
- (3) In subsection (2), **Auckland transport system** has the same meaning as in section 37(1) of the Local Government (Auckland Council) Act 2009.

Section 38AA: inserted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

### **38A Good reasons for refusing to supply requested information**

*[Repealed]*

Section 38A: repealed, on 13 June 2013, by section 37 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### *Infrastructure Auckland*

*[Repealed]*

Heading: repealed, on 1 December 2004, by section 45 of the Local Government (Auckland) Amendment Act 2004 (2004 No 57).

### **39 Special provisions relating to Auckland Region**

*[Repealed]*

Section 39: repealed, on 1 August 2008, by section 33 of the Land Transport Management Amendment Act 2008 (2008 No 47).

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

**40 Apportionment of excise duty and excise-equivalent duty**

*[Repealed]*

Section 40: repealed, on 13 June 2013, by section 38 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**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) *[Repealed]*
- (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

Section 41(3): repealed, on 1 August 2008, by section 34 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**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 conviction to a fine not exceeding \$2,000.
- (3) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against subsection (1) ends on the date that is 3 years after the date on which the offence was committed.

Section 43(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 43(3): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

#### **44 Consequential repeal**

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

#### **45 Regulations relating to sections 41 and 42**

The Governor-General may, from time to time, by Order in Council, make regulations providing for any matters contemplated by sections 41 and 42, necessary for the administration of those sections, or necessary for giving those sections full effect.

Section 45 heading: amended, on 1 August 2008, by section 35(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 45: amended, on 1 August 2008, by section 35(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

## Subpart 2—Road tolling schemes

Subpart 2 heading: amended, on 13 June 2013, by section 39 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### *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 authori-

ty 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) specify, in relation to a new road, the purposes under subsection (1) for which toll revenue inflow may be used (including reimbursement of the costs related to the new road):
  - (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 in Council made under subsection (1) is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (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.

Section 46(3)(g): replaced, on 13 June 2013, by section 40 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 46(4): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

#### **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 he or she is satisfied—
- (a) that the relevant public road controlling authority or authorities have carried out adequate consultation on the proposed tolling scheme; and
  - (b) with the level of community support for the proposed tolling scheme in the relevant region or regions; and
  - (c) that the requirement in subsection (2) (if applicable) is met; and
  - (d) that a feasible, untolled, alternative route is available to road users; and
  - (e) that the proposed tolling scheme is efficient and effective.
- (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) *[Repealed]*
- (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) *[Repealed]*

Section 48(1): replaced, on 13 June 2013, by section 41(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 48(3): repealed, on 13 June 2013, by section 41(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 48(5): repealed, on 13 June 2013, by section 41(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **48A Authority to establish road tolling scheme for Route K**

Despite section 46(1), the Governor-General may, by Order in Council made on the recommendation of the Minister, establish a road tolling scheme for

Route K as if it were a new road and sections 46 and 50 to 55 apply with the necessary modifications.

Section 48A: inserted, on 1 August 2015, by section 42 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **48B When tolling power is exercisable for Route K**

- (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 48A is exercisable from the date that the order commences.
- (2) 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 48A 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.

Section 48B: inserted, on 1 August 2015, by section 42 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **49 Consultation requirements**

*[Repealed]*

Section 49: repealed, on 13 June 2013, by section 43 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **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.
- (6) Personal information to which this section applies may be retained only for as long as is reasonably necessary to—
  - (a) collect the tolls that relate to that personal information:

- (b) enforce the provisions of this Act in relation to unpaid tolls that relate to that personal information:
  - (c) comply with any information retention requirements specified in any other enactment that relate to that personal information.
- (7) For the purposes of this section, **personal information** includes any tolling information linked to registration plates.

Section 50(6): inserted, on 13 June 2013, by section 44 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 50(7): inserted, on 13 June 2013, by section 44 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## 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) *[Repealed]*
- (4) The toll operator may impose reasonable charges in connection with the administration of any method of payment.

Section 51(3): repealed, on 13 June 2013, by section 45 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## 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 person registered under Part 17 of the Land Transport Act 1998 in respect of the motor vehicle (the **registered person**) is liable for payment of the toll to the toll operator.
- (3) However, the registered person is not liable under subsection (2) to pay the toll if, within 28 days after being notified of the non-payment of the toll, the registered person 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 person 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.
- (3A) Notice under subsection (3) may be given by—
  - (a) sending it, or a copy of it, by post addressed to the registered person at that person's last known place of residence or business or postal address; or

- (b) electronic means of communication delivered to the registered person's electronic address if the toll operator complies with Part 4 of the Contract and Commercial Law Act 2017.
- (3B) Unless the registered person proves that the registered person did not (through no fault of the registered person) receive the notice given under subsection (3), a notice delivered by—
  - (a) ordinary post is to be treated as having been delivered 5 working days after the date on which it was posted:
  - (b) electronic means of communication is to be treated as having been delivered on the day after the date on which it was delivered to the person's electronic address.
- (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 an emergency vehicle; or
  - (b) is exempt by virtue of an Order in Council made under section 46(1).
- (6) For the purposes of subsection (5), **emergency vehicle** means a vehicle that is used for attendance at emergencies and operated—
  - (a) as a Police vehicle:
  - (b) as an ambulance service vehicle:
  - (c) as a vehicle for the delivery of designated services (as defined in section 6 of the Fire and Emergency New Zealand Act 2017) by an employee, volunteer, or contractor of Fire and Emergency New Zealand.

Section 52(2): amended, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 52(3): amended, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 52(3)(a): amended, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 52(3A): inserted, on 13 June 2013, by section 46(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 52(3A)(a): replaced, on 17 December 2016, by section 64 of the Statutes Amendment Act 2016 (2016 No 104).

Section 52(3A)(b): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Section 52(3B): inserted, on 13 June 2013, by section 46(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 52(5): replaced, on 13 June 2013, by section 46(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 52(6): inserted, on 13 June 2013, by section 46(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 52(6)(c): replaced, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

**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 person registered under Part 17 of the Land Transport Act 1998 in respect of the vehicle is liable to pay a toll; and
- (b) the driver or person registered under that Part in respect of the vehicle has not paid the toll or made an acceptable payment arrangement with the toll operator.

Section 53(a): amended, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 53(b): amended, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

**54 Offences and penalties**

- (1) A person commits an offence if the person, without reasonable excuse, 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 conviction to a fine not exceeding \$500.
- (5) Subsection (3) does not limit section 111 of the Crimes Act 1961.

Section 54(1): amended, on 13 June 2013, by section 47 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 54(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**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.

### *Delegation*

Heading: replaced, on 13 June 2013, by section 48 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **56 Concession agreements**

*[Repealed]*

Section 56: repealed, on 13 June 2013, by section 49 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **57 When concession agreement may be entered into**

*[Repealed]*

Section 57: repealed, on 13 June 2013, by section 49 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **58 Approval process and relationship to national land transport programme**

*[Repealed]*

Section 58: repealed, on 13 June 2013, by section 49 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **59 Consultation requirements**

*[Repealed]*

Section 59: repealed, on 13 June 2013, by section 49 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **60 Terms of concession agreements**

*[Repealed]*

Section 60: repealed, on 13 June 2013, by section 49 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **61 Delegation of roading functions and powers**

- (1) For the purpose of enabling another person to construct or operate a new road, a road controlling authority may, with the prior approval of the Minister, delegate in writing to that person all or any of its functions and powers under—
  - (a) Part 21 of the Local Government Act 1974; or
  - (b) Part 4 of the Government Roding Powers Act 1989, other than the power under section 61(3) of that Act to make bylaws or the power under section 62 of that Act to delegate.
- (2) While functions or powers of a road controlling authority are delegated to another person under subsection (1),—
  - (a) the person 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 person 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 person 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) *[Repealed]*
- (5) For the purposes of this section, **person** includes (but is not limited to) any private sector person that has entered into a written agreement with a road controlling authority to construct or operate a new road.

Section 61 heading: amended, on 13 June 2013, by section 50(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 61(1): replaced, on 13 June 2013, by section 50(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 61(2): amended, on 13 June 2013, by section 50(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 61(2)(a): amended, on 13 June 2013, by section 50(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 61(2)(b): amended, on 13 June 2013, by section 50(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 61(3): amended, on 13 June 2013, by section 50(6) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 61(4): repealed, on 1 August 2008, by section 41(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 61(5): inserted, on 13 June 2013, by section 50(7) of the Land Transport Management Amendment Act 2013 (2013 No 35).

## 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 at any time.
- (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.

Section 62(4): amended, on 13 June 2013, by section 51 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### 63 Leasing

- (1) A road controlling authority may, for the purpose of enabling another person to construct or operate a new road and with the prior written approval of the Minister, grant a lease for a term not longer than 49 years over any land under the control of the road controlling authority.
- (2) *[Repealed]*
- (3) In subsection (1), **land** includes—
  - (a) an estate, right, title, or interest in land; and
  - (b) an existing road or a new road or a portion of an existing road or a new road; and
  - (c) land acquired by the road controlling authority under the Public Works Act 1981.
- (4) The lease—
  - (a) *[Repealed]*
  - (b) may be for the whole or any part of any period or periods within the written 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 written agreement 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).

- (8) For the purposes of this section, **written agreement** includes (but is not limited to) a written agreement that a private sector person has entered into with a road controlling authority to construct or operate a new road.

Section 63(1): replaced, on 13 June 2013, by section 52(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 63(2): repealed, on 13 June 2013, by section 52(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 63(3)(b): replaced, on 13 June 2013, by section 52(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 63(4)(a): repealed, on 13 June 2013, by section 52(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 63(4)(b): amended, on 13 June 2013, by section 52(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 63(5): amended, on 13 June 2013, by section 52(6) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 63(8): inserted, on 13 June 2013, by section 52(7) of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **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 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 toll road and to any person, vehicle, or animal on that road,—
- (a) enforcement officers who are not constables but who are Police employees 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) or (3)(a)(iii) 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 following provisions apply accordingly:
- (i) the Criminal Procedure Act 2011 and the rules and regulations made under it:
  - (ii) the Summary Proceedings Act 1957 and the regulations made under it.
- (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 toll road must be regarded as acting in the execution of his or her functions or powers under that Act.

Section 65 heading: amended, on 13 June 2013, by section 53(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 65(2): amended, on 13 June 2013, by section 53(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 65(2)(a): amended, on 13 June 2013, by section 53(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 65(2)(b): amended, on 13 June 2013, by section 53(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 65(2)(c): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 65(3): amended, on 13 June 2013, by section 53(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

### Subpart 3—Regional fuel tax

*[Repealed]*

Subpart 3: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### *Preliminary provisions*

*[Repealed]*

Heading: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **65A Overview of subpart**

*[Repealed]*

Section 65A: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **65B Purposes of subpart**

*[Repealed]*

Section 65B: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65C Interpretation**

*[Repealed]*

Section 65C: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65D Application of subpart**

*[Repealed]*

Section 65D: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

*Regional fuel tax schemes*

*[Repealed]*

Heading: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65E Preparation of proposed regional fuel tax scheme**

*[Repealed]*

Section 65E: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65F Capital projects**

*[Repealed]*

Section 65F: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65G General information about proposed regional fuel tax scheme**

*[Repealed]*

Section 65G: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65H Persons that must be consulted**

*[Repealed]*

Section 65H: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65I Consultation principles and procedures**

*[Repealed]*

Section 65I: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65J Proposed regional fuel tax scheme to be lodged with relevant regional council**

*[Repealed]*

Section 65J: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65K Relevant regional council's decision concerning proposed regional fuel tax scheme**

*[Repealed]*

Section 65K: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65L Functions of Agency under this subpart**

*[Repealed]*

Section 65L: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65M Additional capital projects may be included in proposed regional fuel tax scheme for Auckland**

*[Repealed]*

Section 65M: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65N Decisions of Ministers concerning proposed regional fuel tax scheme**

*[Repealed]*

Section 65N: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65O Order in Council establishing regional fuel tax scheme**

*[Repealed]*

Section 65O: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65P Procedure for recommending making of Order in Council under section 65O(1)**

*[Repealed]*

Section 65P: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

*Review of regional fuel tax scheme*

*[Repealed]*

Heading: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65Q Review of regional fuel tax scheme**

*[Repealed]*

Section 65Q: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65R Variation of allocation of regional fuel tax revenue between capital projects**

*[Repealed]*

Section 65R: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65S Replacement of regional fuel tax scheme**

*[Repealed]*

Section 65S: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

*Collection of regional fuel tax*

*[Repealed]*

Heading: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65T When power to collect regional fuel tax is exercisable**

*[Repealed]*

Section 65T: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65U Persons who must pay regional fuel tax**

*[Repealed]*

Section 65U: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65V Returns**

*[Repealed]*

Section 65V: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65W Confirmation of tax**

*[Repealed]*

Section 65W: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65X Assessment presumed to be correct**

*[Repealed]*

Section 65X: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65Y Appeal against assessment**

*[Repealed]*

Section 65Y: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

*Distribution of proceeds of regional fuel tax*

*[Repealed]*

Heading: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65Z Accounting for regional fuel tax**

*[Repealed]*

Section 65Z: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65ZA Regional fuel tax disbursement account**

*[Repealed]*

Section 65ZA: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

*Refunds*

*[Repealed]*

Heading: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65ZB Refund of regional fuel tax**

*[Repealed]*

Section 65ZB: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65ZC Procedure for obtaining refund**

*[Repealed]*

Section 65ZC: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

*Miscellaneous*

*[Repealed]*

Heading: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65ZD Offences and penalties**

*[Repealed]*

Section 65ZD: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**65ZE Regulations**

*[Repealed]*

Section 65ZE: repealed, on 13 June 2013, by section 54 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### Part 3

## Land transport strategic documents

Part 3: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### *GPS on land transport*

Heading: replaced, on 13 June 2013, by section 55(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **66 Minister must issue GPS on land transport**

- (1) The Minister must issue a GPS on land transport—
  - (a) before the start of the first financial year to which it applies; and
  - (b) that covers a period of 6 financial years.
- (2) The Minister must issue a replacement GPS on land transport under subsection (1) before the current GPS on land transport expires.
- (3) If a GPS on land transport that is issued under subsection (1) is replaced, the GPS on land transport that is replaced expires on the date that it is replaced.

Section 66: replaced, on 13 June 2013, by section 55(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **67 Preparation or review of GPS on land transport**

- (1) When preparing or reviewing a GPS on land transport, the Minister must—
  - (a) be satisfied that the GPS on land transport contributes to the purpose of this Act; and
  - (b) take into account—
    - (i) any national energy efficiency and conservation strategy; and
    - (ii) any relevant national policy statement that is in force under the Resource Management Act 1991; and
  - (c) have regard to the views of Local Government New Zealand and representative groups of land transport users and providers.
- (2) For the purposes of subsection (1), the Minister must, at least once in every period of 3 financial years, review the Crown's land transport investment strategy required under section 68(1)(b).
- (3) To avoid doubt, nothing in subsection (2) limits section 90(1).
- (4) Before issuing a GPS on land transport, the Minister must consult the Agency about the proposed GPS on land transport.

Section 67: replaced, on 13 June 2013, by section 55(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **68 Content of GPS on land transport**

- (1) The GPS on land transport must include—

- (a) the results that the Crown wishes to achieve from the allocation of funding from the national land transport fund over a period of at least 10 consecutive financial years; and
  - (b) the Crown's land transport investment strategy; and
  - (c) the Crown's policy on borrowing for the purpose of managing the national land transport programme.
- (2) The Crown's land transport investment strategy—
- (a) must link the amount of revenue raised from road users with the planned levels of expenditure from the national land transport fund; and
  - (b) must, for the first 6 financial years of the GPS on land transport and any subsequent years that the Minister considers relevant, address the following matters:
    - (i) the short-term to medium-term results that the Crown wishes to achieve through the allocation of funding from the national land transport fund;
    - (ii) the activity classes to be funded from the national land transport fund;
    - (iii) likely revenue, including changes to the duties, fees, and charges paid into the national land transport fund;
    - (iv) the identification of an expenditure target for the national land transport programme for each year;
    - (v) a maximum and a minimum level of expenditure for the national land transport programme for each year (subject to the ability to carry forward funds from the closing balance of the national land transport fund for a financial year to a future financial year);
    - (vi) an allowable variation between expenses and capital expenditure incurred under the national land transport programme and the inflows received by the national land transport fund;
    - (vii) funding ranges for each activity class;
    - (viii) the allowable reasons for varying the expenditure target identified under subparagraph (iv) when making funding allocation decisions;
    - (ix) a statement of the Minister's expectations of how the Agency gives effect to the GPS on land transport; and
  - (c) must specify the forecast funding ranges for each activity class for the period of 4 financial years following the first 6 financial years of the GPS on land transport; and
  - (d) must state the overall investment likely to be made in the land transport sector over a period of 10 financial years and the likely or proposed funding sources.

- (3) The GPS on land transport—
- (a) may set out national land transport objectives, policies, and measures for a period of at least 10 financial years beginning on the date that the GPS on land transport is issued; and
  - (b) must, subject to the Public Finance Act 1989, specify any additional expected funding for land transport activities, including (but not limited to) any money that Parliament may appropriate for the purpose.

Section 68: replaced, on 13 June 2013, by section 55(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **69 Status of GPS on land transport**

To avoid doubt, a GPS on land transport is not—

- (a) a direction for the purposes of Part 3 of the Crown Entities Act 2004; or
- (b) a legislative instrument for the purposes of the Legislation Act 2012; or
- (c) a disallowable instrument for the purposes of the Legislation Act 2012.

Section 69: replaced, on 13 June 2013, by section 55(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 69(b): replaced, on 5 August 2013, by section 55(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 69(c): replaced, on 5 August 2013, by section 55(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **70 Agency to give effect to GPS on land transport in respect of funding of land transport system**

- (1) The Agency must give effect to the GPS on land transport when performing its functions under subpart 1 of Part 2 in respect of land transport planning and funding.
- (2) To avoid doubt, the GPS on land transport may not impose an obligation on the Agency to approve or decline funding for a particular activity or any combination of activities under section 20.

Section 70: replaced, on 13 June 2013, by section 55(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **71 Availability of GPS on land transport**

As soon as practicable after issuing a GPS on land transport, the Minister must—

- (a) present a copy of the GPS on land transport to the House of Representatives; and
- (b) arrange for a copy of the GPS on land transport to be given to each of the following:
  - (i) the Secretary;
  - (ii) the Agency;

- (iii) the Commissioner:
  - (iv) every approved organisation:
  - (v) the Auckland Council; and
- (c) make a copy of the GPS on land transport publicly available in accordance with section 108.

Section 71: replaced, on 13 June 2013, by section 55(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **72 Effect of national land transport strategy**

*[Repealed]*

Section 72: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### *Regional land transport strategies*

*[Repealed]*

Heading: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **73 Overview of regional land transport strategy**

*[Repealed]*

Section 73: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **74 Responsibility for preparing and approving regional land transport strategies**

*[Repealed]*

Section 74: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### *Transit*

*[Repealed]*

Heading: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **75 Core requirements for regional land transport strategies**

*[Repealed]*

Section 75: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **76 Other matters that must be taken into account**

*[Repealed]*

Section 76: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**77 Contents of regional land transport strategies**

*[Repealed]*

Section 77: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**78 Consultation requirements**

*[Repealed]*

Section 78: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**79 Process for approving regional land transport strategies**

*[Repealed]*

Section 79: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**80 Availability of regional land transport strategy**

*[Repealed]*

Section 80: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**81 Variation of regional land transport strategy**

*[Repealed]*

Section 81: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**82 Effect of regional land transport strategies**

*[Repealed]*

Section 82: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**83 Progress reports on regional land transport strategy**

*[Repealed]*

Section 83: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

*GPS*

*[Repealed]*

Heading: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**84 Overview of GPS**

*[Repealed]*

Section 84: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**85 Status of GPS**

*[Repealed]*

Section 85: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**86 Minister must issue GPS before national land transport programme**

*[Repealed]*

Section 86: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**87 Preparation of GPS**

*[Repealed]*

Section 87: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

*Miscellaneous provisions*

*[Repealed]*

Heading: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**88 Content of GPS**

*[Repealed]*

Section 88: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**89 Agency to give effect to GPS in respect of funding of land transport system**

*[Repealed]*

Section 89: repealed, on 13 June 2013, by section 56 of the Land Transport Management Amendment Act 2013 (2013 No 35).

*Amendments and repeals*

*[Repealed]*

Heading: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**90 Amending GPS on land transport**

- (1) The Minister may amend the GPS on land transport at any time.
- (2) The provisions of this Act regarding the preparation and availability of a GPS on land transport—
  - (a) apply with the necessary modifications to an amendment to the GPS on land transport; but
  - (b) do not apply if the amendment to the GPS on land transport is not significant.

Section 90: replaced, on 13 June 2013, by section 57 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **91 Availability of amended GPS on land transport**

As soon as practicable after issuing an amended GPS on land transport, the Minister must—

- (a) present a copy of the amended GPS on land transport to the House of Representatives; and
- (b) arrange for a copy of the amended GPS on land transport to be given to each of the following:
  - (i) the Secretary;
  - (ii) the Agency;
  - (iii) the Commissioner;
  - (iv) every approved organisation;
  - (v) the Auckland Council; and
- (c) make a copy of the amended GPS on land transport publicly available in accordance with section 108.

Section 91: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 91 heading: amended, on 13 June 2013, by section 58(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 91: amended, on 13 June 2013, by section 58(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 91(a): amended, on 13 June 2013, by section 58(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 91(b): amended, on 13 June 2013, by section 58(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 91(b)(iv): replaced, on 13 June 2013, by section 58(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 91(b)(v): inserted, on 13 June 2013, by section 58(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 91(c): amended, on 13 June 2013, by section 58(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

## Part 4

### New Zealand Transport Agency, regional transport committees, and miscellaneous provisions

Part 4 heading: inserted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### Subpart 1—New Zealand Transport Agency

Subpart 1 heading: inserted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### *Savings provisions*

#### *[Repealed]*

Heading: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## 92 Overview

- (1) This subpart establishes the New Zealand Transport Agency and sets out the objective and functions of the Agency, its operating principles, and related provisions.
- (2) This Act contains a range of accountability provisions relevant to the Agency's functions, duties, and powers under this Act, including the following:
  - (a) section 11, which concerns the annual report on the national land transport fund; and
  - (b) section 16, which concerns the form and content of regional land transport plans, and includes procedures for the Agency to propose activities for inclusion in a plan; and
  - (c) section 19D, which concerns notification by the Agency about decisions not to include activities or combinations of activities in a national land transport programme; and
  - (d) section 20D, which concerns the giving of reasons by the Agency for any decision to approve or decline funding for an activity or combination of activities under section 20; and
  - (e) section 70, which concerns the requirement for the Agency to give effect to the GPS on land transport when exercising its functions under subpart 1 of Part 2; and
  - (f) section 96, which concerns the Agency's operating principles, systems, and procedures; and
  - (g) section 100, which concerns the Agency's statement of intent; and
  - (h) section 101, which concerns monitoring and review of specified activities and procedures of the Agency by the Secretary; and

- (i) section 109, which concerns the making of regulations requiring the Agency to disclose specified information or report in specified ways.
- (3) This section is by way of explanation only, and if a provision of this or any other Act is inconsistent with this section, the other provision prevails.

Section 92: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 92(2)(b): replaced, on 13 June 2013, by section 59(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 92(2)(e): replaced, on 13 June 2013, by section 59(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **93 Establishment of New Zealand Transport Agency**

- (1) This section establishes the New Zealand Transport Agency.
- (2) The Agency is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to the Agency except to the extent that this Act expressly provides otherwise.

Section 93: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### **94 Objective of Agency**

The objective of the Agency is to undertake its functions in a way that contributes to an effective, efficient, and safe land transport system in the public interest.

Section 94: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 94: amended, on 13 June 2013, by section 60 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **95 Functions of Agency**

- (1) The Agency has the following functions:
- (a) to contribute to an effective, efficient, and safe land transport system in the public interest:
- (b) 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:
- (c) to manage the State highway system, including planning, funding, design, supervision, construction, and maintenance and operations, in accordance with this Act and the Government Roding Powers Act 1989:
- (d) to deliver or manage the delivery of its other activities, including (but not limited to) those relating to research, education, and training:

- (e) to manage funding of the land transport system, including (but not limited to)—
    - (i) administration of land transport revenue; and
    - (ii) auditing the performance of approved organisations in relation to activities approved by the Agency and the operation of the land transport disbursement accounts of approved organisations:
  - (f) to manage regulatory requirements for transport on land, including (but not limited to) maintaining and preserving records and documents concerning activities within the land transport system, and maintaining registers:
  - (g) to assist, advise, and co-operate with approved organisations:
  - (h) 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 Agency are satisfied that the performance of the Agency's functions and duties will not be compromised:
  - (i) to provide the Minister with any advice relating to the Agency's functions that the Minister may request:
  - (ia) to issue guidelines for, and monitor the development of, regional public transport plans:
  - (j) 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:
  - (k) to carry out those functions conferred on the Agency by other provisions in this Act or under any other Act.
- (2) The Agency's statutorily independent functions are to—
- (a) issue, endorse, alter, replace, renew, suspend, or revoke any land transport document or other authorisation under any enactment; and
  - (b) grant exemptions under any enactment; and
  - (c) enforce the provisions of any enactment conferring functions or duties on the Agency; and
  - (d) determine whether particular activities should be included in a national land transport programme; and
  - (e) approve activities or combinations of activities under section 20; and
  - (f) approve procurement procedures.
- (3) In this section, **land transport document** includes—
- (a) a land transport document as defined in section 2(1) of the Land Transport Act 1998; and
  - (b) a rail document as defined in section 4(1) of the Railways Act 2005.

Section 95: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 95(1)(a): replaced, on 13 June 2013, by section 61(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 95(1)(d): replaced, on 13 June 2013, by section 61(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 95(1)(e)(i): amended, on 13 June 2013, by section 61(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 95(1)(ia): inserted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

## 96 Operating principles

- (1) In meeting its objective and undertaking its functions, the Agency must—
  - (a) exhibit a sense of social and environmental responsibility; and
  - (b) use its revenue in a manner that seeks value for money, and,—
    - (i) if the revenue is part of the national land transport fund, in accordance with section 10(3); and
    - (ii) in all other cases, for the purpose for which it is collected; and
  - (c) ensure that its revenue and expenditure are accounted for in a transparent manner; and
  - (d) ensure that—
    - (i) it acts in a transparent manner in its decision making under this Act; and
    - (ii) it gives, when making decisions in respect of land transport planning and funding under subpart 1 of Part 2, the same level of scrutiny to its own proposed activities and combinations of activities as it would give to those proposed by approved organisations.
- (2) The Agency must have systems and procedures to enable it to give effect to the principle set out in subsection (1)(d)(ii), and must—
  - (a) make information about those systems and procedures available on its Internet site; and
  - (b) include in its annual report under section 150 of the Crown Entities Act 2004 a report on its implementation of those systems and procedures.
- (3) The Auditor-General must, when carrying out the annual audit of the Agency under section 15 of the Public Audit Act 2001, report on the Agency's implementation of the systems and procedures referred to in subsection (2).

Section 96: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 96(1)(a): replaced, on 13 June 2013, by section 62 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**97 Agency must consider delegating or contracting out functions and powers**

In the course of performing its functions and exercising its powers, the Agency must consider whether it could most efficiently and effectively perform those functions and exercise those powers by means of its own operations, or by delegating or contracting out those operations to appropriate persons.

Section 97: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**98 Agency's board**

- (1) The Agency'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) 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.
- (3) The Agency's board must not delegate any functions or powers delegated to the board by the Minister without the written consent of the Minister.

Section 98: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**99 Use of certain words**

- (1) No person other than the Agency may, either alone or with another person, be incorporated or registered under another enactment, trade or carry on business, or perform the functions for which it was formed—
  - (a) under a name that contains the words New Zealand Transport Agency;  
or
  - (b) under a name that so resembles the words New Zealand Transport Agency as to be likely to mislead.
- (2) On or from the commencement of this Act until 31 December 2011, no person other than the Agency may, either alone or with another person, be incorporated or registered under another enactment, trade or carry on business, or perform the functions for which it was formed—
  - (a) under a name that contains the words Land Transport New Zealand or the words Transit New Zealand; or
  - (b) under a name that so resembles the words Land Transport New Zealand or the words Transit New Zealand as to be likely to mislead.
- (3) Nothing in subsection (1) or (2) applies to the Agency or to any person who is appropriately authorised by the Agency.

Section 99: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**100 Statement of intent**

- (1) The Agency must, if so required by the Minister, include 1 or more of the following matters in its statement of intent under section 139 of the Crown Entities Act 2004:
  - (a) the basis on which the Agency will prepare the national land transport programme and how that programme will give effect to the GPS on land transport;
  - (b) 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;
  - (c) the basis on which the Agency will approve procurement procedures under section 25;
  - (d) any directions under section 95(1)(j) or under Part 3 of the Crown Entities Act 2004;
  - (e) a statement as to how the Agency will implement the principles, systems, and procedures in section 96;
  - (f) any steps that the Agency intends to take, having considered ways in which it might foster the development of Māori capacity to contribute to the Agency's land transport decision-making processes, over the period covered by the statement of intent;
  - (g) any other matters that the Agency and the Minister agree or the Minister requires.
- (2) The Minister may direct the Agency to amend any provision that is included in its statement of intent under this section, and section 147 of the Crown Entities Act 2004 applies accordingly.

Section 100: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 100(1)(a): amended, on 13 June 2013, by section 63 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**101 Secretary may monitor and review specified activities and procedures**

- (1) The Secretary, for the purpose of evaluating the performance of the land transport funding and planning system, may monitor and review—
  - (a) samples of activities or combinations of activities approved under section 20; and
  - (b) the Agency's evaluation procedures under sections 18J, 19A, 19B, and 20; and
  - (c) the Agency's process for determining and applying design standards to roads; and
  - (d) the Agency's application of procurement procedures under sections 25 and 26.

- (2) The Secretary may, in writing, request the Agency to provide any information that is reasonably required and relevant to enable the Secretary to carry out the monitoring specified in subsection (1).
- (3) The Agency must provide the Secretary with the information that the Secretary requests under subsection (2).
- (4) Despite subsection (3), the Agency may refuse a request for information from the Secretary if—
  - (a) the withholding of the information is not contrary to the Official Information Act 1982; and
  - (b) the withholding of the information is necessary to protect the privacy of a person (whether or not a natural person or a deceased person).
- (5) To avoid doubt, this section does not—
  - (a) limit sections 132 to 134 of the Crown Entities Act 2004; or
  - (b) affect the responsible Minister's functions, duties, or powers under the Crown Entities Act 2004.

Section 101: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 101 heading: amended, on 13 June 2013, by section 64(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 101(1): amended, on 13 June 2013, by section 64(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **102 Monitoring and reporting on delivery of approved Police activities or combinations of Police activities**

- (1) The Agency must monitor the delivery of Police activities or combinations of Police activities that the responsible Minister has approved under section 18L.
- (2) With respect to the matters approved under section 18L, the Commissioner must, as agreed in writing by the responsible Minister and the Minister of Police, provide information relevant to those matters to any or all of the following:
  - (a) the responsible Minister:
  - (b) the Minister of Police:
  - (c) the Secretary:
  - (d) the Agency.
- (3) The Agency must provide the Minister with a report on the performance of the Police in relation to the matters that the responsible Minister has approved under section 18L.
- (4) *[Repealed]*
- (5) *[Repealed]*

- (6) 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.

Section 102: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 102(1): amended, on 13 June 2013, by section 65(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 102(3): amended, on 13 June 2013, by section 65(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 102(4): repealed, on 13 June 2013, by section 65(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 102(5): repealed, on 13 June 2013, by section 65(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **103 Agency may declare State highways**

- (1) The Agency, with the consent of the Secretary,—
- (a) may, by notice in the *Gazette*, declare a road to be a State highway; and
  - (b) must, by the same or a subsequent notice, define the route of the State highway by town, road name, or route position.
- (2) A road declared to be a State highway may include land that was not previously constituted as part of the road.
- (3) In determining the route of a State highway, the Agency—
- (a) is not constrained to accept the route of an existing road; and
  - (b) may, if the Agency thinks fit, declare, either permanently or temporarily, more than 1 State highway between any 2 places.
- (4) The Agency may vary or revoke a declaration made under subsection (1) in the manner that a declaration is made under subsection (1).
- (5) A revocation of a State highway constitutes the road as a local road for the purposes of this or any other Act.
- (6) A declaration, variation, or revocation that affects or is likely to affect Māori 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 Māori claims settlement Act, or Māori historical, cultural, or spiritual interests, may not be made or revoked unless the Agency—
- (a) has consulted,—
    - (i) 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);
    - (ii) if any other Māori claims settlement Act requires consultation about the declaration, variation, or revocation, in accordance with that Act:

- (iii) in any other case, every iwi or hapū that in the opinion of the Agency will or may be affected by the declaration, variation, or revocation; and
  - (b) is satisfied that the declaration, variation, or revocation should be made.
- (7) Subsection (6) does not limit the ability of the Agency to take similar action in respect of any other population group.
  - (8) Before making a declaration under subsection (1) or varying or revoking a declaration under subsection (4), the Agency must consult any regional council or territorial authority that may be affected by the proposed declaration, variation, or revocation and, if the road concerned is within Auckland, the Agency must also consult Auckland Transport and the Auckland Council.
  - (9) A declaration, variation, or revocation made under this section comes into force on a date to be specified in the relevant *Gazette* notice.
  - (10) A road declared to be a State highway under section 11 of the National Roads Act 1953 or section 60 of the Government Roding Powers Act 1989 (formerly known as the Transit New Zealand Act 1989), and having that status under either Act immediately before the commencement of this section, is to be treated as having been declared to be a State highway under this section.

Section 103: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 103 heading: amended, on 13 June 2013, by section 66(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 103(1): replaced, on 13 June 2013, by section 66(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 103(3): amended, on 13 June 2013, by section 66(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 103(3)(b): amended, on 13 June 2013, by section 66(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 103(4): amended, on 13 June 2013, by section 66(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 103(8): replaced, on 13 June 2013, by section 66(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **104 Government Superannuation Fund**

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

- (3) A person employed by the Agency who ceases to be a contributor to the Government Superannuation Fund is not subsequently entitled to become a contributor.
- (4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subsection (2), **controlling authority**, in relation to that employee, means the Agency.

Section 104: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### Subpart 2—Regional transport committees

Subpart 2 heading: inserted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### 105 Regional transport committees

- (1) As soon as practicable after each triennial election, every regional council must establish a regional transport committee under this section for its region.
- (2) Each regional council must appoint to its regional transport committee—
  - (a) 2 persons to represent the regional council; and
  - (b) 1 person from each territorial authority in the region to represent that territorial authority; and
  - (c) 1 person to represent the Agency; and
  - (d) *[Repealed]*
  - (e) *[Repealed]*
  - (f) *[Repealed]*
  - (g) *[Repealed]*
  - (h) *[Repealed]*
  - (i) *[Repealed]*
- (3) Each regional council that is a unitary authority, or a combination of unitary authorities (as the case may be), must appoint to its regional transport committee—
  - (a) 4 persons to represent the unitary authority; and
  - (b) 1 person to represent the Agency; and
  - (c) *[Repealed]*
  - (d) *[Repealed]*
  - (e) *[Repealed]*
  - (f) *[Repealed]*
  - (g) *[Repealed]*
  - (h) *[Repealed]*

- (4) A person specified in subsection (2)(a) to (c) and (3)(a) and (b) may only be appointed on the nomination of the relevant entity.
- (5) *[Repealed]*
- (6) Each regional council must appoint from its representatives the chair and deputy chair of the committee.
- (7) At any meeting of a regional transport committee, the chair, or any other person presiding at the meeting,—
  - (a) has a deliberative vote; and
  - (b) in the case of an equality of votes, does not have a casting vote (and therefore the act or question is defeated and the status quo is preserved).
- (8) *[Repealed]*
- (9) Despite subsections (1) to (3), 2 or more adjoining regional councils or Auckland Transport and 1 or more adjoining regional councils may agree in writing to establish a joint regional transport committee and prepare a regional land transport plan, in which case subsections (4), (6), and (7) apply with all necessary modifications.
- (9A) Despite subsections (1) to (3), the parties to a joint regional transport committee established under subsection (9) must appoint to the committee—
  - (a) 2 persons to represent each regional council that is a party to the agreement:
  - (b) 1 person to represent each territorial authority in the region of each regional council that is a party to the agreement:
  - (c) 1 person to represent the Agency:
  - (d) 2 persons to represent Auckland Transport if Auckland Transport is a party to the agreement.
- (9B) The agreement to establish a joint regional transport committee must specify the procedure for appointing the chair and deputy chair of the committee.
- (9C) The chair and deputy chair of a joint regional transport committee established under subsection (9) must,—
  - (a) in the case of a joint regional transport committee made up of adjoining regional councils, both be persons who represent a regional council:
  - (b) in the case of a joint regional transport committee made up of Auckland Transport and adjoining regional councils, both be persons who represent Auckland Transport or a regional council.
- (10) If a regional transport committee is established under subsection (9), any reference in Part 2 to a regional council is to be read as a reference to each of the regional councils that have established the committee.
- (10A) If Auckland Transport establishes a joint regional transport committee with 1 or more adjoining regional councils under subsection (9), any reference to a re-

gional council in Part 2 must be treated as a reference to Auckland Transport and each of those adjoining regional councils.

- (10B) If a joint regional transport committee is established under subsection (9), references to a region in Part 2 must be treated as references to each of the regions that are represented on the joint regional transport committee.
- (11) If the area of a territorial authority falls into the regions of more than 1 regional council, the territorial authority must decide (after consulting the relevant regional councils) which regional transport committee to join.
- (12) If subsection (11) applies, and a territorial authority fails to decide to join a regional transport committee, the Minister must direct the territorial authority to be represented by a particular regional transport committee.
- (13) *[Repealed]*
- (14) For the purposes of subsection (11), **region** has the same meaning as in section 5(1) of the Local Government Act 2002.
- (15) Nothing in this section applies to the Auckland Council or Auckland.

Section 105: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 105(2)(d): repealed, on 12 July 2013, by section 67(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(2)(e): repealed, on 12 July 2013, by section 67(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(2)(f): repealed, on 12 July 2013, by section 67(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(2)(g): repealed, on 12 July 2013, by section 67(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(2)(h): repealed, on 12 July 2013, by section 67(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(2)(i): repealed, on 12 July 2013, by section 67(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(3)(a): replaced, on 12 July 2013, by section 67(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(3)(c): repealed, on 12 July 2013, by section 67(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(3)(d): repealed, on 12 July 2013, by section 67(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(3)(e): repealed, on 12 July 2013, by section 67(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(3)(f): repealed, on 12 July 2013, by section 67(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(3)(g): repealed, on 12 July 2013, by section 67(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(3)(h): repealed, on 12 July 2013, by section 67(3) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(5): repealed, on 12 July 2013, by section 67(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(8): repealed, on 12 July 2013, by section 67(4) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(9): replaced, on 12 July 2013, by section 67(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(9A): inserted, on 12 July 2013, by section 67(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(9B): inserted, on 12 July 2013, by section 67(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(9C): inserted, on 12 July 2013, by section 67(5) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(10A): inserted, on 12 July 2013, by section 67(6) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(10B): inserted, on 12 July 2013, by section 67(6) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(11): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 105(13): repealed, on 12 July 2013, by section 67(7) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 105(14): substituted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 105(15): substituted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## **106 Functions of regional transport committees**

- (1) The functions of each regional transport committee (other than the regional transport committee for Auckland) are—
  - (a) to prepare a regional land transport plan, or any variation to the plan, for the approval of the relevant regional council; and
  - (b) to provide the regional council with any advice and assistance the regional council may request in relation to its transport responsibilities.
- (2) Each regional transport committee, including the regional transport committee for Auckland, must adopt a policy that determines significance in respect of—
  - (a) variations made to regional land transport plans under section 18D; and
  - (b) the activities that are included in the regional land transport plan under section 16.
- (3) A joint regional transport committee established under section 105(9) must—
  - (a) prepare the joint regional land transport plan in accordance with sections 14 and 16; and
  - (b) consult in accordance with sections 18 and 18A; and
  - (c) lodge the joint regional land transport plan with the relevant regional councils or Auckland Transport (as the case may be) in accordance with section 18B.

Section 106: replaced, on 13 June 2013, by section 68 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**107 Procedure of committee**

- (1) *[Repealed]*
- (2) The provisions of the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 concerning the meetings of committees of regional councils, so far as they are applicable and with the necessary modifications, apply in respect of meetings of the regional transport committees.
- (3) The Agency is not, as a result of being represented on a regional transport committee, bound to—
  - (a) include any matter in a national land transport programme under section 19C; or
  - (b) approve an activity or a combination of activities under section 20.
- (4) Despite section 43(2)(b) of the Local Government (Auckland Council) Act 2009, in the case of the regional transport committee for Auckland, the representative of the Agency has the same voting rights as that representative would have as a member of any other regional transport committee, including (but not limited to) voting rights for the purpose of preparing a regional land transport plan.

Section 107: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 107(1): repealed, on 13 June 2013, by section 69(1) of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 107(4): inserted, on 13 June 2013, by section 69(2) of the Land Transport Management Amendment Act 2013 (2013 No 35).

**Subpart 3—Miscellaneous**

Subpart 3 heading: inserted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**108 Public availability of documents**

- (1) Subsection (2) applies if the Minister or the Agency is required under this Act to make a document publicly available.
- (2) If this subsection applies, the Minister or the Agency must give notice in—
  - (a) the *Gazette*; and
  - (b) 1 or more daily newspapers published in Whangarei, Auckland, Hamilton, Rotorua, Tauranga, Hawke's Bay, New Plymouth, Palmerston North, Wellington, Nelson, Christchurch, Dunedin, and Invercargill.
- (3) Subsection (4) applies if a regional council or Auckland Transport is required under this Act to make a document publicly available.
- (4) If this subsection applies, the relevant regional council or Auckland Transport must give notice in the relevant local and regional newspapers.
- (5) A notice given under subsection (2) or (4) must state—

- (a) where the document may be inspected; and
  - (b) where the document may be purchased.
- (6) A person who gives notice of a document under subsection (2) or (4) must make the document available—
- (a) for inspection, free of charge; and
  - (b) for purchase at a reasonable price; and
  - (c) on the relevant person's Internet site in a format that is—
    - (i) readily accessible; and
    - (ii) if practicable, capable of being utilised by the visually impaired.

Compare: 1989 No 75 s 105

Section 108: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 108(3): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 108(4): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## 109 Regulations

The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations—

- (a) requiring the Agency to—
  - (i) disclose specified information to the Minister or the public;
  - (ii) report in specified ways;
- (b) specifying—
  - (i) how funding under section 9(1) is to be apportioned; and
  - (ii) the process by which that funding can be allocated.

Section 109: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

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

*[Repealed]*

Section 110: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

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

*[Repealed]*

Section 111: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**112 Transitional regulations**

*[Expired]*

Section 112: expired, on 2 July 2005, by section 113.

**113 Expiry of section 112**

*[Repealed]*

Section 113: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **Part 5**

### **Regulation of public transport**

Part 5: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**114 Application of certain provisions of Local Government Act 2002 to Auckland Transport**

For the purposes of this Act, sections 76 to 83A, 87, and 89 of the Local Government Act 2002 apply, with any necessary modifications, to Auckland Transport as if it were a local authority.

Section 114: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**115 Principles**

- (1) All persons exercising powers or performing functions under this Part in relation to public transport services must be guided by each of the following principles to the extent relevant to the particular power or function:
  - (a) regional councils and public transport operators should work in partnership and collaborate with territorial authorities to deliver the regional public transport services and infrastructure necessary to meet the needs of passengers:
  - (b) the provision of public transport services should be coordinated with the aim of achieving the levels of integration, reliability, frequency, and coverage necessary to encourage passenger growth:
  - (c) competitors should have access to regional public transport markets to increase confidence that public transport services are priced efficiently:
  - (d) incentives should exist to reduce reliance on public subsidies to cover the cost of providing public transport services:
  - (e) the planning and procurement of public transport services should be transparent.
- (2) Without limiting subsection (1), the principles specified in subsection (1) must be taken into account by—
  - (a) the Agency when—

- (i) approving procurement procedures under section 25(1):
- (ii) preparing guidelines to be issued under section 95(1):
- (iii) approving the approach to procurement under section 120(3):
- (b) the Environment Court when it considers an appeal against a regional public transport plan under section 140:
- (c) the Minister when the Minister considers making a recommendation under section 150.

Compare: 2004 No 92 s 4

Section 115: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **116 Public transport services must be provided under contract**

- (1) Any public transport service operated in a region must be provided under contract with a regional council as part of a unit unless it is an exempt service.
- (2) A regional council must contract for the provision of every unit on an exclusive basis.

Section 116: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## Subpart 1—Regional public transport plan

Subpart 1: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **117 Purpose of regional public transport plans**

The purpose of a regional public transport plan is to provide—

- (a) a means for encouraging regional councils and public transport operators to work together in developing public transport services and infrastructure; and
- (b) an instrument for engaging with the public in the region on the design and operation of the public transport network; and
- (c) a statement of—
  - (i) the public transport services that are integral to the public transport network; and
  - (ii) the policies and procedures that apply to those services; and
  - (iii) the information and infrastructure that support those services.

Section 117: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **118 Validity of regional public transport plans not affected by certain events**

A regional public transport plan is not invalid merely because the regional council—

- (a) has failed to complete the review of the regional public transport plan within the time required by section 126(1)(b); or
- (b) has included any matter that is not within the scope of the regional land transport plan so long as the regional public transport plan is otherwise consistent with the regional land transport plan.

Section 118: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### *General requirements*

Heading: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **119 Adoption of regional public transport plans**

- (1) A regional council must, by resolution on or before 1 July 2015, adopt a regional public transport plan unless it does not intend to—
  - (a) enter into any contract for the supply of any public transport service:
  - (b) provide any financial assistance to any operator or user of any other passenger service in a small passenger service vehicle.
- (2) A regional council may, by resolution at any time, vary or renew a regional public transport plan previously adopted by it.
- (3) The production in proceedings of a copy of a regional public transport plan purporting to have been adopted, varied, or renewed by a regional council under this section is, in the absence of evidence to the contrary, sufficient evidence of the plan and of the fact that it has been adopted, varied, or renewed in accordance with this section.
- (4) A regional council (or a territorial authority to which the responsibility is transferred under the Local Government Act 2002) may not delegate the responsibility for adopting, varying, or renewing a regional public transport plan to a committee or other subordinate decision-making body, or a member or an officer of the council (or territorial authority, as the case may be), or any other person.
- (5) If a territorial authority has joined a regional transport committee under section 105(11), the plan applying in the region of the regional transport committee applies to the entire area of the territorial authority.

Section 119: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 119(1)(b): replaced, on 1 October 2017, by section 110(3) of the Land Transport Amendment Act 2017 (2017 No 34).

## **120 Contents of regional public transport plans**

- (1) A regional council, in a regional public transport plan,—
  - (a) must—

- (i) identify the public transport services that are integral to the public transport network that the regional council proposes to provide; and
  - (ii) provide an outline of the routes, frequency, and hours of operation of the services identified under subparagraph (i); and
  - (iii) arrange all of the public transport services identified under subparagraph (i) into units; and
  - (iv) indicate the date by which a unit is expected to start operating; and
  - (v) indicate the date by which any exempt service that is to be replaced by a unit is to be deregistered; and
  - (vi) identify any units for which the regional council intends to provide financial assistance; and
  - (vii) identify any passenger services in small passenger service vehicles for which the regional council intends to provide financial assistance; and
  - (viii) describe how the network of public transport services and the services referred to in subparagraph (vii) will assist the transport-disadvantaged; and
- (b) must specify any objectives and policies that are to apply to—
- (i) any units; and
  - (ii) any services referred to in paragraph (a)(vii); and
- (c) may describe exempt services but may not make them subject to the objectives and policies described in paragraph (b); and
- (d) may state or describe any other matters that the regional council thinks fit.
- (2) Without limiting subsection (1)(b), a regional council must, in relation to any units, include in a regional public transport plan policies on—
- (a) accessibility, quality, and performance; and
  - (b) fares and the method or formula or other basis for setting and reviewing those fares; and
  - (c) the process for establishing units; and
  - (d) the approach that will be taken to procuring the delivery of the service or services in a unit; and
  - (e) how the procurement of units will be phased in over time; and
  - (f) managing, monitoring, and evaluating the performance of units.
- (3) The approach to procurement specified in subsection (2)(d) must, in relation to a public transport service for which the regional council does not intend to provide financial assistance, be approved by the Agency.

- (4) A regional public transport plan must set out the policy the regional council will apply in determining whether a proposed variation to the regional public transport plan is significant for the purpose of section 126(4).
- (5) A regional public transport plan may—
- (a) provide that an action described in the plan must or may be done by a regional council or a committee or other subordinate decision-making body or a member or officer of the regional council; and
  - (b) specify conditions that apply to that action.
- (6) Subsection (5) does not limit or affect anything in the Local Government Act 2002.

Section 120: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 120(1)(a)(vii): amended, on 1 October 2017, by section 110(3) of the Land Transport Amendment Act 2017 (2017 No 34).

## **121 Notification and provision of copies of plans**

- (1) If a regional council adopts or varies a regional public transport plan, the regional council must—
- (a) ensure that notice is given, as soon as practicable, in the relevant newspaper circulating in the region of the adoption or variation of the plan and its availability for inspection and purchase; and
  - (b) give, as soon as practicable, to the operator of every public transport service in the region, and to every person who has notified the regional council of a proposal to operate an exempt service in the region, written or electronic notice of the adoption and a copy of the plan (or variation); and
  - (c) within 20 working days of adopting or varying a regional public transport plan,—
    - (i) notify, in writing or electronically, each of the following of the regional public transport plan or variation:
      - (A) the Agency;
      - (B) the Secretary;
      - (C) the Minister of Education;
      - (D) the relevant railway line access provider;
      - (E) territorial authorities in the region;
      - (F) the relevant regional transport committee;
      - (G) in the case of a plan or a variation adopted by Auckland Transport, the Auckland Council; and
    - (ii) ensure that—

- (A) copies of the plan or variation are kept at the regional council's principal office and such other places that the regional council appoints and made available for public inspection, free of charge, and for purchase at a reasonable price; and
  - (B) a copy of the plan or variation is made available on the regional council's Internet site.
- (2) A regional council may publish a regional public transport plan and a regional land transport plan as a single document.

Section 121: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **122 When regional public transport plans take effect**

A regional public transport plan takes effect on the day that is 20 working days after the date on which the regional council adopts the plan.

Section 122: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **123 Good-faith exclusion of regional councils from liability to pay compensation**

- (1) Nothing included in a regional public transport plan in good faith makes a regional council liable to pay compensation to any person.
- (2) Nothing makes a regional council liable to pay compensation to any person for anything that is done in good faith by the regional council in—
- (a) removing an exempt service from the register; or
  - (b) removing details of a variation to an exempt service from the register; or
  - (c) declining to register an exempt service; or
  - (d) declining to record a variation to an exempt service in the register.

Section 123: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **124 Matters to take into account when adopting regional public transport plans**

A regional council must, before adopting a regional public transport plan,—

- (a) be satisfied that the plan—
  - (i) contributes to the purpose of this Act; and
  - (ii) has been prepared in accordance with any relevant guidelines that the Agency has issued; and
  - (iii) is, if it includes a matter that is not within the scope of the regional land transport plan, otherwise consistent with that plan; and
- (b) be satisfied that it has applied the principles specified in section 115(1); and

- (c) take into account—
  - (i) any national energy efficiency and conservation strategy; and
  - (ii) any relevant regional policy statement, regional plan, district plan, or proposed regional plan or district plan under the Resource Management Act 1991; and
  - (iii) the public transport funding likely to be available within the region; and
  - (iv) the need to obtain the best value for money, having regard to the desirability of encouraging a competitive and efficient market for public transport services; and
  - (v) the views of public transport operators in the region; and
- (d) consider the needs of persons who are transport-disadvantaged.

Section 124: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **125 Consultation requirements for regional public transport plans**

- (1) When preparing a draft regional public transport plan, a regional council must consult—
  - (a) the relevant regional transport committee (and, in the case of Auckland Transport, the Auckland Council and each affected local board of the Auckland Council); and
  - (b) the Agency; and
  - (c) every operator of a public transport service in the region; and
  - (d) every person who has notified the regional council of a proposal to operate an exempt service in the region; and
  - (e) the Minister of Education; and
  - (f) the territorial authorities in the region; and
  - (g) the relevant railway line access provider.
- (2) Before adopting a regional public transport plan, a regional council or Auckland Transport (as the case may be)—
  - (a) must consult in accordance with the consultative principles specified in section 82 of the Local Government Act 2002; and
  - (b) may use the special consultative procedure specified in sections 83, 87, and 89 of the Local Government Act 2002, and those sections apply for the purposes of this section with the necessary modifications.
- (3) A regional council that is preparing a regional public transport plan may request any information from any territorial authority within its region that the regional council considers necessary to perform its functions under this Act in relation to that plan, and the territorial authority must promptly comply with that request.

- (4) A regional council may carry out consultation on a proposal to adopt a regional public transport plan in conjunction with the relevant regional transport committee's consultation on its regional land transport plan under this Act.

Section 125: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **126 Currency and variation of regional public transport plans**

- (1) A regional public transport plan adopted under section 119—
- (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 in advance; and
  - (b) may be reviewed by the regional council from time to time, but must be reviewed and, if necessary, renewed or varied at the same time as, or as soon as practicable after, the public transport service components of a regional land transport plan are approved or varied.
- (2) Subject to subsections (4) and (5), the provisions of this Act that apply to the adoption of a regional public transport plan apply with the necessary modifications to a variation or renewal of a regional public transport plan.
- (3) A variation forms part of the regional public transport plan it varies.
- (4) Section 125(1) does not apply in respect of a proposed variation to a regional public transport plan if the variation is not significant, in which case, for the purposes of section 125(2)(a), the persons who will or may be affected by, or have an interest in, the proposed variation include public transport operators and those persons who have notified the regional council of a proposal to operate a public transport service in the region.
- (5) Subsection (4) does not apply to a variation that would alter the policy that the regional council applies in determining whether a proposed variation to a regional public transport plan is significant.
- (6) A regional council may, by resolution publicly notified, correct minor errors in a regional public transport plan but only if the correction does not affect an existing right, interest, or duty of any person or organisation that is affected by or has an interest in the regional public transport plan.

Section 126: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **127 Power to require information from operators of public transport services**

- (1) A regional council—
- (a) may require an operator of a unit to provide the regional council with patronage data and fare revenue data for that unit; and
  - (b) must publish—
    - (i) patronage data provided under paragraph (a); and
    - (ii) data that shows the extent to which the unit is subsidised; and

- (c) may disclose the fare revenue data provided under paragraph (a) to any person who is registered by the regional council to tender for the provision of a unit.
- (2) A regional council may require the information required under subsection (1) to be provided to the regional council in any specified form in which, having regard to the manner in which the information is kept by the operator, it is reasonable to expect the operator to provide it.

Section 127: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **128 Power to require information from regional councils and Auckland Transport**

- (1) The Agency may require a regional council to provide it with information related to public transport planning, contracting, and monitoring that is necessary to enable the Agency to perform its functions under this Act, including information provided to the regional council under section 127.
- (2) If the Agency requires the regional council to provide information under subsection (1), the regional council must provide the information as soon as is reasonably practicable.
- (3) The Auckland Council may require Auckland Transport to provide it with any information related to the preparation of Auckland Transport's regional public transport plan that is necessary to enable the Auckland Council to perform its function of providing funds to Auckland Transport for land transport purposes under the Local Government (Auckland Council) Act 2009, including information provided to Auckland Transport under section 127.
- (4) If the Auckland Council requires Auckland Transport to provide any information under subsection (3), Auckland Transport must provide the information as soon as is reasonably practicable.

Section 128: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **129 Disclosure of information received under sections 127 and 128**

- (1) If a regional council or the Auckland Council (an **organisation**) receives under section 127 or 128 fare revenue data that may, in the organisation's opinion, be withheld under section 7(2)(b) of the Local Government Official Information and Meetings Act 1987 or that has been described by the operator of the unit that provided it as commercially sensitive, the organisation must not disclose the fare revenue data without the operator's consent except—
  - (a) to registered tenderers under section 127(1)(c); or
  - (b) to the organisation's professional advisers; or
  - (c) in the case of information received by an organisation that is a regional council, to those persons or entities engaged by the regional council to carry out public transport planning, contracting, or monitoring; or

- (d) to the Agency, in accordance with section 128(2); or
  - (e) in the case of information received by Auckland Transport, to the Auckland Council, in accordance with section 128(4); or
  - (f) subject to subsection (2), in response to a request made under the Local Government Official Information and Meetings Act 1987; or
  - (g) where the fare revenue data was provided to the organisation 5 years or more before the date of the disclosure; or
  - (h) where—
    - (i) the operator of the unit (the **former operator**) no longer exists; and
    - (ii) the former operator's public transport business has not been disposed of as a going concern to any other person.
- (2) If an organisation receives a request under the Local Government Official Information and Meetings Act 1987 to release any information described in subsection (1),—
- (a) the organisation must make all reasonable efforts to notify immediately the person who provided the information to the organisation that a request to release the information has been received; and
  - (b) the person must, within 10 working days after receiving the notice, advise the organisation whether that person believes the information should be withheld under section 7(2)(b) of the Local Government Official Information and Meetings Act 1987 and give reasons for that belief; and
  - (c) the organisation may release the information after the expiry of the period specified in paragraph (b) if, having complied with its obligations under this subsection and having regard to the person's response (if any), the organisation cannot identify any reason for withholding the information under the Local Government Official Information and Meetings Act 1987.
- (3) If the Agency receives under section 128(1) fare revenue data that was provided to a regional council under section 127 and that may, in the Agency's opinion, be withheld under section 9(2)(b) of the Official Information Act 1982 or has been described by the operator of the unit that provided it as commercially sensitive, the Agency must not disclose that information without the operator's consent except—
- (a) to the Agency's professional advisers; or
  - (b) subject to subsection (4), in response to a request made under the Official Information Act 1982; or
  - (c) where the information received from the regional council was provided to the regional council 5 years or more before the date of the Agency's disclosure; or

- (d) where—
  - (i) the operator of the unit (the **former operator**) no longer exists; and
  - (ii) the former operator’s public transport business has not been disposed of as a going concern to any other person.
- (4) If the Agency receives a request under the Official Information Act 1982 to release any information described in subsection (3),—
  - (a) the Agency must make all reasonable efforts to notify immediately the person who provided the information to the regional council that a request to release the information has been received by the Agency; and
  - (b) the person must, within 10 working days after receiving the notice, advise the Agency whether that person believes the information should be withheld under section 9(2)(b) of the Official Information Act 1982 and give reasons for that belief; and
  - (c) the Agency may release the information after the expiry of the period specified in paragraph (b) if, having complied with its obligations under this subsection and having regard to the person’s response (if any), the Agency cannot identify any reason for withholding the information under the Official Information Act 1982.

Section 129: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## Subpart 2—Registration of exempt services

Subpart 2: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### *Register of exempt services*

Heading: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **130 All exempt services to be registered**

- (1) No person may operate an exempt service specified in subsection (2) in a region unless, at the time it is operated, the service is registered with the regional council of that region.
- (2) The following public transport services are exempt services:
  - (a) an inter-regional public transport service;
  - (b) a public transport service,—
    - (i) in a region that is required to have a regional public transport plan, that—
      - (A) begins, or is to begin, operating after the plan is adopted; and

- (B) is not identified in the plan as integral to the public transport network; and
      - (C) operates without a subsidy for the provision of the service:
    - (ii) in a region that is not required to have a regional public transport plan, that operates within the region:
  - (c) a public transport service that is specified as an exempt service by an Order in Council made under section 150.
- (3) For the purposes of subsection (2)(b)(i)(C), **subsidy** does not include anything done under an agreement between a regional council and an operator to reduce passenger fares.

Section 130: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### 131 Register of exempt services

- (1) A regional council must keep a current register of all public transport services that are exempt services.
- (2) A regional council must record in the register—
  - (a) the name of the operator of the exempt service; and
  - (b) if the operator is a company that is not a listed company, the name of each shareholder of the operator (or, if the operator is a subsidiary within the meaning of section 5 of the Companies Act 1993, the name of its ultimate holding company); and
  - (c) the contact details of the operator of the exempt service, including the operator's business address, telephone number, email address (if any), and Internet site (if any); and
  - (d) the routes of the exempt service; and
  - (e) the date the exempt service is intended to begin.
- (3) Despite subsection (1), a public transport service that was operating as a registered exempt service before it was identified in the regional council's regional public transport plan as integral to the public transport network must remain on the register and may continue operating as if it were an exempt service until it is deregistered under section 137.

Section 131: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### 132 Contents of register to be made available to public

A regional council that keeps a register of exempt services under this subpart must ensure that—

- (a) the information on the register is reasonably readily available for public inspection, whether in written or electronic form, free of charge and during normal office hours; and

- (b) a copy of the information that is on the register can be made available for purchase by the public at a reasonable price.

Section 132: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### 133 Notification of proposal to operate or vary exempt services

- (1) In accordance with the applicable period referred to in subsection (4), a person who proposes to—
- (a) operate an exempt service must notify every regional council in whose region the proposed service is to operate of—
- (i) the name of the operator; and
  - (ii) the name of each shareholder of the operator (or, if the operator is a subsidiary within the meaning of section 5 of the Companies Act 1993, the name of its ultimate holding company) if the operator is a company that is not a listed company; and
  - (iii) the contact details of the operator (including the operator's business address, telephone number, email address, and Internet site address (if any)); and
  - (iv) the proposed route or routes of the service; and
  - (v) the date the service is intended to commence; and
  - (vi) the timetables for the service; and
  - (vii) the stops, stations, or terminals for the service:
- (b) vary any of the details of an exempt service described in paragraph (a)(i) to (iv), (vi), and (vii) must notify that regional council of—
- (i) the variation; and
  - (ii) the date the variation is intended to take effect; and
  - (iii) the intended duration of the variation.
- (2) With the consent of the regional council concerned, any notice required by this section to be given by any person may—
- (a) be given by an organisation on behalf of the person; and
  - (b) relate to any number of exempt services.
- (3) The regional council may, with the agreement of the operator, reduce or waive the period of notice required by subsection (1) if it is satisfied that the public would not be unreasonably disadvantaged by the earlier commencement or variation of the exempt service.
- (4) For the purposes of subsection (1), **applicable period** means not less than 15 working days before the exempt service or variation is intended to commence.
- (5) For the purposes of subsection (1)(b), **exempt service** includes a service that—
- (a) was registered under the Public Transport Management Act 2008; and

- (b) will continue to operate as an exempt service under this Part.

Section 133: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **134 Grounds for declining registration or variation of exempt services**

- (1) A regional council may, on the grounds set out in subsection (2), decline to—
- (a) register an exempt service; or
  - (b) record in the register a variation of the route or routes of an exempt service.
- (2) The grounds are that—
- (a) the exempt service, or the variation of the route or routes, is—
    - (i) likely to have a material adverse effect on the financial viability of any unit; or
    - (ii) likely to increase the net cost to the regional council of any unit; or
    - (iii) contrary to sound traffic management or any environmental factor identified by the regional council as important to its region; or
  - (b) the regional council is yet to adopt its regional public transport plan; or
  - (c) the regional council has adopted a regional public transport plan and it identifies the service as integral to the public transport network.

Section 134: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **135 Process for declining registrations or variations of exempt services**

If a regional council declines to register an exempt service or record in the register a variation of a route of an exempt service under section 134, it must, within 15 working days (or such longer period as the regional council and operator may agree) of receiving notice under section 133(1), give written notice to the operator of—

- (a) the decision; and
- (b) the reasons for the decision and a summary of the information supporting the decision; and
- (c) the operator's right under section 141 to appeal against the decision.

Section 135: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **136 Registration of and variation to exempt services**

- (1) Within 15 working days (or such longer period as the regional council and operator may agree) of receiving a notice under section 133(1), a regional council must (as the case may be)—

- (a) register the exempt service to which the notice relates, unless the regional council declines to register the service under section 134; or
  - (b) record in the register the variation of the details of the exempt service to which the notice relates, unless the variation relates to the route or routes of the exempt service and is declined by the regional council under section 134.
- (2) The registration of an exempt service or the variation of an exempt service under this section remains in effect until the service is deregistered, or the details of the variation are removed, in accordance with section 137(1), (2), or (4), or 139(3).

Section 136: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **137 Deregistration of exempt services and removing details of variations**

- (1) A regional council may, at any time, deregister all or part of an exempt service if the regional council is satisfied that the operator—
  - (a) has persistently failed to operate the exempt service or part of the exempt service; or
  - (b) has failed to commence operating the exempt service within 90 days after the registration of the exempt service.
- (2) A regional council may, at any time, remove the details of a variation to the route or routes of an exempt service from the register, if the regional council is satisfied that the exempt service has failed to commence operating in accordance with the variation within 90 days after the regional council records the details of the variation in the register.
- (3) A regional council may not deregister all or part of an exempt service under subsection (1) or remove the details of a variation under subsection (2) if the operator has failed to operate the exempt service owing to circumstances beyond the reasonable control of the operator.
- (4) A regional council must, on the date specified by the regional council in a notice to the operator, deregister a public transport service that was operating as an exempt service before it was—
  - (a) required, by Order in Council, to be replaced by a unit; and
  - (b) identified in the regional council's regional public transport plan as integral to the public transport network.

Section 137: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **138 Process for deregistering exempt services or removing details of variations**

- (1) A regional council may not deregister all or part of an exempt service or remove the details of a variation to an exempt service from the register under section 137 unless it has first—

- (a) notified the operator of the service of its intention to deregister all or part of the service or remove the details of the variation to the service from the register, and of—
    - (i) the reasons for its intention and a summary of the information supporting those reasons; and
    - (ii) the procedure to be followed in making a final decision; and
    - (iii) the operator's right under section 141 to appeal against a final decision; and
  - (b) given the operator the opportunity to make written submissions and, if the operator wishes, be heard within 30 working days after receiving the notice from the regional council (or such longer period as the regional council and operator may agree).
- (2) If the operator requests a hearing, the regional council must—
- (a) appoint a time and place for the hearing and give reasonable notice of this to the operator; and
  - (b) hear the matter in public, unless permitted to do otherwise by the Local Government Official Information and Meetings Act 1987; and
  - (c) establish a procedure for hearing the matter that is appropriate and fair in the circumstances.
- (3) In determining an appropriate procedure for a hearing, the regional council must—
- (a) avoid any unnecessary formality; and
  - (b) not permit anyone other than the chairperson or a member of the regional council to question the operator; and
  - (c) permit the operator to be heard (either in person or by a representative) and submit evidence; and
  - (d) permit an officer of the council to present advice and reports; and
  - (e) not permit any other person to be heard at the hearing except by agreement with the operator.
- (4) If the regional council makes a final decision to deregister an exempt service or remove from the register the details of a variation to an exempt service, the regional council must give written notice to the operator of—
- (a) the decision; and
  - (b) the reasons for the decision and a summary of the information supporting the decision; and
  - (c) the date on which the deregistration or the removal of the details of the variation takes effect (which may not be earlier than the date of notification); and
  - (d) the operator's right under section 141 to appeal against the decision.

- (5) This section does not apply to the deregistration of a public transport service under section 137(4).

Section 138: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **139 Withdrawal of exempt services**

- (1) The operator of an exempt service who proposes to withdraw from providing the exempt service must notify the regional council in whose region the exempt service is registered of that proposal not less than 15 working days before the exempt service is to cease operating.
- (2) The regional council may reduce or waive the period of notice required by subsection (1), if it is satisfied that the public would not be unreasonably disadvantaged by the earlier withdrawal of the exempt service.
- (3) The regional council must remove the withdrawn exempt service from the register of exempt services within 15 working days after the date that the exempt service ceases to operate.

Section 139: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **Subpart 3—Miscellaneous**

Subpart 3: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### *Appeals*

Heading: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

### **140 Right to appeal to Environment Court**

- (1) An operator of a public transport service may appeal to the Environment Court against the arrangement of public transport services into units and the allocation of those units in a regional public transport plan if affected by the arrangement or allocation.
- (2) An operator of a public transport service who wishes to appeal must lodge a notice of appeal with the Environment Court within 15 working days after receiving notice of the adoption and a copy of the plan under section 121(1)(b) or a longer time that the court allows.
- (3) An operator of a public transport service who lodges a notice of appeal with the Environment Court under subsection (2) must serve a copy of the notice on the regional council and every other operator of a public transport service in the region within 5 working days after the appeal is lodged.
- (4) The New Zealand Transport Agency has the right to appear and be heard during any appeal under this section.
- (5) The court must hear the appeal on the merits of the case and do 1 or more of the following:

- (a) dismiss the appeal;
  - (b) refer the plan back to the regional council to modify in accordance with any directions of the court.
- (6) The court may not direct a regional council to modify a plan in a manner that would impose an additional financial obligation on the regional council or any other person, unless the regional council or other person consents to that modification of the plan.
- (7) Part 11 of the Resource Management Act 1991, and any regulations made under that Act that relate to that Part, apply to an appeal under this section with all necessary modifications.
- (8) A notice of appeal must state any matters that regulations made under the Resource Management Act 1991 require to be stated in the case of an appeal under section 120 of that Act.

Section 140: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### 141 Appeals to District Court

- (1) A person may appeal to the District Court against an adverse decision relating to that person if the person is an operator of an exempt service or a proposed exempt service that is the subject of the decision.
- (2) For the purposes of subsection (1), **adverse decision** means a decision of a regional council to—
- (a) decline to register an exempt service under section 134; or
  - (b) decline to record in the register a variation of the route or routes of an exempt service under section 134; or
  - (c) deregister an exempt service under section 137; or
  - (d) remove the details of a variation of the route or routes of an exempt service from the register under section 137.

Section 141: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 141(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

#### 142 Procedure for appeals to District Court

- (1) An appeal under section 141 must be brought, in accordance with the procedure under Part 18 of the District Court Rules 2014, no later than 20 working days after the date on which the appellant was notified under this Act of the decision appealed against or within any further period that the District Court may allow.
- (2) Subject to subsection (1), an appeal must be made and determined in accordance with Part 9 of the District Court Act 2016 and the rules of the District Court made under that Act.

- (3) Subject to sections 144 and 145, the decision of the District Court on an appeal under section 141 is final.

Section 142: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 142(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 142(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

### **143 Decisions of regional councils to continue in force pending appeals, etc**

- (1) Subject to subsection (2), a decision of a regional council appealed against under section 141, 144, or 145 continues in force pending the determination of the appeal, and no person is excused from complying with a provision of this Act on the grounds that an appeal is pending.
- (2) Pending the outcome of an appeal, the District Court may suspend the regional council's decision if the court is satisfied that public safety would not be compromised.

Section 143: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 143(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

### **144 Appeals to High Court on questions of law**

- (1) A party to an appeal under section 141 who is dissatisfied with the decision of the District Court on the ground that it is erroneous in law may appeal to the High Court on that question of law.
- (2) The High Court Rules 2016 and sections 126 to 130 of the District Court Act 2016, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 124 of that Act.

Section 144: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 144(2): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

### **145 Further appeals to Court of Appeal**

- (1) A party to an appeal under section 144 who is dissatisfied with the decision of the High Court in respect of the appeal may, with the leave of the High Court or (if that leave is declined) with special leave of the Court of Appeal, appeal to the Court of Appeal on that question of law.
- (2) The Court of Appeal may make any order or determination that it thinks fit in relation to the appeal.
- (3) Except as provided in this section, the procedure in respect of an appeal under this section must be in accordance with the applicable provisions of the High Court Rules 2016 or the Court of Appeal Rules, as the case may be.

Section 145: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 145(3): amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

### *Offences*

Heading: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **146 Operating unregistered exempt services**

- (1) A person who, without reasonable excuse, operates, in a region, an exempt service that is not registered under section 136 in that region commits an offence and is liable on conviction to a fine not exceeding—
  - (a) \$30,000, in the case of a first offence against this section; and
  - (b) \$60,000, in the case of a second or subsequent offence against this section.
- (2) However, subsection (1) does not apply if the person was operating in accordance with section 131(3), 153(2), or 154(2).

Section 146: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 146(1): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

#### **147 Operating public transport services that are not exempt or contracted**

- (1) A person who, without reasonable excuse, operates, in a region, a public transport service that is not an exempt service and is not provided as a unit or part of a unit under contract with the regional council commits an offence and is liable on conviction to a fine not exceeding—
  - (a) \$30,000, in the case of a first offence against this section; and
  - (b) \$60,000, in the case of a second or subsequent offence against this section.
- (2) However, subsection (1) does not apply if the person was operating—
  - (a) in accordance with section 131(3), 153(2), 154(2), or 157; or
  - (b) under a contract that is funded in accordance with section 26(e).

Section 147: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 147(1): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

#### **148 Varying registered exempt services without giving notice required by section 133**

A person who, without reasonable excuse, operates, in a region, a registered exempt service and varies the route or routes, timetables, or stops, stations, or terminals of the registered exempt service without giving the notice required

under section 133 commits an offence and is liable on conviction to a fine not exceeding—

- (a) \$30,000, in the case of a first offence against this section; and
- (b) \$60,000, in the case of a second or subsequent offence against this section.

Section 148: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Section 148: amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

#### **149 Power to inspect records**

- (1) For the purpose of ascertaining whether the provisions of this Part have been or are being complied with by any person to whom this Part applies, any enforcement officer in uniform or in possession of a warrant or other evidence of his or her authority as an enforcement officer may require that person to produce for inspection any relevant documents, books, or records in that person's possession or over which that person has control (whether written or electronic), including (but not limited to) logbooks, financial records relating to revenue or expenditure, vehicle maintenance records, and driver roster and time records.
- (2) The enforcement officer may take extracts from or make copies of any documents, books, or records so produced.

Section 149: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### *Regulations*

Heading: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **150 Regulations**

- (1) The Governor-General may, by Order in Council, on the recommendation of the Minister tendered on the request of the Agency, make regulations—
  - (a) specifying that a public transport service is an exempt service for the purposes of this Part;
  - (b) requiring an exempt service to be replaced by a unit or part of a unit to be provided under contract;
  - (c) requiring an inter-regional service operating before the commencement of this Part to be contracted as part of a unit, provided the service was receiving a subsidy.
- (2) Before recommending the making of an Order in Council under subsection (1), the Minister must be satisfied that the Agency has consulted any relevant regional council and,—

- (a) in the case of an Order in Council under subsection (1)(a), that the Agency has consulted the operator of the public transport service, and that—
    - (i) the public transport service, while operating as an exempt service,—
      - (A) will not receive a subsidy for the provision of the service; and
      - (B) will not be an integral part of the relevant region’s public transport network; and
      - (C) will not need its fares to be regulated; or
    - (ii) the public transport service is being provided as part of the local roading network:
  - (b) in the case of an Order in Council under subsection (1)(b), that the Agency has consulted the operator of the public transport service, and that the public transport service—
    - (i) is an integral part of the relevant region’s public transport network; and
    - (ii) needs its fares to be regulated:
  - (c) in the case of an Order in Council under subsection (1)(c), that the Agency has obtained the agreement of the operator of the public transport service.
- (3) For the purposes of subsections (1)(c) and (2)(a)(i)(A), **subsidy** does not include anything done under an agreement between a regional council and an operator to reduce passenger fares.
- (4) To avoid doubt, the Minister may refuse the Agency’s request that the Minister recommend the making of an Order in Council under this section.

Section 150: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## Part 6

### Transitional and savings provisions

Part 6: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### 151 Interpretation

For the purposes of sections 152, 153, and 154, a service that was registered as a commercial public transport service includes a service that was treated as a registered commercial public transport service under the Public Transport Management Act 2008.

Section 151: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**152 Transitional provisions for certain existing operators**

- (1) This section applies to any operator that, immediately before the commencement of this section, operated a public transport service that was,—
  - (a) on 30 June 2011, a bus service that—
    - (i) was registered as a commercial public transport service under the Public Transport Management Act 2008; and
    - (ii) offered fares set by a regional council:
  - (b) on 30 June 2011, a ferry service that—
    - (i) was registered as a commercial public transport service under the Public Transport Management Act 2008; and
    - (ii) comprised 1 or more, but not all, of the trips conducted by a ferry on a route operated by the service:
  - (c) a bus service or ferry service that was registered after 30 June 2011 as a commercial public transport service under the Public Transport Management Act 2008.
- (2) An operator to which this section applies must, if requested in writing by a regional council in whose region the bus service or ferry service operates, provide patronage data and fare revenue data relating to the service for the 3 years preceding the date on which the regional council makes the request.
- (3) A regional council—
  - (a) must publish patronage data provided under subsection (2); and
  - (b) may disclose the fare revenue data provided under subsection (2) to any person who is registered by the regional council to tender for the provision of a unit.

Section 152: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**153 Transitional provisions for existing registered public transport services that will become exempt services**

- (1) This section applies to a public transport service that,—
  - (a) immediately before the commencement of this section, was—
    - (i) an inter-regional public transport service that was registered as a commercial public transport service under the Public Transport Management Act 2008; or
    - (ii) a public transport service carried on by a rail vehicle that was registered as a commercial public transport service under the Public Transport Management Act 2008:
  - (b) as of 30 June 2011, was—
    - (i) a bus service that—

- (A) was registered as a commercial public transport service under the Public Transport Management Act 2008; and
- (B) did not offer fares set by a regional council:
- (ii) a ferry service that—
  - (A) was registered as a commercial public transport service under the Public Transport Management Act 2008; and
  - (B) comprised all of the trips conducted by a ferry on every route operated by the service.
- (2) A public transport service to which this section applies is to be treated as an exempt service that has been registered under section 136.

Section 153: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**154 Transitional provisions for other existing public transport services that will stop operating**

- (1) This section applies to a public transport service that,—
  - (a) as of 30 June 2011, was—
    - (i) a bus service that—
      - (A) was registered as a commercial public transport service under the Public Transport Management Act 2008; and
      - (B) offered fares set by a regional council:
    - (ii) a ferry service that—
      - (A) was registered as a commercial public transport service under the Public Transport Management Act 2008; and
      - (B) comprised 1 or more, but not all, of the trips conducted by a ferry on a route operated by the service:
  - (b) was a bus service or ferry service that was registered after 30 June 2011 as a commercial public transport service under the Public Transport Management Act 2008.
- (2) Despite section 116, a public transport service to which this section applies may continue operating without a contract with the regional council as if it were a registered exempt service until the date specified by the regional council in a notice to the operator.
- (3) The regional public transport plan must indicate the date by which any public transport service to which this section applies is expected to stop operating.

Section 154: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**155 Transitional provisions for certain notifications**

- (1) This section applies to any unprocessed notice given under section 32 (proposal to operate a commercial public transport service), 36 (proposed variation of a commercial public transport service), or 46 (withdrawal of a commercial public transport service) of the Public Transport Management Act 2008 before the commencement of this section.
- (2) If this section applies, a notice that is given under section 32, 36, or 46 of the Public Transport Management Act 2008 is to be treated as a notice given to operate, vary, or withdraw an exempt service under Part 5 if the service is—
  - (a) an inter-regional service; or
  - (b) a service that operates in a region that is not required to adopt a regional public transport plan.
- (3) Subject to subsection (2)(a), in a region that is required to adopt a regional public transport plan, an unprocessed notice given under—
  - (a) section 32 or 36 of the Public Transport Management Act 2008 is to be treated as having lapsed:
  - (b) section 46 of the Public Transport Management Act 2008 is to be treated as a notice to withdraw an exempt service under Part 5.

Section 155: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

**156 Transitional provisions for certain existing documents or activities**

- (1) Any regional public transport plan adopted under the Public Transport Management Act 2008—
  - (a) continues in existence until whichever is the earlier of the following:
    - (i) a regional public transport plan is adopted under section 119:
    - (ii) the close of 30 June 2015; and
  - (b) may be varied during the period beginning with the commencement of this section and ending with the close of 30 June 2015 in accordance with this Act (as amended by the Land Transport Management Amendment Act 2013).
- (2) The regional public transport plan that is adopted or varied on or before 30 June 2015 must take the public transport components of the relevant regional land transport strategy into account and must not be inconsistent with the relevant regional land transport programme.
- (3) Any regional land transport programme in existence immediately before this section commences—
  - (a) is to continue in existence until the close of 30 June 2015; and
  - (b) is deemed to expire on the close of 30 June 2015; and

- (c) may be varied during the period beginning with the commencement of this section and ending with the close of 30 June 2015 in accordance with this Act (as amended by the Land Transport Management Amendment Act 2013) as if it were a regional land transport plan.
- (4) Any regional land transport strategy in existence immediately before this section commences—
  - (a) is to continue in existence until the close of 30 June 2015; and
  - (b) is deemed to expire on the close of 30 June 2015; and
  - (c) may not be varied during the period beginning with the commencement of this section and ending with the close of 30 June 2015.
- (5) A GPS in existence immediately before this section commences—
  - (a) is to be treated as a GPS on land transport issued under section 66(1); and
  - (b) expires on 1 July 2015; and
  - (c) may be amended in accordance with this Act (as amended by the Land Transport Management Amendment Act 2013).
- (6) Despite anything in section 66, the Minister may, at any time before 1 July 2015, replace a GPS specified in subsection (5) with a GPS on land transport issued under section 66 that is to take effect on 1 July 2015.
- (7) When arranging public transport services into units, a regional council must make all reasonable endeavours to ensure that any operator of a commercial public transport service in existence immediately before the commencement of this section is not unreasonably disadvantaged.

Section 156: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **157 Transitional provision for existing contracted public transport services**

A public transport service provided under contract to the regional council before the commencement of this section may continue to be provided by that operator under that contract (or a variation of that contract) until it is replaced by a unit, or part of a unit, in accordance with the regional public transport plan.

Section 157: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

#### **158 Savings provisions**

- (1) Despite the repeal or amendment of the provisions specified in subsection (2), those provisions continue to apply (as if those sections had not been repealed or amended by the Land Transport Management Amendment Act 2013) during the period beginning with the commencement of this section and ending with the close of 30 June 2015.
- (2) The specified provisions referred to in subsection (1) are—

- (a) sections 26(2)(b) and 27(1)(c) of the Canterbury Earthquake Recovery Act 2011; and
  - (b) sections 7A(2)(b), 13(5), 18J(2)(c)(ii), 19B(b)(ii), 20(3)(c), 48(1)(c)(i) (in so far as it relates to taking regional land transport strategies into account), 82, and 105(13) of this Act (immediately before being amended or repealed by the Land Transport Management Amendment Act 2013); and
  - (c) sections 64(1)(d), 65(1)(d)(ii), and 82(3) of the Local Government (Auckland Transitional Provisions) Act 2010.
- (3) A person who, immediately before the commencement of section 71(2) of the Land Transport Management Amendment Act 2013, was liable under the Tauranga District Council (Route K Toll) Empowering Act 2000 to pay a toll under that Act remains liable to pay the toll as if that Act were still in force.
- (4) A person who fails to pay a toll that the person was liable to pay under the Tauranga District Council (Route K Toll) Empowering Act 2000 may be proceeded against under that Act as if that Act were still in force.
- (5) A proceeding commenced, before the commencement of section 71(2) of the Land Transport Management Amendment Act 2013, under the Tauranga District Council (Route K Toll) Empowering Act 2000 may continue under that Act as if that Act were still in force.
- (6) A toll collected, before the commencement of section 71(2) of the Land Transport Management Amendment Act 2013, under the Tauranga District Council (Route K Toll) Empowering Act 2000 may only be applied for the purposes specified in that Act as if that Act were still in force.
- (7) Any contract entered into by the Tauranga City Council under section 18 of the Tauranga District Council (Route K Toll) Empowering Act 2000 is terminated on the date that section 71(2) of the Land Transport Management Amendment Act 2013 comes into force.
- (8) Despite subsection (7),—
- (a) a person who, immediately before the commencement of section 71(2) of the Land Transport Management Amendment Act 2013, was liable under a contract entered into by the Tauranga City Council to pay a toll under the Tauranga District Council (Route K Toll) Empowering Act 2000 remains liable to pay the toll as if that Act were still in force;
  - (b) the Tauranga City Council must refund any unused prepayment or transponder hire.

Section 158: inserted, on 13 June 2013, by section 70 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## 159 Transitional regulations

*[Repealed]*

Section 159: repealed, on 1 January 2016, by section 159(5).

**Schedule 1**  
**Provisions relating to programmes**

*[Repealed]*

ss 12(2), 19(2)

Schedule 1: repealed, on 1 August 2008, by section 44 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**Schedule 2**  
**Provisions relating to consultation under this Act**

*[Repealed]*

ss 16, 17, 18

Schedule 2: repealed, on 1 August 2008, by section 44 of the Land Transport Management Amendment Act 2008 (2008 No 47).

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

*[Repealed]*

s 28(2)

Schedule 3: repealed, on 1 December 2004, by section 17(d) of the Land Transport Management Amendment Act 2004 (2004 No 97).

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

*[Repealed]*

ss 73, 82

Schedule 4: repealed, on 1 August 2008, by section 45 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**Schedule 5**  
**Matters to be included in statement of intent**

*[Repealed]*

s 84

Schedule 5: repealed, on 1 August 2008, by section 45 of the Land Transport Management Amendment Act 2008 (2008 No 47).

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**Schedule 6**  
**Consequential amendments to other Acts**

*[Repealed]*

s 90

Schedule 6: repealed, on 1 August 2008, by section 45 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**Schedule 7**  
**Auckland regional land transport strategy and regional transport committee**

*[Repealed]*

s 74(4)

Schedule 7: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## Land Transport Management Amendment Act 2008

Public Act	2008 No 47
Date of assent	14 July 2008
Commencement	see section 2

### 1 Title

This Act is the Land Transport Management Amendment Act 2008.

### 2 Commencement

This Act comes into force on 1 August 2008.

## Part 2

### Miscellaneous provisions

#### 47 Consequences of establishment of New Zealand Transport Agency

(1) On 1 August 2008,—

- (a) Land Transport New Zealand and Transit New Zealand are dissolved; and
- (b) the office of the Director of Land Transport ceases to exist; and
- (c) the Transit New Zealand Act 1989 is called the Government Rounding Powers Act 1989.

(2) Schedule 2 applies to this section.

Section 47(1): amended, on 26 March 2015, by section 4 of the Land Transport Management Amendment Act 2008 Amendment Act 2015 (2015 No 18).

#### 48 Transitional and savings provisions

Other transitional and savings provisions relating to the coming into force of this Act are set out in Schedule 2.

#### 52 Existing rights under Government Superannuation Fund Act 1956 unaffected

- (1) Despite any thing in any other Act or any change in the majority shareholding of the company, any person who, immediately before 30 June 2008, is employed by the company and is a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, deemed to be an employee in the Government service so long as that person continues to be an employee of the company.
- (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 company is Government service.

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- (3) Nothing in subsections (1) and (2) entitles any person to become a contributor to the Government Superannuation Fund after that person has ceased to be a contributor.
  - (4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with this section, to all employees of the company who are contributors to the Government Superannuation Fund, **controlling authority**, in relation to the those employees, means the company's board.
  - (5) For the purposes of this section, **company** means Toll NZ Consolidated Limited; and includes any successor company into which all or some of its assets, liabilities, and employees are transferred or merged, provided the Crown wholly owns (either directly or indirectly) the successor company or companies.

## Schedule 2 Transitional and savings provisions

ss 47, 48

### *Interpretation*

#### 1 Interpretation

- (1) In this schedule, unless the context otherwise requires,—

**Authority** has the same meaning as in section 5 of the Land Transport Management Act 2003 as in force immediately before 1 August 2008

**board**, in relation to the new Agency, means the board specified in section 98 of the Land Transport Management Act 2003

**Director** means the Director of Land Transport

**former agency** means (as the case may require)—

- (a) Land Transport New Zealand;
- (b) Transit New Zealand

**land transport programme** has the same meaning as in section 5 of the Land Transport Management Act 2003 as in force immediately before 1 August 2008

**new Agency** means the New Zealand Transport Agency established under section 93 of the Land Transport Management Act 2003

**property**—

- (a) means every type of property; and
- (b) includes—
  - (i) every type of estate and interest in property; and
  - (ii) money

**suitable alternative position**, in relation to an employee, means a position—

- (a) for which the employee has the appropriate skills and experience; and
- (b) the pay and conditions of which are, in their overall effect, no less favourable to the employee than those applying to the employee immediately before the date of the employee's transfer to that position

**transferred employee** means a person who,—

- (a) immediately before 1 August 2008, is employed by a former agency; and
  - (b) is transferred to the new Agency under clause 26(1)(h).
- (2) Any term or expression that is defined in the Land Transport Management Act 2003 and used, but not defined, in this schedule has, unless the context otherwise requires, the same meaning as in that Act.

Compare: 2004 No 97 Schedule 2 cl 1

*Approval of activities or combinations of activities***12 Approvals in effect immediately before 1 August 2008**

Subject to clause 42, approvals in effect under sections 20 and 21 of the Land Transport Management Act 2003 immediately before 1 August 2008 continue to have effect.

Compare: 2004 No 97 Schedule 2 cl 16

**14 Approval of certain activities or combinations of activities**

- (1) The new Agency must approve activities and combinations of activities as qualifying for payment from the national land transport fund up to the amount, which is subject to subclause (2), and by the financial year specified in the second column of the following table in order to fulfil the Crown's commitment described in the first column of that table opposite that amount and financial year:

<b>The Crown's commitment</b>	<b>Amount (which is subject to subclause (2)) and financial year by which amount is to be approved(\$)</b>
Auckland Land Transport—contribution to implementing Auckland's regional land transport strategy: the Crown's commitment was originally \$898,000,000 over 2004/05–2014/15, including rail funding	130,000,000 by 2012/13
Bay of Plenty—to address congestion and improve access and safety through investment in strategic roading, passenger transport, transport demand management, and walking and cycling: the Crown's commitment was originally \$150,000,000 over 2006/07–2014/15	135,000,000 by 2015/16
Waikato Land Transport—contribution to implementing Waikato's regional land transport strategy: the Crown's commitment was originally \$215,000,000 over 2007/08–2016/17, including rail funding	188,000,000 by 2017/18
Wellington Land Transport—contribution to implementing Wellington's regional land transport strategy: the Crown's commitment was originally \$225,000,000 over 2005/06–2014/15	91,951,000 by 2015/16
Wellington Land Transport (Western Corridor)—contribution to improve safety and access reliability of the Wellington Western Corridor: the Crown's commitment was originally \$660,000,000 over 2006/07–2015/16	625,152,000 by 2016/17 made up as follows: <ul style="list-style-type: none"> <li>(a) up to 405,000,000 to be applied to advance a long-term solution to address access reliability for State Highway 1 between Kapiti and Wellington</li> <li>(b) up to 220,152,000 to be applied to passenger transport and roading to address congestion and to improve safety and access reliability of the Wellington Western Corridor.</li> </ul>

- (2) The Governor-General may, by Order in Council, increase any or all of the amounts or periods specified in the second column of the table in subclause (1).
- (3) The new Agency must include in its annual report on the national land transport fund under section 11 of the Land Transport Management Act 2003 a

statement of the total expenses or capital expenditure incurred from the 2008/09 financial year to date in fulfilling each of the Crown's commitments listed in subclause (1).

- (4) The reporting requirement in subclause (3) applies until all of the Crown's commitments listed in subclause (1) have been fulfilled.
- (5) To avoid doubt, compliance by the new Agency with this clause does not constitute a breach of section 95(2) of the Land Transport Management Act 2003.

Schedule 2 clause 14(1): amended, on 13 June 2013, by section 72 of the Land Transport Management Amendment Act 2013 (2013 No 35).

## **18 Approved procurement procedures**

Subject to clause 42, approved procurement procedures in effect under section 25 or 95(1) of the Land Transport Management Act 2003 immediately before 1 August 2008 continue to have effect as approved procurement procedures under that Act.

Compare: 2004 No 97 Schedule 2 cl 21

## *Dissolution of Land Transport New Zealand and Transit New Zealand*

## **26 Consequences of dissolution**

- (1) On 1 August 2008,—
  - (a) the functions, duties, and powers of the former agencies under any enactment vest in the new Agency; and
  - (b) all property belonging to the former agencies vests in the new Agency; and
  - (c) all information held by the former agencies is held by the new Agency; and
  - (d) all money payable to or by the former agencies becomes payable to or by the new Agency; and
  - (e) all rights, liabilities, contracts, entitlements, and engagements of the former agencies become the rights, liabilities, contracts, entitlements, and engagements of the new Agency; and
  - (f) all directions to the former agencies in effect immediately before 1 August 2008 become directions to the new Agency; and
  - (g) any delegation by Transit under section 62 of the Transit New Zealand Act 1989 has effect as if it were a delegation by the new Agency; and
  - (h) subject to clause 31, every employee of the former agencies becomes an employee of the new Agency on the same terms and conditions as applied immediately before becoming an employee of the new Agency; and
  - (i) anything done, or omitted to be done, or that is to be done, by, or in relation to, the former agencies is to be treated as having been done, or hav-

- ing been omitted to be done, or to be done, by, or in relation to, the new Agency; and
- (j) the commencement, continuation, or enforcement of proceedings by or against the former agencies may instead be commenced, continued, or enforced by or against the new Agency without amendment to the proceedings; and
  - (k) the completion of a matter or thing that would, but for this clause, have been completed by the former agencies, may be completed by the new Agency.
- (2) Despite anything in subclause (1), the board of the new Agency may appoint a new chief executive after 1 August 2008.
  - (3) The transfer of information from the former agencies to the new Agency under subclause (1)(c) does not constitute an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993.
  - (4) The dissolution of the former agencies does not, by itself, affect any of the following matters:
    - (a) any decision made, or anything done or omitted to be done, by a former agency in relation to the performance or the exercise of the former agency's functions, duties, or powers under any enactment:
    - (b) any proceedings commenced by or against a former agency:
    - (c) any other matter or thing arising out of a former agency's performance or exercise, or purported performance or exercise, of the former agency's functions, duties, or powers under any enactment.

Compare: 2004 No 97 Schedule 2 cl 2

## **28 References to former agency**

- (1) This clause applies to—
  - (a) things that are in force or existing on 1 August 2008 (whether coming into force, entered into, or created before or after the commencement of this clause); and
  - (b) references in any thing, including (without limitation) enactments, rules, bylaws, deeds, agreements, proceedings, instruments, documents and notices.
- (2) If this clause applies, every reference in any thing specified in subclause (1) to a former agency is, on or after 1 August 2008, to be read as a reference to the new Agency unless the context otherwise requires.

Compare: 2004 No 97 Schedule 2 cl 3

**29 New Agency replaces Transit New Zealand as requiring authority**

- (1) This clause applies to any Order in Council, notice, or other instrument that approves of Transit New Zealand as a requiring authority and that was in effect immediately before 1 August 2008, including (without limitation)—
  - (a) the Resource Management (Approval of Transit New Zealand as Requiring Authority) Order 1992; and
  - (b) the Resource Management (Approval of Transit as Requiring Authority) Notice 1994.
- (2) Without limiting clauses 26 and 28, on 1 August 2008,—
  - (a) the new Agency replaces Transit New Zealand as a requiring authority under any Order in Council, notice, or other instrument to which this clause applies; and
  - (b) every reference to Transit New Zealand in any Order in Council, notice, or other instrument to which this clause applies, is, unless the context otherwise requires, to be read as a reference to the new Agency; and
  - (c) anything done, or omitted to be done, or that is to be or may be done (under or in relation to an Order in Council, notice, or other instrument to which this clause applies) by Transit New Zealand is to be treated as having been done, or having been omitted to be done, or to be or may be done, by the new Agency; and
  - (d) every notice of requirement and designation of Transit New Zealand is transferred to and held by the new Agency, with the same status and priority as if Transit New Zealand and the new Agency were the same entity.

**31 Transferred employees**

- (1) The terms and conditions of employment of a transferred employee immediately before 1 August 2008 continue to apply in relation to that employee until—
  - (a) those terms and conditions are varied by agreement between the transferred employee and the new Agency; or
  - (b) the transferred employee accepts a subsequent appointment with the new Agency.
- (2) For the purposes of every enactment, law, determination, contract, and agreement relating to the employment of a transferred employee,—
  - (a) the employment agreement of that employee is to be treated as unbroken; and
  - (b) the employee's period of service with a former agency, and every other period of service of that employee that is recognised by a former agency as continuous service, is to be treated as a period of service with the new Agency.

- (3) To avoid doubt, the employment of a transferred employee by the new Agency does not constitute new employment for the purposes of the KiwiSaver Act 2006.
- (4) A transferred employee is not entitled to receive any payment or any other benefit because—
  - (a) the position held by the employee in a former agency has ceased to exist; or
  - (b) the employee has ceased (as a result of the transfer to the new Agency) to be an employee of a former agency; or
  - (c) the employee has been transferred to a suitable alternative position.

Compare: 2004 No 97 Schedule 2 cls 5–8

### **32 Government Superannuation Fund**

- (1) This clause applies to every person who, immediately before 1 August 2008, was an employee of a former agency.
- (2) Nothing in this Act affects any entitlement under the Government Superannuation Fund Act 1956 of a person to whom this clause applies.
- (3) This clause is for the avoidance of doubt.

Compare: 2004 No 97 Schedule 2 cl 9

### **36 Directions to former agencies continue to have effect as directions to new Agency**

Subject to clause 42, directions to any former agency in effect immediately before 1 August 2008 under any enactment continue to have effect as directions to the new Agency.

Compare: 2004 No 97 Schedule 2 cl 13

### **37 Delegations**

Subject to clause 42, delegations in effect immediately before 1 August 2008 under the Crown Entities Act 2004 or any other Act continue to have effect despite the dissolution of Land Transport New Zealand or Transit New Zealand or the disestablishment of the office of the Director of Land Transport.

Compare: 2004 No 97 Schedule 2 cl 14

### **38 Continuation of certain appointments**

A person who holds office as an enforcement officer or a dangerous goods enforcement officer under section 208 of the Land Transport Act 1998 immediately before the commencement of this Act is to continue in office and holds office, until his or her appointment would have expired under the Land Transport Act 1998, as if this Act had not been passed.

Compare: 2004 No 97 Schedule 2 cl 15(2)

*Disestablishment of office of Director of Land Transport*

**40 References to Director**

- (1) This clause applies to—
  - (a) things that are in force or existing on 1 August 2008 (whether coming into force, entered into, or created before or after the commencement of this clause); and
  - (b) references in any thing, including (without limitation) enactments, rules, bylaws, deeds, agreements, proceedings, instruments, documents, and notices.
- (2) If this clause applies, every reference in any thing specified in subclause (1) to the Director (or to the Director of Land Transport) is, on and after 1 August 2008, to be read as a reference to the new Agency unless the context otherwise requires.

*Miscellaneous*

**41 General savings provision**

Except as otherwise expressly provided in this Act, nothing in this Act affects the completion of a matter or thing, or the bringing or completion of proceedings, that relates to an existing right, liability, contract, entitlement, interest, title, immunity, or duty.

Compare: 2004 No 97 s 20

**42 Matters continued by this Act have effect until replaced or revoked**

If a matter or thing is continued with a specified effect by this Act, the matter or thing continues to have that effect until revoked or replaced under the relevant empowering enactment.

Compare: 2003 No 118 s 111

## Reprints notes

### 1 *General*

This is a reprint of the Land Transport Management Act 2003 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Land Transport Amendment Act 2017 (2017 No 34): section 110(3)  
Fire and Emergency New Zealand Act 2017 (2017 No 17): section 197  
Contract and Commercial Law Act 2017 (2017 No 5): section 347  
Statutes Amendment Act 2016 (2016 No 104): Part 17  
District Court Act 2016 (2016 No 49): section 261  
Senior Courts Act 2016 (2016 No 48): section 183(c)  
Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409): regulation 3(1)  
Public Finance Amendment Act 2013 (2013 No 50): section 57  
Land Transport Management Amendment Act 2013 (2013 No 35)  
Legislation Act 2012 (2012 No 119): section 77(3)  
Road User Charges Act 2012 (2012 No 1): section 94  
Criminal Procedure Act 2011 (2011 No 81): section 413  
Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13): section 100(3)  
Local Government Act 2002 Amendment Act 2010 (2010 No 124): section 50  
Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37): section 113(1)  
Customs and Excise Amendment Act 2009 (2009 No 61): section 11(4)  
Land Transport Amendment Act 2009 (2009 No 17): section 35(4)  
Public Transport Management Act 2008 (2008 No 87): section 63(2)  
Policing Act 2008 (2008 No 72): sections 116(a)(vii), (d), 130(4)  
Land Transport Management Amendment Act 2008 (2008 No 47)  
Crown Entities Act 2004 (2004 No 115): section 200  
Land Transport Management Amendment Act 2004 (2004 No 97)

Land Transport Management Act Commencement Order 2004 (SR 2004/237)

Local Government (Auckland) Amendment Act 2004 (2004 No 57): section 45

Land Transport Management Act 2003 (2003 No 118): section 159(5)