



# Land Transport Management Amendment Act 2013

Public Act      2013 No 35  
Date of assent      12 June 2013  
Commencement      see section 2

## Contents

		Page
1	Title	6
2	Commencement	6
3	Principal Act	6

### Part 1

#### Amendments to Land Transport Management Act 2003

4	Section 3 replaced (Purpose)	6
	3      Purpose	6
5	Section 4 amended (Treaty of Waitangi)	6
6	Section 5 amended (Interpretation)	7
7	Section 7A amended (Application of Act to Chatham Islands)	11
8	Section 9 amended (The Crown's authority to incur certain land transport expenses and capital expenditure)	11
9	Section 10 amended (National land transport fund)	12
10	Section 11 amended (Annual report on national land transport fund)	12
11	Cross-heading above section 12 amended	12
12	Section 12 repealed (Overview of regional land transport programmes)	12
13	Section 13 amended (Responsibility for preparing and approving regional land transport programmes)	12
14	Section 14 replaced (Core requirements of regional land transport programmes prepared by regional transport committees)	12
	14      Core requirements of regional land transport plans	12
15	Section 15 repealed (Core requirements of regional land transport programmes prepared by Auckland Transport)	13

16	Section 16 replaced (Form and content of regional land transport programmes (for regions other than Auckland))	13
	16 Form and content of regional land transport plans	13
17	Section 17 repealed (Form and content of Auckland Transport's regional land transport programmes)	15
18	Section 18 amended (Consultation requirements)	15
19	Section 18A amended (Consultation principles)	15
20	Section 18B amended (Process for approving regional land transport programmes prepared by regional transport committees)	16
21	Section 18C replaced (Auckland Transport must give Agency reasons for not including in its regional land transport programme activities or combinations of activities proposed by Agency)	16
	18C Reasons for not including activities in Auckland's regional land transport plan	16
	18CA Review of regional land transport plans	16
22	Section 18D amended (Variation of regional land transport programmes)	16
23	Section 18E amended (Changes to certain activities or combinations of activities)	17
24	Section 18F amended (Availability of regional land transport programmes)	17
25	Section 18G amended (Separate consultation with Māori on particular activities)	17
26	Section 18J amended (Requirements before recommending Police activities or combinations of Police activities)	17
27	Section 19 repealed (Overview of national land transport programme)	17
28	Section 19A amended (Responsibility for preparing and adopting national land transport programme)	17
29	Section 19B amended (Core requirements for national land transport programme)	18
30	Section 19C amended (Content of national land transport programme)	18
31	Section 19D amended (Notification about decision not to include activities in national land transport programme)	18
32	Section 19E amended (Variation of national land transport programme)	18
33	Section 20 amended (Approval of activities and combinations of activities)	18
34	Section 22 amended (Funding for Māori roadways)	19
35	Section 26 amended (Payments exempt from procurement procedure)	19
36	Section 35 amended (Needs of transport disadvantaged must be considered)	19

37	Section 38A repealed (Good reasons for refusing to supply requested information)	19
38	Section 40 repealed (Apportionment of excise duty and excise-equivalent duty)	19
39	Subpart 2 heading in Part 2 amended	19
40	Section 46 amended (Authority to establish road tolling scheme)	19
41	Section 48 amended (Procedure for recommending making of order under section 46)	20
42	New sections 48A and 48B inserted	20
	48A Authority to establish road tolling scheme for Route K	20
	48B When tolling power is exercisable for Route K	20
43	Section 49 repealed (Consultation requirements)	20
44	Section 50 amended (Privacy)	20
45	Section 51 amended (Payment of tolls)	21
46	Section 52 amended (Who is liable to pay toll)	21
47	Section 54 amended (Offences and penalties)	21
48	Cross-heading above section 56 replaced	22
49	Sections 56 to 60 repealed	22
50	Section 61 amended (Delegation of roading functions and powers to concessionaires)	22
51	Section 62 amended (Effect of delegation under section 61)	22
52	Section 63 amended (Leasing)	22
53	Section 65 amended (This Part and other land transport legislation enforceable in relation to concession roads and toll roads)	23
54	Subpart 3 of Part 2 repealed	23
55	Sections 66 to 71 and cross-heading above section 66 replaced	23
	<i>GPS on land transport</i>	
	66 Minister must issue GPS on land transport	23
	67 Preparation or review of GPS on land transport	23
	68 Content of GPS on land transport	24
	69 Status of GPS on land transport	25
	70 Agency to give effect to GPS on land transport in respect of funding of land transport system	25
	71 Availability of GPS on land transport	26
56	Sections 72 to 89 and related cross-headings repealed	26
57	Section 90 replaced (Amending current GPS)	26
	90 Amending GPS on land transport	26
58	Section 91 amended (Availability of GPS)	26
59	Section 92 amended (Overview)	27
60	Section 94 amended (Objective of Agency)	27
61	Section 95 amended (Functions of Agency)	27
62	Section 96 amended (Operating principles)	27
63	Section 100 amended (Statement of intent)	27

64	Section 101 amended (Secretary must monitor and review specified activities and procedures)	27
65	Section 102 amended (Monitoring and reporting on delivery of approved Police activities or combinations of Police activities)	28
66	Section 103 amended (Secretary may declare State highways)	28
67	Section 105 amended (Regional transport committees)	28
68	Section 106 replaced (Functions of regional transport committee)	29
	106 Functions of regional transport committees	29
69	Section 107 amended (Procedure of committee)	30
70	New Parts 5 and 6 inserted	30

## Part 5

### Regulation of public transport

114	Application of certain provisions of Local Government Act 2002 to Auckland Transport	30
115	Principles	30
116	Public transport services must be provided under contract	31
	Subpart 1—Regional public transport plan	
117	Purpose of regional public transport plans	31
118	Validity of regional public transport plans not affected by certain events	32
	<i>General requirements</i>	
119	Adoption of regional public transport plans	32
120	Contents of regional public transport plans	32
121	Notification and provision of copies of plans	34
122	When regional public transport plans take effect	35
123	Good-faith exclusion of regional councils from liability to pay compensation	35
124	Matters to take into account when adopting regional public transport plans	35
125	Consultation requirements for regional public transport plans	36
126	Currency and variation of regional public transport plans	36
127	Power to require information from operators of public transport services	37
128	Power to require information from regional councils and Auckland Transport	37
129	Disclosure of information received under sections 127 and 128	38
	Subpart 2—Registration of exempt services	
	<i>Register of exempt services</i>	
130	All exempt services to be registered	40
131	Register of exempt services	40

132	Contents of register to be made available to public	41
133	Notification of proposal to operate or vary exempt services	41
134	Grounds for declining registration or variation of exempt services	42
135	Process for declining registrations or variations of exempt services	42
136	Registration of and variation to exempt services	43
137	Deregistration of exempt services and removing details of variations	43
138	Process for deregistering exempt services or removing details of variations	44
139	Withdrawal of exempt services	45
	Subpart 3—Miscellaneous	
	<i>Appeals</i>	
140	Right to appeal to Environment Court	45
141	Appeals to District Court	46
142	Procedure for appeals to District Court	46
143	Decisions of regional councils to continue in force pending appeals, etc	47
144	Appeals to High Court on questions of law	47
145	Further appeals to Court of Appeal	47
	<i>Offences</i>	
146	Operating unregistered exempt services	47
147	Operating public transport services that are not exempt or contracted	48
148	Varying registered exempt services without giving notice required by section 133	48
149	Power to inspect records	48
	<i>Regulations</i>	
150	Regulations	48
	<b>Part 6</b>	
	<b>Transitional and savings provisions</b>	
151	Interpretation	49
152	Transitional provisions for certain existing operators	50
153	Transitional provisions for existing registered public transport services that will become exempt services	50
154	Transitional provisions for other existing public transport services that will stop operating	51
155	Transitional provisions for certain notifications	51
156	Transitional provisions for certain existing documents or activities	52

157	Transitional provision for existing contracted public transport services	53
158	Savings provisions	53
159	Transitional regulations	54

**Part 2**  
**Miscellaneous**

71	Repeals	55
72	Consequential amendments	55

**Schedule**  
**Consequential amendments** 56

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Land Transport Management Amendment Act 2013.

**2 Commencement**

- (1) Sections 42 and 71(2) come into force on a date appointed by the Governor-General by Order in Council.
- (2) Section 67 comes into force 30 days after the date on which it receives the Royal assent.
- (3) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

**3 Principal Act**

This Act amends the Land Transport Management Act 2003 (the **principal Act**).

**Part 1**

**Amendments to Land Transport Management Act 2003**

**4 Section 3 replaced (Purpose)**

Replace section 3 with:

**3 Purpose**

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

**5 Section 4 amended (Treaty of Waitangi)**

In section 4, replace “49, 59, 65H, 65I, 78, and 100(1)(f) and clause 6 of Schedule 7” with “and 100(1)(f)”.

**6 Section 5 amended (Interpretation)**

- (1) In section 5(1), replace the definition of **activity** with:

**activity**—

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

- (2) In section 5(1), replace the definition of **Auckland Council** with:

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

- (3) In section 5(1), insert in their appropriate alphabetical order:

**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

**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

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

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

**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)

**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

**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

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

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

**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

**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)

**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

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

**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

**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

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

- (4) In section 5(1), definition of **national land transport programme**, replace “section 19” with “section 19A”.

- (5) In section 5(1), replace the definition of **public transport service** with:

**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

- (6) In section 5(1), replace the definition of **regional council** with:

**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
- (7) In section 5(1), replace the definition of **regional land transport programme** with:  
**regional land transport plan** means a regional land transport plan prepared under Part 2, as from time to time amended or varied
- (8) In section 5(1), replace the definition of **regional public transport plan** with:  
**regional public transport plan** means a regional public transport plan adopted under section 119, as from time to time varied or renewed
- (9) In section 5(1), replace the definition of **regional transport committee** with:  
**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
- (10) In section 5(1), replace the definition of **road** with:  
**road**—
  - (a) means a road as defined in section 2(1) of the Government Rounding 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
- (11) In section 5(1), repeal the definitions of **affected community**, **concession agreement**, **concession road**, **concessionaire**, **GPS**, **national land transport strategy**, **regional land transport strategy**, and **registered service**.
- (12) In section 5(1), definition of **State highway**, paragraph (c), replace “programmes” with “plans”.
- (13) In section 5(1), definition of **State highway**, paragraph (c), after “highway”, insert “; and”.
- (14) In section 5(1), definition of **State highway**, after paragraph (c), insert:
  - (d) land that becomes a State highway under section 88(2) of the Government Rounding Powers Act 1989
- (15) After section 5(5), insert:

- (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, agreement, 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.

**7 Section 7A amended (Application of Act to Chatham Islands)**

- (1) Replace section 7A(2) with:
- (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.
- (2) Repeal section 7A(3).

**8 Section 9 amended (The Crown's authority to incur certain land transport expenses and capital expenditure)**

Replace section 9(2) with:

- (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.

**9 Section 10 amended (National land transport fund)**

- (1) In section 10(1)(b), replace “cashflow for the national land transport programme” with “the national land transport programme, including (but not limited to) its cashflow.”.
- (2) After section 10(2)(b), insert:
  - (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):
- (3) Repeal section 10(6).

**10 Section 11 amended (Annual report on national land transport fund)**

In section 11(2)(f), replace “any national land transport strategy or the relevant GPS:” with “the relevant GPS on land transport:”.

**11 Cross-heading above section 12 amended**

In the cross-heading above section 12, replace “*programmes*” with “*plans*”.

**12 Section 12 repealed (Overview of regional land transport programmes)**

Repeal section 12.

**13 Section 13 amended (Responsibility for preparing and approving regional land transport programmes)**

- (1) In the heading to section 13, replace “**programmes**” with “**plans**”.
- (2) In section 13(1) and (2), replace “3” with “6”.
- (3) In section 13(1)(a) and (b) and (2)(a) and (b), replace “programme” with “plan”.
- (4) Repeal section 13(4) and (5).

**14 Section 14 replaced (Core requirements of regional land transport programmes prepared by regional transport committees)**

Replace section 14 with:

**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.

**15 Section 15 repealed (Core requirements of regional land transport programmes prepared by Auckland Transport)**

Repeal section 15.

**16 Section 16 replaced (Form and content of regional land transport programmes (for regions other than Auckland))**

Replace section 16 with:

**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 re-

- newals, 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.

**17 Section 17 repealed (Form and content of Auckland Transport’s regional land transport programmes)**

Repeal section 17.

**18 Section 18 amended (Consultation requirements)**

Replace section 18(1) with:

- (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.

**19 Section 18A amended (Consultation principles)**

- (1) Replace the heading to section 18A with “**Combining consultation processes**”.
- (2) Repeal section 18A(1).
- (3) In section 18A(2),—
  - (a) replace “subsection (1)” with “section 18(1)”; and
  - (b) replace “programme” with “plan”.
- (4) In section 18A(3),—

- (a) replace “subsection (1)” with “section 18(1)”; and
  - (b) replace “programme” with “plan”.
- (5) In section 18A(4), replace “consult, under section 18 and this section, any organisation or person referred to in section 18” with “consult any organisation or person”.

**20 Section 18B amended (Process for approving regional land transport programmes prepared by regional transport committees)**

- (1) In the heading to section 18B, replace “programmes prepared by regional transport committees” with “plans prepared for regional councils”.
- (2) In section 18B(1) to (6) and (8), replace “programme” with “plan” in each place.
- (3) In section 18B(7), replace “regional land transport programme” with “regional land transport plan” in each place.

**21 Section 18C replaced (Auckland Transport must give Agency reasons for not including in its regional land transport programme activities or combinations of activities proposed by Agency)**

Replace section 18C with:

**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.

**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.

**22 Section 18D amended (Variation of regional land transport programmes)**

- (1) In the heading to section 18D, replace “programmes” with “plans”.
- (2) Replace section 18D(1) with:
  - (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.

- (3) In section 18D(3)(a), after “the Agency”, insert “or the Auckland Council”.
- (4) In section 18D(5) and (6), replace “programme” with “plan” in each place.
- (5) In section 18D(6), delete “or Auckland Transport”.
- (6) In section 18D(7) and (8), replace “regional land transport programme” with “regional land transport plan”.

**23 Section 18E amended (Changes to certain activities or combinations of activities)**

- (1) In section 18E(1), replace “section 16(1)(a)” with “section 16(3)(a)”.
- (2) In section 18E(1) and (6), replace “programme” with “plan” in each place.

**24 Section 18F amended (Availability of regional land transport programmes)**

- (1) In the heading to section 18F, replace “programmes” with “plans”.
- (2) After section 18F(1)(a)(iv), insert:

(v) in the case of Auckland, the Auckland Council; and

- (3) In section 18F(1) and (2), replace “programme” with “plan” in each place.

**25 Section 18G amended (Separate consultation with Māori on particular activities)**

- (1) In section 18G(1), replace “approved organisation or the Agency” with “approved organisation, the Auckland Council, or the Agency” in each place.
- (2) In section 18G(2), replace “approved organisation or the Agency” with “approved organisation, the Auckland Council, or the Agency”.

**26 Section 18J amended (Requirements before recommending Police activities or combinations of Police activities)**

- (1) Replace section 18J(2)(a)(i) and (ii) with:
  - (i) contribute to the purpose of this Act; and
  - (ii) are consistent with the GPS on land transport.

- (2) Repeal section 18J(2)(b) and (c).

**27 Section 19 repealed (Overview of national land transport programme)**

Repeal section 19.

**28 Section 19A amended (Responsibility for preparing and adopting national land transport programme)**

- (1) In section 19A(2), replace “the start” with “1 September”.
- (2) Repeal section 19A(3).
- (3) In section 19A(4), replace “subsection (3)” with “this section”.

**29 Section 19B amended (Core requirements for national land transport programme)**

- (1) Replace section 19B(a)(i) with:
  - (i) contributes to the purpose of this Act; and
- (2) Repeal section 19B(a)(ii).
- (3) In section 19B(a)(iii), replace “relevant GPS” with “GPS on land transport”.
- (4) Repeal section 19B(b)(i), (ii), and (vi).
- (5) In section 19B(b)(iii), replace “programmes” with “plans”.

**30 Section 19C amended (Content of national land transport programme)**

- (1) In section 19C(c), replace “relevant GPS” with “GPS on land transport”.
- (2) In section 19C(f)(i), replace “programme” with “plan”.

**31 Section 19D amended (Notification about decision not to include activities in national land transport programme)**

In section 19D(1)(b), replace “regional land transport programme” with “regional land transport plan”.

**32 Section 19E amended (Variation of national land transport programme)**

Replace section 19E(3) with:

- (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.

**33 Section 20 amended (Approval of activities and combinations of activities)**

- (1) Replace section 20(2)(c) with:
  - (c) the activity or combination of activities is—
    - (i) consistent with the GPS on land transport; and
    - (ii) efficient and effective; and
- (2) Replace section 20(2)(d) with:
  - (d) the activity or combination of activities contributes to the Agency’s objective; and
- (3) Replace section 20(3) 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) In section 20(5)(a), replace “relevant GPS” with “GPS on land transport”.
- (5) In section 20(5)(b)(iii), replace “relevant GPS” with “GPS on land transport”.
- 34 Section 22 amended (Funding for Māori roadways)**  
In section 22(3), replace “programme” with “plan”.
- 35 Section 26 amended (Payments exempt from procurement procedure)**  
Replace section 26(e) with:
- (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
- 36 Section 35 amended (Needs of transport disadvantaged must be considered)**
- (1) In the heading to section 35, replace “**transport disadvantaged**” with “**transport-disadvantaged**”.
- (2) In section 35, after “programme”, insert “or plan”.
- (3) In section 35, replace “transport disadvantaged” with “transport-disadvantaged”.
- 37 Section 38A repealed (Good reasons for refusing to supply requested information)**  
Repeal section 38A.
- 38 Section 40 repealed (Apportionment of excise duty and excise-equivalent duty)**  
Repeal section 40.
- 39 Subpart 2 heading in Part 2 amended**  
In the subpart 2 heading in Part 2, delete “and concession agreements”.
- 40 Section 46 amended (Authority to establish road tolling scheme)**  
Replace section 46(3)(g) with:
- (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):

**41 Section 48 amended (Procedure for recommending making of order under section 46)**

(1) Replace section 48(1) with:

(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) Repeal section 48(3) and (5).

**42 New sections 48A and 48B inserted**

After section 48, insert:

**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.

**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.

**43 Section 49 repealed (Consultation requirements)**

Repeal section 49.

**44 Section 50 amended (Privacy)**

After section 50(5), insert:

- (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.

#### 45 Section 51 amended (Payment of tolls)

Repeal section 51(3).

#### 46 Section 52 amended (Who is liable to pay toll)

(1) After section 52(3), insert:

- (3A) Notice under subsection (3) may be given by—
- (a) ordinary post delivered to the street address of the registered person's usual or last known place of business or residence:
  - (b) electronic means of communication delivered to the registered person's electronic address if the toll operator complies with the Electronic Transactions Act 2002.
- (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.

(2) Replace section 52(5) with:

- (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 fire service vehicle.

#### 47 Section 54 amended (Offences and penalties)

In section 54(1), delete “refuses or”.

**48 Cross-heading above section 56 replaced**

Replace the cross-heading above section 56 with:

*Delegation*

**49 Sections 56 to 60 repealed**

Repeal sections 56 to 60.

**50 Section 61 amended (Delegation of roading functions and powers to concessionaires)**

- (1) In the heading to section 61, delete “to concessionaires”.
- (2) Replace section 61(1) with:
  - (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 Roothing 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.
- (3) In section 61(2), replace “a concessionaire” with “another person”.
- (4) In section 61(2)(a), replace “concessionaire” with “person”.
- (5) In section 61(2)(b), replace “concessionaire” with “person”.
- (6) In section 61(3), replace “concessionaire” with “person”.
- (7) After section 61(4), insert:
  - (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.

**51 Section 62 amended (Effect of delegation under section 61)**

In section 62(4), replace “on the terms and conditions agreed in the relevant concession agreement” with “at any time”.

**52 Section 63 amended (Leasing)**

- (1) Replace section 63(1) with:
  - (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) Repeal section 63(2).
- (3) Replace section 63(3)(b) with:

(b) an existing road or a new road or a portion of an existing road or a new road; and

- (4) Repeal section 63(4)(a).
- (5) In section 63(4)(b), replace “concession” with “written”.
- (6) In section 63(5), replace “concession” with “written agreement”.
- (7) After section 63(7), insert:
- (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.

**53 Section 65 amended (This Part and other land transport legislation enforceable in relation to concession roads and toll roads)**

- (1) In the heading to section 65, delete “**concession roads and**”.
- (2) In section 65(2), delete “concession road or”.
- (3) In section 65(2)(a), replace “who are constables and enforcement officers who are a Police employee who is not a constable” with “who are not constables but who are Police employees”.
- (4) In section 65(2)(b), after “section 208(1)”, insert “or (3)(a)(iii)”.
- (5) In section 65(3), delete “concession road or”.

**54 Subpart 3 of Part 2 repealed**

Repeal subpart 3 of Part 2.

**55 Sections 66 to 71 and cross-heading above section 66 replaced**

- (1) Replace sections 66 to 71 and the cross-heading above section 66 with:

*GPS on land transport*

**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.

**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.

#### **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.

#### **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 regulation for the purposes of the Acts and Regulations Publication Act 1989; or
- (c) a regulation for the purposes of the Regulations (Disallowance) Act 1989.

#### **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.

**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.

(2) Subsection (3) takes effect on the repeal of the Acts and Regulations Publication Act 1989 and the Regulations (Disallowance) Act 1989.

(3) Replace section 69(b) and (c) (as inserted by subsection (1)) with:

- (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.

**56 Sections 72 to 89 and related cross-headings repealed**

Repeal sections 72 to 89 and the cross-headings above sections 73 and 84.

**57 Section 90 replaced (Amending current GPS)**

Replace section 90 with:

**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.

**58 Section 91 amended (Availability of GPS)**

- (1) In the heading to section 91, replace “GPS” with “**amended GPS on land transport**”.
- (2) In section 91, replace “a GPS” with “an amended GPS on land transport”.

- (3) In section 91(a) to (c), replace “the GPS” with “the amended GPS on land transport”.
- (4) Replace section 91(b)(iv) with:
  - (iv) every approved organisation;
  - (v) the Auckland Council; and

#### **59 Section 92 amended (Overview)**

- (1) Replace section 92(2)(b) with:
  - (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
- (2) Replace section 92(2)(e) with:
  - (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

#### **60 Section 94 amended (Objective of Agency)**

In section 94, replace “an affordable, integrated, safe, responsive, and sustainable land transport system” with “an effective, efficient, and safe land transport system in the public interest”.

#### **61 Section 95 amended (Functions of Agency)**

- (1) Replace section 95(1)(a) with:
  - (a) to contribute to an effective, efficient, and safe land transport system in the public interest;
- (2) Replace section 95(1)(d) with:
  - (d) to deliver or manage the delivery of its other activities, including (but not limited to) those relating to research, education, and training;
- (3) In section 95(1)(e)(i), delete “and regional fuel taxes”.

#### **62 Section 96 amended (Operating principles)**

Replace section 96(1)(a) with:

- (a) exhibit a sense of social and environmental responsibility; and

#### **63 Section 100 amended (Statement of intent)**

In section 100(1)(a), replace “GPS” with “GPS on land transport”.

#### **64 Section 101 amended (Secretary must monitor and review specified activities and procedures)**

- (1) In the heading to section 101, replace “**must**” with “**may**”.
- (2) In section 101(1), replace “must” with “may”.

**65 Section 102 amended (Monitoring and reporting on delivery of approved Police activities or combinations of Police activities)**

- (1) In section 102(1), replace “The Secretary, or the Agency if designated for the purpose by the Secretary,” with “The Agency”.
- (2) In section 102(3), replace “The Secretary must provide the Minister and the Agency” with “The Agency must provide the Minister”.
- (3) Repeal section 102(4) and (5).

**66 Section 103 amended (Secretary may declare State highways)**

- (1) In the heading to section 103, replace “Secretary” with “Agency”.
- (2) Replace section 103(1) with:
  - (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.
- (3) In section 103(3), replace “Secretary” with “Agency” in each place.
- (4) In section 103(4), replace “Secretary” with “Agency”.
- (5) Replace section 103(8) with:
  - (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.

**67 Section 105 amended (Regional transport committees)**

- (1) Repeal section 105(2)(d) to (i).
- (2) Replace section 105(3)(a) with:
  - (a) 4 persons to represent the unitary authority; and
- (3) Repeal section 105(3)(c) to (h).
- (4) Repeal section 105(5) and (8).
- (5) Replace section 105(9) with:
  - (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.
- (6) After section 105(10), insert:
- (10A) If Auckland Transport establishes a joint regional transport committee with 1 or more adjoining regional councils under subsection (9), any reference to a regional 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.
- (7) Repeal section 105(13).

## **68 Section 106 replaced (Functions of regional transport committee)**

Replace section 106 with:

### **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.

**69 Section 107 amended (Procedure of committee)**

- (1) Repeal section 107(1).
- (2) After section 107(3), insert:
- (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.

**70 New Parts 5 and 6 inserted**

After Part 4, insert:

**Part 5**  
**Regulation of public transport**

**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.

**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

### **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.

## Subpart 1—Regional public transport plan

### **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.

### **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.

#### *General requirements*

### **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—
    - (i) a taxi service:
    - (ii) a shuttle service.
- (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.

### **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 taxi services or shuttle services 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.

### **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.

**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.

**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.

**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.

### **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.

### **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.

#### **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.

#### **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.

#### **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.

## Subpart 2—Registration of exempt services

### *Register of exempt services*

#### **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.

#### **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.

### **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.

### **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.

#### **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.

#### **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.

### **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).

### **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.

**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).

### **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.

## Subpart 3—Miscellaneous

### *Appeals*

### **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.

#### **141 Appeals to District Court**

- (1) A person may appeal to a 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.

#### **142 Procedure for appeals to District Court**

- (1) An appeal under section 141 must be brought, in accordance with the procedure under Part 14 of the District Courts Rules 2009, 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 5 of the District Courts Act 1947 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.

**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, a District Court may suspend the regional council's decision if the court is satisfied that public safety would not be compromised.

**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 and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.

**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 or the Court of Appeal Rules, as the case may be.

*Offences*

**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 summary 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).

**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 summary 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).

**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 summary 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.

**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.

*Regulations***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.

## Part 6

### Transitional and savings provisions

#### 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.

### **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.

### **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.

**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.

**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.

#### **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.

#### **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.

#### **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 Taur-

anga 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 transporter hire.

#### **159 Transitional regulations**

- (1) For the purposes of Part 5, the Governor-General may, by Order in Council on the recommendation of the Minister, make regulations for transitional or savings purposes that—
  - (a) prescribe transitional and savings provisions concerning the coming into force of this Act that may be in addition to, or in place of, the transitional and savings provisions in this Act:
  - (b) provide that, during a specified transitional period and subject to any specified conditions,—
    - (i) specified provisions of this Act (including definitions) do not apply:
    - (ii) specified terms of this Act have the meaning given to them by regulations made under this Act:
    - (iii) specified provisions repealed or amended or revoked by this Act are to continue to apply.

- (2) The Minister must, before making any recommendation,—
  - (a) have regard to the principles specified in section 115; and
  - (b) be satisfied that the proposed regulations are necessary or desirable to facilitate an orderly transition from the provisions of the Public Transport Management Act 2008 to Part 5.
- (3) Any regulations made under this section may, for the transitional or savings purposes specified in subsection (1) (and without limiting that subsection), apply only to, or in respect of, 1 or more specified regions, services, or both.
- (4) Any regulations made under this section are revoked on the close of 31 December 2015.
- (5) This section is repealed on 1 January 2016.

## **Part 2**

### **Miscellaneous**

#### **71 Repeals**

- (1) The Public Transport Management Act 2008 (2008 No 87) is repealed.
- (2) The Tauranga District Council (Route K Toll) Empowering Act 2000 (2000 No 1) is repealed.

#### **72 Consequential amendments**

The enactments specified in the Schedule are consequentially amended in the manner indicated in that schedule.

## Schedule

### Consequential amendments

s 72

#### Part 1

#### Acts consequentially amended

##### Canterbury Earthquake Recovery Act 2011 (2011 No 12)

Replace section 26(2)(b) with:

- (b) regional land transport plans under the Land Transport Management Act 2003:

Replace section 26(2)(d) with:

- (d) regional public transport plans adopted under section 119 of the Land Transport Management Act 2003 or section 9 of the Public Transport Management Act 2008:

Replace section 27(1)(c) with:

- (c) a regional land transport plan under the Land Transport Management Act 2003:

##### Criminal Procedure Act 2011 (2011 No 81)

In Schedule 3, item relating to the Land Transport Management Act 2003, repeal the items relating to section 65ZD(3) and (4).

In Schedule 3, repeal the item relating to the Public Transport Management Act 2008.

##### Government Roothing Powers Act 1989 (1989 No 75)

In section 44, replace “1953, and all roads outside urban areas declared as State highways under this Act,” with “1953, all roads outside urban areas declared as State highways under this Act, and all roads outside urban areas declared as State highways under the Land Transport Management Act 2003.”

In section 62(2), replace “programme” with “plan” in each place.

In section 93(1), replace “District Land Registrar by the Minister at the request of” with “Registrar-General of Lands by”.

Replace section 93(2)(a) with:

- (a) the refusal of the Agency to issue a notice under subsection (1); or

##### Land Transport Act 1998 (1998 No 110)

In section 2(1), repeal the definition of **commercial public transport service**.

In section 79M(3), replace “section 4 of the Public Transport Management Act 2008” with “section 5 of the Land Transport Management Act 2003”.

In section 113(1)(a), delete “the Public Transport Management Act 2008.”



**Land Transport Act 1998 (1998 No 110)—continued**

In section 168(1)(c), replace “commercial public transport services under the Public Transport Management Act 2008” with “exempt services under the Land Transport Management Act 2003”.

Replace section 208(1)(a)(iii) with:

- (iii) Part 5 of the Land Transport Management Act 2003; or

Replace section 208(3)(a)(ii) with:

- (ii) Part 5 of the Land Transport Management Act 2003;
- (iii) any provision in the Land Transport Management Act 2003 relating to tolls; or

**Land Transport Management Amendment Act 2008 (2008 No 47)**

In Schedule 2, repeal clauses 2 to 11, 13, 15 to 17, 19 to 25, 27, 30, 33 to 35, 39, and 43.

In Schedule 2, clause 14(1), item relating to Wellington Land Transport, replace “163,000,000” with “91,951,000”.

In Schedule 2, clause 14(1), item relating to Wellington Land Transport (Western Corridor), replace “640,000,000” with “625,152,000”.

In Schedule 2, clause 14(1), item relating to Wellington Land Transport (Western Corridor), paragraph (b), replace “235,000,000” with “220,152,000”.

In Schedule 2, repeal the cross-heading above clause 25.

**Local Government (Auckland Council) Act 2009 (2009 No 32)**

Repeal section 15(1)(cb).

In section 37(1), definition of **Auckland transport system**, paragraph (a)(ii), replace “section 4 of the Public Transport Management Act 2008” with “section 5(1) of the Land Transport Management Act 2003”.

In section 37(2), replace “programme” with “plan”.

In section 39, replace “effective and efficient land transport system to support Auckland’s social, economic, environmental, and cultural well-being” with “effective, efficient, and safe Auckland land transport system in the public interest”.

In section 45(a), replace “programme” with “plan”.

In section 46(1)(i), delete “and concession agreements”.

In section 46(1)(j), replace “the Public Transport Management Act 2008” with “Part 5 of the Land Transport Management Act 2003”.

Replace section 54(1)(a) with:

- (a) the power to approve or adopt any policy or programme that it is required to consult on using the special consultative procedure; and

**Local Government (Auckland Council) Act 2009 (2009 No 32)—continued**

- (ab) the power to approve or adopt a regional land transport plan or a regional public transport plan under the Land Transport Management Act 2003; and

**Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37)**

In section 65(3), replace “Each” with “Subject to section 156 of the Land Transport Management Act 2003, each”.

In section 65(4), replace “The” with “Subject to section 156 of the Land Transport Management Act 2003, the”.

In section 82(3)(b), replace “30 June 2016” with “30 June 2015”.

**New Zealand Railways Corporation Act 1981 (1981 No 119)**

In section 119A, delete “the Public Transport Management Act 2008,”.

**Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 (2010 No 119)**

Repeal section 17(14).

**Privacy Act 1993 (1993 No 28)**

In Schedule 5, item relating to Police records, item relating to wanted persons, paragraph (b), replace “Authority by section 69(1)” with “Agency by section 95(1)”.

In Schedule 5, item relating to Police records, item relating to wanted persons, paragraph (c), replace “Authority” with “Agency”.

In Schedule 5, item relating to Registrar of Motor Vehicles records, item relating to motor vehicles register, replace “Authority” with “Agency”.

In Schedule 5, item relating to Registrar of Motor Vehicles records, item relating to motor vehicles register, paragraph (a), replace “section 69(1)” with “section 95(1)”.

In Schedule 5, item relating to Ministry of Transport records, item relating to road user charges, replace “Authority” with “Agency”.

In Schedule 5, item relating to Ministry of Transport records, item relating to road user charges, paragraph (a), replace “section 69(1)” with “section 95(1)”.

**Public Works Act 1981 (1981 No 35)**

In section 2, definition of **State highway**, replace “section 60 of the Government Roding Powers Act 1989” with “section 103 of the Land Transport Management Act 2003”.

**Rugby World Cup 2011 (Empowering) Act 2010 (2010 No 123)**

Repeal section 5(4)(f).

**Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (2010 No 24)**

Repeal section 16(14).

**Part 2**

**Regulations consequentially amended**

**Land Transport Management (Road Tolling Scheme for ALPURT B2) Order 2005 (SR 2005/92)**

In clause 12(b), replace “the that” with “the” in each place.

**War Pensions Regulations 1956 (SR 1956/7)**

In regulation 43B(c)(i), replace “section 4 of the Public Transport Management Act 2008” with “section 5(1) of the Land Transport Management Act 2003”.

**Part 3**

**Rule consequentially amended**

**Land Transport Rule: Operator Licensing 2007**

In Part 2, definition of **dial-a-driver service**, replace “made” with “facilitated”.

**Legislative history**

13 August 2012	Introduction (Bill 46–1)
11 September 2012	First reading and referral to Transport and Industrial Relations Committee
5 March 2013	Reported from Transport and Industrial Relations Committee
8 May 2013	Second reading, committee of the whole House
5 June 2013	Third reading
12 June 2013	Royal assent

This Act is administered by the Ministry of Transport.