

Infrastructure Bill

Government Bill

As reported from the Transport and
Industrial Relations Committee

Commentary

Recommendation

The Transport and Industrial Relations Committee has examined the Infrastructure Bill and recommends that it be passed with the amendments shown.

Introduction

This bill provides for a new Utilities Access Act, and makes a number of amendments to several Acts to remove a number of legislative barriers to infrastructure development. This is an omnibus bill of four Parts, covering three areas:

- changes to utilities' access arrangements to transport corridors
- changes to the New Zealand Railways Corporation Act 1981
- the repeal of the Affordable Housing: Enabling Territorial Authorities Act 2008.

Changes to utilities' access arrangements to transport corridors would provide a consistent approach for local authorities, Government agencies, and utility operators. The bill would allow the

Minister to approve a Code of Practice for processes relating to access to road, rail, and motorway corridors.

We consider that changes are required to the New Zealand Railways Corporation Act 1981 to remove statutory restrictions that adversely affect the running of the New Zealand Railways Corporation's business, and to align the corporation's governance arrangements with equivalent provisions in the Crown Entities Act 2004.

The bill would also repeal the Affordable Housing: Enabling Territorial Authorities Act 2008, while retaining a modified version of section 30 of that Act, which deals with restrictive covenants, by means of an amendment to the Property Law Act 2007. The bill proposes that the prohibition on restrictive covenants be limited to social housing, including housing for persons on low income or with special housing needs and disabilities.

This commentary discusses the main issues we considered and explains the significant amendments we recommend to the bill. It does not address minor and technical amendments.

Interpretation

Clause 4 says that "corridor manager", in relation to railway land, means the licensed access provider who controls access to the land. We recommend the insertion of a definition of "railway land" in clause 4, so it is clear that it includes adjacent land that is held or used in connection with operating a railway on railway lines. This would mean that the definition of "transport corridor" in clause 4 would include such land as well as the railway line itself.

We also recommend that the definition of "utility operator" in relation to water and wastewater in clause 4 be amended to include any person acting on behalf of local authorities. The definition we have recommended takes into account the fact that not all water and wastewater utility operators are local authorities.

Obligation to comply with Code

Clause 6(3) sets out the circumstances in which a utility operator would not have to comply with the Code when carrying out work in a transport corridor: when the Code conflicts with another enactment or obligation binding the utility operator; or when non-compliance is agreed between the corridor manager and affected operators. This

prevents the situation where two participants are forced to do something inefficient and costly because it is a requirement of the Code.

We recommend that new subclause 3A be inserted to make it clear that such an agreement not to comply with the Code does not affect corridor managers' or utility operators' obligations under any enactment, or under any standard with which they are obliged to comply.

Court may order compliance with Code

We recommend that clause 7(1) be amended to provide that the District Court may require a utility operator or corridor manager to comply only with the obligations set out in clause 6, rather than to comply and act consistently with the Code in general. This would allow the District Court to consider any breaches of the obligation to comply with the Code. However, before participants could apply to the District Court for a court order, they would have to use the appropriate dispute resolution procedures in the Code.

Purpose of Code

Clause 9(b) currently sets out measures to ensure that disruptions to roads, motorways, and railways caused by utility operators' work are kept to a minimum, while ensuring public safety. We recommend that this clause be broadened by replacing "ensuring public" with "maintaining". This would ensure that the safety of all concerned be maintained without targeting a particular group.

Content of Code

Clause 10(1) specifies what the Code must set out in order to achieve its purpose. We recommend a number of changes to this clause, in order to strengthen some of its provisions, particularly relating to working relationships between corridor managers and utility operators, for the sake of efficiency and effective coordination, and to insert additional provisions to clarify important detail.

It is not clear in clause 10(1)(b) as introduced that the Code must also coordinate work between utility operators. We recommend that this clause be amended so it is clear that the Code covers the principles governing how utility operators deal with corridor managers as well

as other utility operators, on issues in relation to access to transport corridors.

We recommend that clause 10(1)(c) be amended to cover the coordination of work in transport corridors that affects utility operators' assets.

We recommend replacing clause 10(1)(e) and inserting an additional clause, 10(1)(fa), to require that the Code specify how criteria for access published by corridor managers, and statutory criteria for local authorities imposing reasonable conditions, must be applied.

We further recommend that paragraph (fb) be inserted to require that the Code include processes and rules for the sharing of information, such as "as-built" plans, by utility operators and corridor managers. The extent of the obligation on small local authorities can be determined in the Code-making process.

The Code under the bill as introduced could refer to standards, guidelines, and other documents not reproduced in the Code. We recommend the insertion of new paragraph (i) to require that the Code indicate where such external material is available and in what specific edition or version.

Preparation and approval of Code

A draft Code may be prepared by the Ministry responsible for the administration of this Part, or by any person or body of persons, using whatever processes the Ministry, person, or body considers appropriate. We recommend amending clause 11(2) to specify that the minimum consultation requirement when developing a Code is to consult with utility operators and corridor managers likely to be affected by the Code. This would involve a similar amendment to clause 12(2)(iv).

We further recommend the insertion of new clause 11(4) so that any consultation done before the bill comes into force does not count as consultation for the purposes of clause 11(2).

Amenity values

The intent of clause 21 and parts of clauses 30 and 32 is to restrict the ability of local authorities to impose upon utility operators conditions that would create additional amenity value, beyond the current

amenity value of the area. A local authority should pay the cost of such a condition, and the area should be specified in advance. However, while local authorities would have to meet the costs of upgrading the amenity value of the area, from work carried out by utility operators, we consider they should still be able to impose conditions on utility operators to ensure they match the current amenity standard of the area.

Concern has been raised that these clauses as introduced would restrict local authorities' ability to maintain the amenity value of certain roads and increase the costs of doing so. It was argued, for example, that local authorities should not be required to pay for utility operators installing new assets to match the existing amenity value of a road, where the utility operator would otherwise have installed a second-hand piece of equipment.

We therefore recommend that clauses 21, 30, and 32 be amended. The proposed amendments clarify that the restriction does not apply if utility operators are merely being required to maintain amenity values.

Requirement to give 10 working days' notice

Clause 25 sets out a proposed amendment of section 142(2) of the Telecommunications Act 2001 requiring a telecommunications operator to give 10 working days' notice of its intention to place a cabinet or other appliance on the road, to both the local authority or any other person who has jurisdiction over the road and to any utility operator whose pipes, lines, or other structures will be or are likely to be affected by the work.

The clause is inconsistent with other provisions of the Telecommunications Act, which allow local authorities 15 days to respond with conditions. We recommend retaining the requirement to give notice but removing the requirement to provide that notice at least 10 working days in advance, bringing the section into line with the Electricity Act 1992 and the Gas Act 1992.

Removal of utility operators' rights to impose conditions on each other

The Electricity Act and the Gas Act currently allow both local authorities, and other utility operators whose assets are being moved,

to impose conditions on electricity and gas operators. However, the Telecommunications Act allows only local authorities to impose conditions.

We recommend that the Electricity Act and the Gas Act be made consistent with the Telecommunications Act, so that only local authorities, and not other utilities, can impose such conditions. The necessary amendments are set out in new clauses 29A and 31A.

The proposed amendments would also address anti-competitive concerns. Removing the ability of all operators to impose conditions on each other would allow utility operators to compete without a risk of disadvantageous conditions being imposed by their competitors.

Causer pays provisions

The Electricity Act and the Gas Act apply a “causer pays” principle when utilities’ assets are required to be moved. This means the causer of the work pays the whole cost. However, these Acts also provide for utility operators to share the cost when a “controlling authority” causes the work.

Submitters raised concerns with us about the definition of a “controlling authority” and whether this term refers to the New Zealand Transport Agency or local authorities. We recommend amending section 33(4) of the Electricity Act, section 34(4) of the Gas Act, and proposed new section 147B (being inserted by clause 28 of the bill) of the Telecommunications Act, to make it clear that a “controlling authority” applies only to the agent of the Minister of Transport or the New Zealand Transport Agency.

Replacing the term “fittings”

In proposed new section 147B of the Telecommunications Act (inserted by clause 28), the utility is required to pay for the “fittings” used in carrying out the required work while the controlling authority pays for the actual work done. The term “fittings” in this sense is a defined term in the Electricity Act and the Gas Act, but not in the Telecommunications Act. We therefore recommend replacing the word “fittings” in proposed new section 147B of the Telecommunications Act with “lines, cabinets, other appliances, and associated equipment”. This phrase reflects the meanings of “fittings” as it is used in the other Acts.

Notice to be given of local authority works

Section 52 of the Government Rounding Powers Act 1989 states that a utility needs consent from a road controlling authority, including a local authority, before it enters the road. This section is inconsistent with provisions of the Electricity Act, the Gas Act, and the Telecommunications Act regarding access to roads. We recommend amending section 52 of the Government Rounding Powers Act in clause 35(2), so that this section does not override the relevant provisions in the Electricity Act, the Gas Act, or the Telecommunications Act that relate to works or maintenance on, under, or over a road.

Amendment to the Railways Act 2005

The bill provides for “licensed access providers” to publish criteria for access on a publicly available website. There are 80 such providers, ranging from small voluntary organisations to industrial rail operators and the New Zealand Railways Corporation. We recommend amending section 75 of the Railways Act 2005 in clause 38(2) to limit this requirement to the New Zealand Railways Corporation and any other licensed access provider that the Minister declares by notice in the Gazette to be subject to it. This would avoid requiring rail operators who were unlikely to be providing utility access to their tracks from having to publish criteria for access on a publicly available website.

Regulation-making powers

We sought the advice of the Regulations Review Committee on the provision in the bill for an approved industry-led code of practice to become a deemed regulation.

As a result of advice received we adopted two recommendations for amendments to the bill. The first is to amend clause 10 to require that where a Code of practice refers to standards, guidelines, or other external documents it must say how this material may be accessed and refer to the specific edition.

The second recommendation is an amendment to clause 6(3) to make it clear that an agreement not to comply with the Code does not affect corridor managers’ or utility operators’ obligations under any enactment, or under any standard with which they are obliged to comply.

Minority view of New Zealand Labour and Green Party members

Labour members oppose the repeal of the Affordable Housing: Enabling Territorial Authorities Act.

Labour members believe housing affordability is a major issue in New Zealand, with close to one in three New Zealanders now spending 30 percent or more of their disposable income on housing, with 30 percent being the internationally agreed benchmark for housing affordability.

If the Government believes the current Act is not working then Labour and Green members believe it should be referred to a select committee where possible amendments could be considered. We believe that this decision to repeal the Act without such consideration is a wasted opportunity, and further limits the tools available to address housing affordability in New Zealand.

We also believe that the repeal of this Act should not have been hidden away in the Infrastructure Bill, and should have been referred to either the Social Services or the Local Government and Environment Committees.

We support the retention of clauses prohibiting restrictive covenants that aim to exclude social housing; however we are disappointed that the Government has decided to water down these provisions and to remove the prohibition of restrictive covenants that aim to exclude affordable housing. The decision to make the provisions only apply if such discrimination is a “principle purpose” of the covenant creates a huge loophole. We support the wording in the existing law which says that “A covenant over land is void if one of its purposes is to stop the provision of affordable housing or social housing on the land.”

We hope it will be possible in the third reading to vote separately on Part 4 from the rest of the bill.

Appendix

Committee process

The Infrastructure Bill was referred to us on 25 August 2009. The closing date for submissions was 18 September 2009. We received and considered 37 submissions from interested groups and individuals. We heard 14 submissions.

We received advice from The Treasury, the Ministry of Economic Development, the Ministry of Transport, and the Housing New Zealand Corporation. The Regulations Review Committee reported to us on the powers contained in clause 6(3) and clause 18(4).

Committee membership

David Bennett (Chairperson)

Dr Jackie Blue

Carol Beaumont

Darien Fenton

Jeanette Fitzsimons

Hon Tau Henare

Moana Mackey

Allan Peachey

Michael Woodhouse

Infrastructure Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Bill English

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Schedule
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reference in regulations made under section 18**

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Infrastructure Act **2009**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 5
- Part 1**
Utilities access
- 3 Purpose of Part**
The purpose of **this Part** is to— 10
- (a) require utility operators and corridor managers to comply with a national code of practice that regulates access to transport corridors; and
 - (b) provide for the making and administration of that code.
- 4 Interpretation**
In **this Part**, unless the context otherwise requires,— 15
- Code** means—
- (a) the national code of practice that is approved under **section 12** and has taken effect, along with all amendments to it that have taken effect; or
 - (b) if there is no Code approved under **section 12**, but regulations have been made under **section 18**, the code set out in those regulations 20
- corridor manager** means,—
- (a) in relation to a road (as defined in section 315(1) of the Local Government Act 1974, and which includes State highways and Government roads), the local authority or other person that has jurisdiction over the road: 25

- (b) in relation to a motorway (as defined in section 2(1) of the Government Roding Powers Act 1989), the New Zealand Transport Agency:
- (c) in relation to a railway line (as defined in section 4(1) of the Railways Act 2005), the person who is the licensed access provider (as that term is used in the Railways Act 2005) for that railway line railway land, the licensed access provider who controls access to the land

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

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

railway land means any land upon which a railway line (as defined in section 4 of the Railways Act 2005) is constructed, along with any adjacent land that is held or used in connection with operating a railway on that railway line

related Ministers means the Ministers of the Crown who are responsible for the administration of the Local Government Act 1974, the Electricity Act 1992, the Gas Act 1992, the Government Roding Powers Act 1989, the Telecommunications Act 2001, and the Railways Act 2005

transport corridor means any road (as defined in section 315(1) of the Local Government Act 1974), motorway (as defined in section 2(1) of the Government Roding Powers Act 1989), or railway line (as defined in section 4(1) of the Railways Act 2005) land

utility operator means,—

- (a) in relation to electricity infrastructure, an electricity operator as defined in section 2(1) of the Electricity Act 1992:
- (b) in relation to gas infrastructure, a gas operator as defined in section 2(1) of the Gas Act 1992:
- (c) in relation to telecommunications infrastructure, a network operator as defined in section 5 of the Telecommunications Act 2001:

- (d) in relation to water and wastewater infrastructure, a local authority as defined in section 5 of the Local Government Act 2002 or any person acting on behalf of a local authority in relation to that infrastructure;
- (e) in relation to public letterboxes, a postal operator as defined in section 2(1) of the Postal Services Act 1998. 5

5 This Part binds the Crown

This Part binds the Crown.

Obligation to comply with Code

6 Obligation to comply with Code 10

- (1) Utility operators and corridor managers must—
 - (a) co-ordinate work done in transport corridors by complying with the processes and rules set out in the Code; and
 - (b) before applying to the court for an order under **section 7**, use any appropriate dispute resolution procedures set out in the Code. 15
- (2) In setting reasonable conditions ~~for relating to~~ access to the transport corridor, corridor managers must comply with the Code (but only to the extent that the Code is not inconsistent with any applicable criteria for reasonable conditions that are published under an enactment). 20
- (3) When carrying out work in a transport corridor, utility operators must comply with the Code—
 - (a) except to the extent that any particular provision of the Code is inconsistent with an enactment, ~~a~~ any standard or other instrument that the utility operator is obliged to comply with; or
 - (b) unless, in a particular situation, the manager of the transport corridor and all affected utility operators agree that the Code need not be complied with. 30
- (3A) To avoid doubt, an agreement not to comply with the Code does not affect a corridor manager's or utility operator's obligations under an enactment, or under any standard or other instrument with which it is obliged to comply. 35
- (4) This section does not apply if there is no Code.

7	Court may order compliance with Code	
(1)	On the application of any utility operator or corridor manager, a District Court may require another utility operator or corridor manager to <u>to comply with any of its obligations under section 6</u> .	5
	(a) do anything that is required by, or is consistent with, the Code; or	
	(b) refrain from doing anything that is prohibited by, or is inconsistent with, the Code.	
(2)	The order may require the person against whom it is made to comply with it within a specified time.	10
(3)	In considering an application for an order, the court may take into account the practicality and cost of complying with the Code as compared with the practicality and cost of taking other steps that will, in the particular situation under consideration, achieve substantially the same outcome as compliance with the Code.	15
8	Offence to fail to comply with order	
	A person who, knowing that the person is subject to an order made under section 7 , fails to comply with the order, or fails to comply with the order within the time specified in the order, is liable on summary conviction to a fine not exceeding \$200,000.	20
	<i>Nature of Code</i>	
9	Purpose of Code	25
	The purpose of the Code is to enable access by utility operators to transport corridors to be managed in a way that—	
	(a) maximises the benefit to the public while ensuring that all utility operators are treated fairly; and	
	(b) ensures that disruptions to roads, motorways, and railways caused by work by utility operators are kept to a minimum, while ensuring public <u>maintaining safety</u> ; and	30
	(c) provides a nationally consistent approach to managing access to transport corridors.	35

10 Content of Code

- (1) In order to achieve its purpose, the Code must set out the following:
- (a) who it applies to:
 - (b) the principles governing how ~~utility operators and corridor managers deal with each other on access issues:~~ corridor managers deal with utility operators, and how utility operators deal with corridor managers and other utility operators, on issues relating to access to transport corridors: 5 10
 - (c) the processes and rules for ~~ensuring that work by utility operators that affects transport corridors is co-ordinated:~~ co-ordinating work done in transport corridors by utility operators, or that affects utility operators' assets: 15
 - (d) processes for dealing with conflicts of interest arising from the same person being both a corridor manager and a utility operator, or being the operator of different utilities:
 - (~~e~~) ~~how any statutory criteria for setting access conditions, and any criteria for setting access conditions that are published by corridor managers, are to be applied:~~ 20
 - (e) how the statutory criteria for setting reasonable conditions, when utility operators have a right of access, are to be applied: 25
 - (f) whether, what, and how any other conditions ~~on~~ relating to access may be imposed by corridor managers when utility operators have a right of access:
 - (fa) how the criteria (published in accordance with a statutory requirement) for granting access are to be applied when utility operators request access: 30
 - (fb) processes and rules for utility operators and corridor managers to share information:
 - (g) how compliance with the provisions of the Code is to be encouraged and provided for, including 1 or more dispute resolution procedures: 35
 - (h) operational processes and rules about work done by utility operators within transport corridors:

-
- (i) if the Code refers to standards, guidelines, or other documents that are not set out in the Code,—
- (i) how those standards, guidelines, or other documents (including any amendments and replacements) may be viewed and how copies may be obtained; and 5
- (ii) which edition or version of the standard, guidelines, or other document is referred to and whether the reference includes subsequent amendments or replacements. 10
- (2) The Code may also—
- (a) provide for its provisions to be applied differently in different geographic locations, provided the variations comply with **subsection (3)**; and
- (b) ~~provide processes and rules about information sharing between parties, including rules about what, and the form in which, information is to be collected and stored; and~~ 15
- (c) include any other matter that is consistent with the purpose of the Code and not inconsistent with any enactment. 20
- (3) Variations referred to in **subsection (2)(a)** may be allowed by the Code only if the variations—
- (a) are generally consistent with **paragraphs (a) and (b)** of the purpose of the Code set out in **section 9**; and 25
- (b) are in response to particular geographic factors that would result in inefficient or uneconomic outcomes if the standard requirements of the Code were adopted; and
- (c) have been sought and agreed to by the corridor managers and utility operators in that region; and 30
- (d) fairly balance the interests of corridor managers and utility operators.

*How Code made and administered***11 Preparation of Code**

- (1) A draft Code may be prepared by the Ministry, or by any person or body of persons, using whatever processes the Ministry, person, or body considers appropriate. 5
- (2) The process for developing a draft Code must include, at a minimum, the following steps:
- (a) consultation with utility operators and corridor managers likely to be affected by the Code;
 - (b) publication of a draft Code and release to the public: 10
 - (c) consideration of comment received on the draft Code;
 - (d) preparation of a revised draft Code in response to comments received.
- (3) A draft Code may be submitted to the Minister for approval at any time after the steps referred to in **subsection (2)** have been taken. 15
- (4) Any consultation done before **this Part** comes into force does not count as consultation for the purposes of **subsection (2)**.

12 Approval of Code

- (1) Within 3 months ~~of~~ after receiving a draft Code, the Minister must either approve or reject it. 20
- (2) The Minister may approve a draft Code only if—
- (a) he or she has consulted with the related Ministers; and
 - (b) he or she is satisfied that the draft Code—
 - (i) is capable of achieving the purpose ~~of the Code~~ set out in **section 9**; and 25
 - (ii) adequately sets out the matters referred to in **section 10(1)**; and
 - (iii) has been developed by a process that includes the steps set out in **section 11(2)**; and 30
 - (iv) is broadly agreed to by ~~relevant~~ the corridor managers and utility operators likely to be affected by the draft Code; and
 - (v) reflects a balance between the interests of corridor managers and those of utility operators. 35

- (3) The Minister's decision under this section must be given in writing to whoever submitted the draft Code to the Minister for approval.
- (4) If the Minister approves a Code, he or she must give notice in the *Gazette* of that fact, and the notice must state— 5
- (a) the date on which the Code takes effect in accordance with **section 13(1)**; and
- (b) the Internet site on which the Code is available and where it is or will be available for purchase, at no more than a reasonable cost, in hard copy. 10

13 When Code takes effect

- (1) The Code takes effect on the date specified in the *Gazette* notice referred to in **section 12(4)(a)**, which must be a date after the date of the *Gazette* notice and on or after the date on which the Code is first published under **section 14(1)(a)**. 15
- (2) The Code ceases to have effect on the date specified by the Minister in a notice of cancellation made under **section 17**.
- (3) It is not intended that any processes, notices, conditions, or other matters that were previously settled should be affected by the Code taking effect or by any subsequent cancellation or amendment of the Code. 20

14 Publication of Code

- (1) The Minister must ensure that the Code and every amendment to it—
- (a) is published on an Internet site that is publicly available at all reasonable times; and 25
- (b) is available for purchase in hard copy, at no more than a reasonable cost, from the head office of the Ministry.
- (2) The Minister may, instead of or as well as publishing amendments separately to the Code, publish the Code with amendments incorporated; but in that case the Code published on the Internet site must indicate what changes have been made and when. 30

15 Status of Code

A Code approved under **section 12** is a regulation for the purpose of the Regulations (Disallowance) Act 1989, but is not a regulation for the purpose of the Acts and Regulations Publication Act 1989.

5

16 Amendment of Code

(1) The Minister may at any time approve an amendment to the Code.

(2) **Sections 11 to 14**, with all necessary modifications, apply to an amendment as if it were a draft Code.

10

(3) Proposals for amendments to the Code must include the following:

(a) a statement of the proposed amendment and how it will affect the Code:

(b) the reasons for the proposed amendment: 15

(c) a description of the process used to arrive at the proposal, including a description of the parties involved and the level of agreement achieved among them:

(d) a description of how the amendments will affect corridor managers and utility operators. 20

(4) However, in the case of a minor amendment that does not materially affect the Code,—

(a) **section 12(2)** does not apply; and

(b) the proposed amendment need not—

(i) include the matters referred to in **subsection (3)(c) and (d)**; or 25

(ii) comply with **section 11(2)(b) to (d)**.

17 Cancellation of Code

(1) The Minister may cancel the Code if he or she is satisfied that— 30

(a) the Code no longer adequately reflects a balance between the interests of corridor managers and those of utility operators; or

(b) the Code is not achieving its purpose; or

(c) utility operators and corridor managers have significant concerns with, or differences over, the Code, and resolution of the issues appears unlikely. 35

- (2) If the Minister cancels the Code, he or she must publish a notice of that fact in the *Gazette*, and the notice must state the date on which the cancellation will take effect.

Regulations in place of Code

- 18 Power to make regulations if no Code** 5
- (1) The Governor-General may, on the recommendation of the Minister given in accordance with **subsection (2)**, make regulations regulating how access by utility operators to transport corridors is managed.
- (2) The Minister may not recommend making regulations under this section unless he or she is satisfied that— 10
- (a) either—
 - (i) no Code has taken effect and no Code is likely to take effect; or
 - (ii) an existing Code is or is likely to be cancelled; 15
 - (b) the regulations set out a code that has the purpose set out in **section 9** and includes the matters set out in **section 10(1)**; and
 - (c) the regulations are likely to improve the efficiency of utility operators’ access to transport corridors, without compromising road or rail safety; and 20
 - (d) the regulations reflect, as far as possible, any agreements reached by utility operators and corridor managers; and 25
 - (e) the related Ministers have been consulted and concur in the desirability of making the regulations and the content of the regulations.
- (3) Regulations made under this section may incorporate by reference any written material that prescribes, defines, or makes other provision for goods, services, processes, or practices that are relevant to the regulations. 30
- (4) If material is incorporated by reference in regulations made under this section, the **Schedule** applies to that material, unless the material is a New Zealand standard (as defined in section 2 of the Standards Act 1988), in which case that Act applies. 35

Part 2
Amendments relating to utility access to
transport corridors

19 Purpose of Part

- (1) The purpose of this Part is to amend a variety of Acts relating to utility operators' access to transport corridors in order to achieve greater certainty and consistency in the rights and obligations of utility operators and corridor managers. 5
- (2) In this section, **corridor manager**, **transport corridor**, and **utility operator** have the meanings in **section 4** of the **Utilities Access Act 2009**. 10

Amendments to Telecommunications Act 2001

20 Amendments to Telecommunications Act 2001

Sections 21 to 28 amend the Telecommunications Act 2001.

21 Criteria for setting reasonable conditions

15

Section 119 is amended by adding the following subsections:

- “(3) However, a condition requiring the network operator to increase amenity values (rather than merely maintaining them) may be imposed only if the part of the road on which the work is situated is within an area specifically identified in a long-term council community plan (as described in section 93 of the Local Government Act 2002) as being an area whose amenity values are to be protected or enhanced. 20
- “(4) If the cost to the network operator of complying with a condition referred to in **subsection (3)** is higher than it would have been if there was not a requirement to increase amenity values, then the person imposing the condition must pay that increase in cost.” 25

22 Notice requirement

Section 136 is amended by repealing subsection (1) and substituting the following subsection: 30

- “(1) Except as provided in section 139, before a network operator proceeds to open or break up any road, the network operator must give notice of the intention to carry out the work to—

- “(a) the local authority or other person who has jurisdiction over the road; and
- “(b) any utility operator (as defined in **section 4** of the **Utilities Access Act 2009**) whose pipes, lines, or other structures will or are likely to be affected by the work.” 5

23 Network operator to be notified of conditions

Section 137 is amended by omitting “20” and substituting “15”.

24 Failure to notify conditions

Section 138 is amended by omitting “20-working day” and substituting “15-working day”. 10

25 Construction, etc, of telephone cabinets or other similar appliances

Section 142(2) is amended by repealing paragraph (a) and substituting the following paragraph: 15

- “(a) give ~~at least 10 working days~~ notice of its intention to place a cabinet or other appliance on the road to—
 - “(i) the local authority or other person who has jurisdiction over the road; and
 - “(ii) any utility operator (as defined in **section 4** of the **Utilities Access Act 2009**) whose pipes, lines, or other structures will or are likely to be affected by the work; and”.

26 Network operator to be notified of conditions

Section 143 is amended by omitting “20” and substituting “15”. 25

27 Failure to notify conditions

Section 144 is amended by omitting “20-working day” and substituting “15-working day”.

28 New heading and sections 147A to 147C inserted 30

The following heading and sections are inserted after section 147:

*“Local authority, etc, requiring work to be done***“147A Local authority, etc, may require lines, etc, to be moved**

“(1) Where a network operator owns lines, cabinets, or other similar appliances that are on a road, the local authority or other person having jurisdiction over the road may, by notice in writing, require the network operator to raise, lower, or otherwise alter the position of the lines, cabinets, or other similar appliances. 5

“(2) If the network operator refuses or fails, within a reasonable period, to do the work required, the person requiring the work may do the work or have it done by some other person. 10

“(3) Before doing work as permitted by **subsection (2)**, the person requiring the work must give notice to the network operator at least 15 working days before the work commences.

“Compare: 1992 No 122 s 32; 1992 No 124 s 33 15

“147B Cost of work required under section 147A

“(1) The reasonable cost of all work required to be done under **section 147A** must be paid by the person that requires the work to be done.

“(2) However, the cost of the work must be paid by the network operator if the reason that the work is required is that the lines, cabinets, or other appliances— 20

“(a) were constructed contrary to any of the following:

“(i) this Act or any regulations made under section 157: 25

“(ii) the Telecommunications (Residual Provisions) Act 1987:

“(iii) the Local Government Act 1974 or the Local Government Act 2002, and any predecessor of those Acts: 30

“(iv) the Public Works Act 1981:

“(v) any local or private Act:

“(vi) any regulations made under any of the enactments referred to in **subparagraphs (ii) to (v)**; or 35

“(b) are in a dangerous or unsafe condition.

- “(3) A person that requires work to be done under **section 147A** may not claim for betterment in respect of that work, and no claim for betterment may be made against the person.
- “(4) The following provisions apply if the person requiring the work is ~~a controlling authority within the meaning of section 54(1) of the Government Roding Powers Act 1989~~ the New Zealand Transport Agency or the agent of the Minister of Transport:
- “(a) ~~the cost of all fittings lines, cabinets, other appliances, and associated equipment that are used in carrying out the required work (other than fittings things used only during the course of construction) must be paid by the network operator:~~
- “(b) ~~if, as a consequence of the requirement, the network operator elects to alter or add to any lines, cabinets, or other appliances affected by the work, and if the cost of the work is increased as a result of the alteration or addition, then the network operator is liable to pay the increase in cost:~~
- “(b) if, as a consequence of the requirement, the network operator elects to fix or install any lines, cabinets, or other appliances over, under, or through any roading structure (being a bridge, underpass, overpass, culvert, or tunnel) that is being, or is to be, constructed or altered, and if the cost of constructing or altering the roading structure is thereby increased, then the network operator must pay the increase in cost:
- “(c) if, as a consequence of the requirement, the network operator relocates the lines, cabinets, or other similar appliances and reconstructs them to specifications different from those of the original lines, cabinets, or other appliances, then, if the costs described in **paragraph (d)(i)** are less than the costs described in **paragraph (d)(ii)**, the network operator is liable to pay the difference:
- “(d) the costs referred to in **paragraph (c)** are—
- “(i) what it would have cost to relocate and reconstruct the ~~works~~ lines, cabinets, or other similar appliances as near as reasonably practicable to

- their original specifications (excluding any costs to which **paragraph (a)** applies), taking into account—
- “(A) any restrictions or conditions imposed by or under any enactment in relation to the relocation and reconstruction; and 5
- “(B) the location of the original works and the alternatives reasonably available to the network operator:
- “(ii) the actual cost of the relocation and reconstruction (excluding any costs to which **paragraph (a)** applies). 10
- “(5) **Subsections (1) to (4)** apply subject to any agreement between the person requiring the work and the network operator. 15
- “(6) The amount of payment required under this section must be determined— 15
- “(a) by agreement between the person liable for the payment and the person to whom it is payable; or
- “(b) failing such agreement, by arbitration under the Arbitration Act 1996, with 1 arbitrator to be appointed by each party and an umpire to be appointed by those arbitrators before entering upon their reference. 20
- “Compare: 1992 No 122 s 33; 1992 No 124 s 34
- “**147C Relationship with section 54 of Government Roding Powers Act 1989** 25
- Sections 147A and 147B** apply despite anything to the contrary in section 54 of the Government Roding Powers Act 1989.
- “Compare: 1992 No 122 s 34; 1992 No 124 s 35”.
- Amendments to Electricity Act 1992* 30
- 29 Amendments to Electricity Act 1992**
- Section 30 Sections 29A to 30A** amends the Electricity Act 1992.

29A Construction or maintenance of works on roads

Section 24 is amended by repealing subsection (2) and substituting the following subsection:

- “(2) No electricity operator may exercise the powers contained in subsection (1) otherwise than in accordance with such reasonable conditions as may be prescribed by the local authority or other body or person having jurisdiction over the road.” 5

30 New section 24A inserted

The following section is inserted after section 24:

“24A Criteria for setting reasonable conditions” 10

- “(1) In setting, varying, or revoking reasonable conditions under **section 24(2)**, the local authority or other body or person having jurisdiction over the road concerned may consider all or any of the following matters:
- “(a) the safe and efficient flow of traffic (whether pedestrian or vehicular): 15
 - “(b) the health and safety of any person who is, or class of persons who are, likely to be directly affected by the work on the road:
 - “(c) the need to lessen the damage that is likely to be caused to property (including structural integrity of the roads) as a result of work on the road: 20
 - “(d) the compensation that may be payable under section 57 for property that is likely to be damaged as a result of work on the road: 25
 - “(e) the need to lessen disruption to the local community (including businesses):
 - “(f) the co-ordination of installation of other networks:
 - “(g) the co-ordination with road construction work by the local authority or other body or person who has jurisdiction over that road: 30
 - “(h) the need of the electricity operator to establish an electricity network in a timely manner.
- “(2) Nothing in **subsection (1)** limits a local authority’s or other body or person’s ability to impose reasonable conditions under **section 24(2)**. 35
- “(3) However, a condition requiring the electricity operator to increase amenity values (rather than merely maintaining them)

may be imposed only if the part of the road on which the work is situated is within an area specifically identified in a long-term council community plan (as described in section 93 of the Local Government Act 2002) as being an area whose amenity values are to be protected or enhanced.

“(4) If the cost to the network operator of complying with a condition referred to in **subsection (3)** is higher than it would have been if there ~~was~~ were not a requirement to increase amenity values, then the person imposing the condition must pay that increase in cost.

“Compare: 2001 No 103 s 119”.

30A Cost of work required under section 32

Section 33(4) is amended by omitting “within the meaning of section 54(1) of the Government Roading Powers Act 1989” and substituting “(being the New Zealand Transport Agency or the agent of the Minister of Transport)”.

Amendments to Gas Act 1992

31 Amendments to Gas Act 1992

Section 32 Sections 31A to 32A amends the Gas Act 1992.

31A Construction or maintenance of fittings on roads

Section 25 is amended by repealing subsection (2) and substituting the following subsection:

“(2) No gas operator may exercise the powers contained in subsection (1) otherwise than in accordance with such reasonable conditions as may be prescribed by the local authority or other body or person having jurisdiction over the road.”

32 New section 25A inserted

The following section is inserted after section 25:

“25A Criteria for setting reasonable conditions

“(1) In setting, varying, or revoking reasonable conditions under **section 25(2)**, the local authority or other body or person having jurisdiction over the road concerned may consider all or any of the following matters:

- “(a) the safe and efficient flow of traffic (whether pedestrian or vehicular):
- “(b) the health and safety of any person who is, or class of persons who are, likely to be directly affected by the work on the road: 5
- “(c) the need to lessen the damage that is likely to be caused to property (including structural integrity of the roads) as a result of work on the road:
- “(d) the compensation that may be payable under section 51 for property that is likely to be damaged as a result of work on the road: 10
- “(e) the need to lessen disruption to the local community (including businesses):
- “(f) the co-ordination of installation of other networks:
- “(g) the co-ordination with road construction work by the local authority or other body or person who has jurisdiction over that road: 15
- “(h) the need of the gas operator to establish a gas network in a timely manner.
- “(2) Nothing in **subsection (1)** limits a local authority’s or other body or person’s ability to impose reasonable conditions under **section 25(2)**. 20
- “(3) However, a condition requiring the gas operator to increase amenity values (rather than merely maintaining them) may be imposed only if the part of the road on which the work is situated is within an area specifically identified in a long-term council community plan (as described in section 93 of the Local Government Act 2002) as being an area whose amenity values are to be protected or enhanced. 25
- “(4) If the cost to the gas operator of complying with a condition referred to in **subsection (3)** is higher than it would have been if there was not a requirement to increase amenity values, then the person imposing the condition must pay that increase in cost. 30
- “Compare: 2001 No 103 s 119”. 35

32A Cost of work required under section 33

Section 34(4) is amended by omitting “within the meaning of section 54(1) of the Government Roading Powers Act 1989”

and substituting “(being the New Zealand Transport Agency or the agent of the Minister of Transport)”.

*Amendments to Government Roothing Powers
Act 1989*

- 33 Amendments to Government Roothing Powers Act 1989** 5
Sections 34 to 37 amend the Government Roothing Powers Act 1989.
- 34 Powers of Minister over roads under Minister’s control**
 Section 48 is amended by inserting the following subsection after subsection (3): 10
- “(3A) Before exercising any power under subsection (3) that will or is likely to interfere with any pipe, line, or other work associated with wastewater or the supply of water, electricity, gas, or telecommunications, the Minister (or an officer of the Agency acting on the Minister’s behalf) must give not less than 15
 10 working days’ notice in writing of the proposed interference to the owner of the pipe, line, or other work, except in the case of any emergency or danger.”
- 35 Notice to be given of local authority works**
 (1) Section 52 is amended by inserting the following subsection after subsection (2): 20
- “(2A) The Agency and the Minister must each publish, on a publicly available Internet site, the criteria that the Agency and the Minister respectively will apply when considering whether to give consent under this section, and must apply those criteria 25
 when considering whether to give consent.”
- (2) Section 52 is amended by adding the following subsection:
 “(4) This section does not prevail over any provision in the Electricity Act 1992, the Gas Act 1992, or the Telecommunications Act 2001 that relates to works or maintenance on, under, or 30
 over a road.”
- 36 Powers and duties of Agency in relation to State highways**
 Section 61 is amended by inserting the following subsection after subsection (5):

“(5A) Before exercising any power under subsection (4) that will or is likely to interfere with any pipe, line, or other work associated with wastewater or the supply of water, electricity, gas, or telecommunications, the Agency (or an officer of the Agency acting on the Agency’s behalf) must give not less than 10 working days’ notice in writing of the proposed interference to the owner of the pipe, line, or other work, except in the case of any emergency or danger.” 5

37 New section ~~77A~~ 78A inserted

The following section is inserted after section ~~77~~ 78: 10

~~77A~~78A Response to requests for access to motorway

“(1) If the Agency receives a request in accordance with **subsection (2)**, the Agency must respond, in writing, within 30 working days of receiving it.

“(2) The requests to which **subsection (1)** applies are those from local authorities, or owners of any pipe, line, or other works associated with wastewater or the supply of water, electricity, gas, or telecommunications, for access to a motorway for the purpose of constructing, maintaining, or in any other way altering any such pipe, line, or other works, or any wire, cable, pipe, tower, pole, or other structure or thing on, over, or under the motorway.” 15 20

Amendment to Railways Act 2005

38 Amendment to Railways Act 2005

(1) This section amends the Railways Act 2005. 25

(2) Section 75 is amended by inserting the following subsections after subsection (1):

“(1A) ~~Every licensed access provider and every railway premises owner~~ The New Zealand Railways Corporation, and any other licensed access provider that the Minister, by notice in the Gazette, declares to be subject to this subsection, must publish, on a publicly available Internet site, the criteria that the ~~licensed access provider or railway premises owner~~ Corporation or other body will apply when considering whether to grant permission under subsection (1), and must apply those criteria when considering whether to grant permission. 30 35

“(1B) If a local authority or owner of any pipe, line, or other work associated with wastewater or the supply of water, electricity, gas, or telecommunications requests, in writing, permission for access to any railway infrastructure or railway premises for the purpose of carrying out work on any such pipe, line, or other works, the licensed access provider or railway premises owner must respond to the request, in writing, within 30 working days of receiving the request.” 5

Amendment to Local Government Act 1974

39 Amendment to Local Government Act 1974 10

(1) This section amends the Local Government Act 1974.

(2) Section 319 is amended by adding the following subsection as subsection (2):

“(2) Before exercising a power under this section to do anything that will or is likely to interfere with any pipe, line, or other work associated with wastewater or the supply of water, electricity, gas, or telecommunications, the council must give not less than 10 working days’ notice in writing of the proposed interference to the owner of the pipe, line, or other work, except in the case of any emergency or danger.” 15 20

Transitional provision

40 Transitional provision

To avoid doubt, the amendments made by this Part are intended to apply prospectively only and do not apply to or affect any notice given, request made, condition proposed or agreed to, or any other thing done before this Part comes into force. 25

Part 3

**Amendments relating to New Zealand
Railways Corporation**

41 Principal Act in this Part 30

This Part amends the New Zealand Railways Corporation Act 1981.

42 Interpretation

Section 2(1) is amended by repealing the definition of **Minister** and substituting the following definition:

“**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act”.

43 Section 3 repealed

- (1) Section 3 is repealed.
- (2) The following provisions are consequentially amended by omitting “Minister of Railways” and substituting in each case “Minister”:
 - (a) section 15(3):
 - (b) section 119(1).
- (3) The heading to section 30 is consequentially amended by omitting “**Minister of Railways**” and substituting “**Minister**”.

44 New Zealand Railways Corporation

- (1) Section 4(3) is amended by omitting “to be the Chairman of the Corporation” and substituting “to be chairperson of the Corporation, and may appoint any other director to be deputy chairperson of the Corporation”.
- (2) Section 4 is amended by repealing subsection (6) and substituting the following subsection:

“(6) The Minister and the Minister of Finance may jointly, at any time and entirely at their discretion, remove any director from office.”
- (3) Section 4 is amended by repealing subsection (7) and substituting the following subsection:

“(7) The deputy chairperson has and may exercise all the functions and powers of the chairperson if the chairperson is absent or otherwise unable to act.”

Compare: 2004 No 117 s 36(1), Schedule 5, cl 5

45 Meetings of directors

- (1) Section 6(3) is amended by omitting “the Chairman or any 4 directors” and substituting “the chairperson, or a majority of the directors,”.
- (2) Section 6(5) is amended by omitting “Chairman” and substituting “chairperson”.
- (2A) Section 6(5) is amended by inserting “or she” after “he”.
- (3) Section 6(6) is amended by omitting “Chairman” and substituting “chairperson ~~or~~ and deputy chairperson”.

46 New section 7A inserted

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The following section is inserted after section 7:

“7A Indemnification and insurance

- “(1) The Corporation may indemnify any director or employee, but only in respect of—
- “(a) liability for conduct that comprises acts or omissions by the director or employee ~~done~~ in good faith and in the performance or intended performance of the Corporation’s functions; and
- “(b) any costs incurred in defending or settling any claim or proceeding relating to liability for such conduct.
- “(2) The Corporation may effect insurance cover for any director or employee, but only in respect of acts or omissions ~~done~~ in good faith and in the performance or intended performance of the Corporation’s functions.
- “Compare: 2004 No 115 ss 122, 123”.

25

47 Capital of Corporation

- (1) Section 36(3) is amended by omitting “Governor-General on the advice of the Minister of Finance, may by Order in Council increase the capital of the Corporation to such an amount as may be prescribed in that order” and substituting “Minister of Finance may, by notice in the *Gazette*, increase the capital of the Corporation to the amount specified in the notice”.
- (2) Section 36(4) is amended by omitting “Governor-General on the advice of the Minister of Finance may, by Order in Council, decrease the capital of the Corporation to such amount as may be prescribed in that order” and substituting “Minister of

30

35

Finance may, by notice in the *Gazette*, decrease the capital of the Corporation to the amount specified in the notice”.

- 48 Sections 40 and 41 repealed**
Sections 40 and 41 are repealed.

Part 4

5

Amendments relating to affordable housing

Repeal of Affordable Housing: Enabling Territorial Authorities Act 2008

- 49 Repeal of Affordable Housing: Enabling Territorial Authorities Act 2008** 10

The Affordable Housing: Enabling Territorial Authorities Act 2008 (2008 No 67) is repealed.

- 50 Amendment to Building Act 2004**

- (1) This section amends the Building Act 2004. 15
(2) Section 49(2) is amended by—
(a) omitting “; and” from paragraph (b); and
(b) repealing paragraph (c).

- 51 Amendments to Goods and Services Tax Act 1985**

- (1) This section amends the Goods and Services Tax Act 1985. 20
(2) Section 5 is amended by repealing subsections (7D) and (7E).
(3) Section 11B is amended by repealing subsections (1D) and (1E).

- 52 Amendment to Housing Corporation Act 1974**

- (1) This section amends the Housing Corporation Act 1974. 25
(2) Section 3B is amended by—
(a) omitting “; and” from paragraph (b); and
(b) repealing paragraph (c).

- 53 Amendment to Local Government Act 2002**

- (1) This section amends the Local Government Act 2002. 30
(2) Schedule 10 is amended by repealing clause 7A.

*Amendment to Property Law Act 2007***54 Amendment to Property Law Act 2007**

(1) This section amends the Property Law Act 2007.

(2) The following section is inserted after section 277:

“277A Certain covenants void

5

“(1) A covenant concerning land is void if a principal purpose of the covenant is to stop the land being used for housing for—

“(a) people on low incomes; or

“(b) people with special housing needs; or

“(c) people whose disabilities mean that they need support or supervision in their housing. 10

“(2) Without limiting the covenants that are void under **subsection (1)**, covenants to the following effect are void:

“(a) a covenant that the transferee will not directly or indirectly convey the land to Housing New Zealand Corporation, any other central or local government body, or a private body that may facilitate the occupation of housing on the land by people selected by the corporation or the body: 15

“(b) a covenant that the transferee will not directly or indirectly convey the land to Housing New Zealand Corporation, a subsidiary company of Housing New Zealand Corporation, any other central or local government body, or a private body that provides housing to tenants on a subsidised basis: 20 25

“(c) a covenant that the transferee will not directly or indirectly convey the land to a central or local government body or a private body for the purposes of public or institutional housing.

“(3) This section applies only to covenants entered into on or after the day on which this section comes into force. 30

“Compare: 2008 No 67 ss 30, 34”.

Schedule

s 18(4)

Provisions applying where material is incorporated by reference in regulations made under section 18

- | | | |
|----------|---|----|
| 1 | Incorporation of material by reference in regulations | 5 |
| (1) | Material incorporated by reference in regulations made under section 18 may be incorporated— | |
| | (a) in whole or in part; and | |
| | (b) with modifications, additions, or variations specified in the regulations. | 10 |
| (2) | The material incorporated by reference has legal effect as part of the regulations. | |
| | | |
| 2 | Effect of amendments to, replacement of, and expiry of, material incorporated by reference | |
| (1) | An amendment to, or replacement of, existing material incorporated by reference into regulations made under section 18 has legal effect as part of the regulations only if— | 15 |
| | (a) the regulations provide that a reference to that particular existing material includes a reference to the material as subsequently amended or replaced; or | 20 |
| | (b) the regulations are amended to refer to the material as amended or replaced. | |
| (2) | If material that is incorporated by reference expires or ceases to have effect, and is not replaced, the material continues to have effect <u>for the purpose of the regulations</u> unless or until the regulations are amended in a way that means the material is no longer incorporated by reference. | 25 |
| | | |
| 3 | Proof of material incorporated by reference | |
| (1) | A copy of material incorporated by reference in regulations made under section 18 , including any amendment to, or replacement of, the material, must be— | 30 |
| | (a) certified as a correct copy of the material by the chief executive of the Ministry; and | |
| | (b) retained by the chief executive of the Ministry. | |
| (2) | The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient | 35 |

evidence of the incorporation in the regulations of the material.

4 Requirement to consult

- (1) **Subclause (2)** does not apply if, in relation to particular material (including amendment or replacement material) proposed to be incorporated by reference into regulations made under **section 18**,—
- (a) the material would amend or replace existing material incorporated by reference, and the regulations provide that references to that existing material includes references to any amendment to, or replacement of, the material; or
 - (b) the Minister is satisfied that corridor managers and network operators already use, or have been adequately consulted on, the material proposed to be incorporated by reference.
- (2) Before regulations are made that incorporate material by reference (including amendment or replacement material), the chief executive of the Ministry must—
- (a) make copies of the material available for inspection during working hours for a reasonable period, free of charge, at the head office of the Ministry; and
 - (b) ensure that copies of the material are available for purchase; and
 - (c) give notice in the *Gazette* of where and when the material may be inspected free of charge, and how it may be purchased; and
 - (d) allow a reasonable opportunity for persons to comment on the proposal to incorporate the material by reference; and
 - (e) consider any comments made.
- (3) A failure to comply with **subclause (2)** does not invalidate regulations that incorporate material by reference.

5 Access to material incorporated by reference

- (1) The chief executive of the Ministry—
- (a) must make any material that is incorporated by reference into regulations made under **section 18** available

-
- for inspection at the head office of the Ministry during working hours, free of charge; and
- (b) must ensure that copies of the material are available for purchase; and
- (c) may make copies of the material available in any other way that the chief executive considers appropriate (for example, on an Internet site); and 5
- (d) must give notice in the *Gazette*—
- (i) stating that the material is incorporated in the regulations and giving the date on which the regulations were made; and 10
- (ii) setting out where and when the material may be inspected free of charge, and how it may be purchased.
- (2) A failure to comply with **subclause (1)** does not invalidate the regulations that incorporate the material by reference. 15
- 6 Acts and Regulations Publication Act 1989 not applicable to material incorporated by reference**
- The Acts and Regulations Publication Act 1989 does not apply to material incorporated by reference in the regulations. 20
- 7 Application of Regulations (Disallowance) Act 1989**
- (1) Nothing in section 4 of the Regulations (Disallowance) Act 1989 requires material that is incorporated by reference in regulations made under **section 18** to be laid before the House of Representatives. 25
- (2) The Regulations (Disallowance) Act 1989, apart from the modification to the application of section 4 of the Act made by **subclause (1)**, applies to the regulations.
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Infrastructure Bill

Legislative history

5 August 2009

25 August 2009

Introduction (Bill 63–1)

First reading and referral to Transport and Industrial
Relations Committee
