

Land Transport Management Amendment Bill

Government Bill

As reported from the Transport and
Industrial Relations Committee

Commentary

Recommendation

The Transport and Industrial Relations Committee has examined the Land Transport Management Amendment Bill and recommends by majority that it be passed with the amendments shown.

Introduction

This bill seeks to amend the Land Transport Management Act 2003 in three main ways. It would change the planning and funding framework for central Government funding of land transport activities including roading, public transport, and road safety; it would improve the framework for assessing toll road schemes; and it would lay the legislative foundation for a new policy framework for a long-term partnership between regional councils and public transport operators, to be known as the public transport operating model.

This commentary covers the major amendments that we recommend; it does not discuss minor, technical, or consequential amendments.

Purpose

We recommend amending clause 4, which would replace section 3 (Purpose), to link the way the land transport system is to be managed under the legislation more clearly with its intended impact.

Interpretation

We recommend amending clause 6, which seeks to amend section 5 (Interpretation). The replacement definition of “activity” would capture better the concept intended, and simplify the language needed elsewhere in the legislation. Replacing the definition of “New Zealand Railways Corporation” with a definition of “railway track access provider” would allow for the possibility of a different organisation assuming responsibility for maintaining and providing access to railway tracks. This would also make the principal Act consistent with the Railways Act 2005. Inserting a definition of “shuttle” based on *Land Transport Rule: Operator Licensing 2007* would prevent a “shuttle service” from competing directly with a bus service by picking up and dropping off passengers at any point on a route. The amended definition of “unit” is clearer and would specify that a unit should consist of public transport services that are “integral” to the region’s network. The amended definition of “public transport service” would make it clear that such a service must be available to “the public generally”.

Payments exempt from procurement procedure

We recommend amending clause 35, which would amend section 26. In the bill as introduced, emergency funding of a public transport service would be available if, among other criteria, the service were identified in a regional public transport plan. We consider it desirable to provide for the possibility that a service might require emergency funding before the council could finalise its plan, by specifying that a service that is “integral to a public transport network” could qualify for such funding without being specified in such a plan.

Privacy

We recommend inserting new clause 43A to amend section 50 (Privacy), to make it clear that tolling information linked to registration

plate details is personal, and should be retained only as long as is necessary for the purpose of collecting tolls, enforcing the toll offence provisions, or meeting a statutory obligation to retain the information.

Delegation and leasing

We recommend amending clause 49, which would amend section 61, and clause 51, which would amend section 63, by replacing “toll road” or “new toll road” with “new road”, and by replacing “the Crown” with “a road controlling authority”. We consider the wording in the bill as introduced to be too narrow in its effect to accord with the rest of the Act.

Government Policy Statement on Land Transport

We recommend amending clause 54, which would replace sections 66 to 71. The Government Policy Statement on Land Transport Funding currently provides, in the absence of a National Land Transport Strategy, a simple and quick way of setting national transport policy. This form of GPS is, however, limited in scope to policy on funding. The bill as introduced would require the Minister to issue a “Government Policy Statement on Land Transport” that combines the intended functions of the National Land Transport Strategy with the functions of the current Government Policy Statement on Land Transport Funding. Our proposed amendments would give clearer guidance on the matters that might be included in the new Government Policy Statement on Land Transport, and would require the inclusion of any additional land transport appropriations.

Objective and functions of Agency

We recommend amending clause 59, which would amend section 94, and clause 60, which would amend section 95, to align the objective and functions of the New Zealand Transport Agency with our recommended amendment to the purpose of the Act.

New parts 5 and 6

We recommend amending clause 69, which would insert new sections 114 to 149 as new part 5 (Regulation of public transport) and

new sections 150 to 156 as new part 6 (Transitional and savings provisions), as follows.

Regulation of public transport

New section 114A sets out principles for planning and operating public transport services, and would require that these principles guide decision-making under new part 5. The principles we propose are those used when developing the Public Transport Operating Model and its objectives.

Regional public transport plan

Subpart 1 of new part 5 (new sections 116 to 128) concerns regional public transport plans (“PT plans”).

We recommend replacing new section 116 to express more clearly the intended purpose of PT plans, of encouraging regional councils and operators to work together, engaging with the public, and determining what services are integral to the network.

The proposed amendment to new section 117 would ensure that the validity of a PT plan would not be affected by the inclusion of matters not within the scope of a regional land transport plan provided that the PT plan was “otherwise consistent” with the public transport components of the regional land transport plan.

The replacement new section 119 would require less detail in some parts of a PT plan, and expresses the requirements for the plan’s content more concisely.

The proposed amendment to new section 122 would limit the exclusion of regional councils from liability for compensation in relation to PT plans or exempt services to occasions where the council had acted in good faith. The bill as introduced provides for a general exclusion, which we consider to be too broad.

Amending new section 123 would require regional councils to be satisfied that a PT plan had been prepared in accordance with any relevant New Zealand Transport Agency guidelines, and that they have applied the principles set out in new section 114A. It would remove the requirement for a PT plan to be “consistent with” the GPS, but would add a requirement for matters outside the scope of the regional land transport plan to be otherwise consistent with it. We

consider that PT plans are sufficiently closely linked to the GPS by their respective relationships with a regional land transport plan.

Amending new section 125 by deleting subsections (2) and (3) would allow a regional council to review a PT plan for reasons other than its consistency with the regional land transport plan.

Our proposed amendment to new section 126 would ensure that the information a regional council might require from an operator was precisely the information it needed. Amendments to new sections 126 and 128 would limit the parties to whom the council could disclose fare revenue data to persons registered to tender for the provision of a unit. The bill as introduced would allow disclosure to “potential bidders”, which we consider to be too broad.

Registration of exempt services

Subpart 2 of new part 5 (new sections 129 to 138) concerns the registration of exempt services.

Amending new section 129 by deleting subsection (2)(b) and (c) would allow existing services that are transitioning to the new system to be dealt with separately in new part 6;¹ replacing subsection (2)(d) is intended to distinguish the regions required to have a PT plan for defining exempt services; and new subsection (3) would exclude anything done under an agreement between a regional council and an operator to reduce passenger fares from the meaning of “subsidy” for the purposes of new subsection (2)(d)(i)(C).

We propose amending new section 130 to make it clear that a service that had been operating as a registered exempt service before being designated as integral to the public transport network in a PT plan could continue operating as an exempt service until replaced by a unit under new section 136.

Amending subsection (1) of new section 132 as proposed would require a person who proposed to operate or vary an exempt service to notify the regional council of the timetables, and the stops, stations, or terminals, for the service. Inserting new subsection (5) would include among exempt services that may be varied under this section any that were registered under the Public Transport Management Act

¹ In new section 150.

2008 and would continue to operate as exempt services under this part.

The recommended amendment to new section 133 would substitute reference to “units” of an exempt service for “public transport services contracted with the regional council”, for consistency with the terminology used elsewhere. It would also give regional councils discretion, on the new grounds that they had yet to adopt their PT plan, to decline to register proposed new or varied exempt services.

The recommended amendment to new section 136 would allow a service identified in a PT plan as integral to the public transport network when already operating as a registered exempt service to be deregistered, and replaced by a unit, only by Order in Council.

Miscellaneous

Subpart 3 of new part 5 (new sections 139 to 149) sets out miscellaneous provisions concerning the regulation of public transport.

We recommend amending new section 139 to make it clear that grounds for appeal to the Environment Court would be limited to the arrangement of public transport services into units and their allocation in PT plans, and that any affected operator of a public transport service would have a right of appeal.

New sections 145 to 147 would create the offences of operating unregistered exempt services, operating public transport services that are not exempt or contracted, and varying registered exempt services without notice. We propose amending these new sections to provide that no offence would be committed if an operator was operating in accordance with other specified sections or under an emergency contract to replace a public transport service; and to include in the variation of an exempt service any variation of its timetables, stops, stations, or terminals.

We recommend replacing new section 149 to add a power to make an Order in Council requiring a subsidised inter-regional service operating before the bill commences to be contracted as part of a unit; and a power to make an Order in Council requiring a public transport service to be specified as an exempt service if the Minister is satisfied that the service is in effect part of the local roading network (as in the case of some ferry services). Replacing this section would also allow various minor, technical, or consequential changes.

Transitional and savings provisions

New part 6 is largely concerned with avoiding undue prejudice to any existing operators in the transition to the new framework.

We recommend inserting new sections 149A and 149B at the beginning of new part 6. New section 149A specifies that, for the purposes of sections 149B, 150, and 151, a service registered as a commercial public transport service includes a service treated as such under the Public Transport Management Act 2008.

New section 149B specifies that transitional provisions analogous to the provisions of new section 126 (information required from operators of public transport services) would be applied to certain bus and ferry services that are intended to be replaced by units.

We recommend amending new section 150 to accord with our recommended amendment to new section 129 by making clear the intention that several categories of existing commercial service might continue to operate as registered exempt services under the new framework.

The proposed amendment to new section 151 would provide for several categories of service to continue operating as if they were registered exempt services under part 5 until the regional council required their cessation, despite the requirement for public transport services to be provided as units under contract unless exempt.

The replacement new section 152 would make it clear that the transitional provisions for processing notifications primarily cover inter-regional services operating in regions without PT plans.

We recommend amending new subsection 153(1) to make it clear that it refers to a PT plan adopted under the Public Transport Management Act 2008, not one in existence immediately before the section commences. New subsection 153(7) would impose a requirement on regional councils to use reasonable endeavours to ensure that operators of existing commercial public transport services are not unreasonably disadvantaged when councils arrange public transport services into units.

Amending new section 154 as proposed would make it clear that an operator contracted by a regional council could continue to provide a public transport service under that contract, or a variation to it, until the service was replaced by a unit or part of a unit in accordance with the PT plan.

Transitional regulations

We acknowledge concern raised by the Regulations Review Committee regarding the regulation-making power set out in new section 156, but consider that the new section is demonstrably essential to the bill. We recommend amending the new section to make it clear that regulations could only be made for transitional and savings purposes, and that regulations stating the meaning of specified terms could not alter the effect of any legislation other than the principal Act; to require that regulations be made only on the recommendation of the Minister of Transport, and that the Minister satisfy an objective test before making the recommendation; and to require the test to be that the regulations are necessary or desirable for facilitating an orderly transition from the provisions of the Public Transport Management Act 2008 to part 5 of the bill and that regard has been had to the principles in new section 114A. We consider that these amendments would address the concerns raised, as far as practicable.

Consequential amendments

We recommend amending the amendments to the Local Government (Auckland Council) Act 2009 set out in the schedule, to align the purpose of Auckland Transport more closely with the new purpose of the principal Act, and to ensure that Auckland Transport may not delegate its responsibilities for regional land transport plans and PT plans to the Auckland Council.

New Zealand Labour Party minority view

The Labour Party opposes the Land Transport Management Amendment Bill. Labour members of the committee believe the bill unwisely narrows the principal Act's purpose and decision criteria, reduces the say of local communities in setting transport priorities, and expands debt-funding options for a National Land Transport Programme we believe has the wrong priorities.

We believe that now more than ever the transport system needs to better integrate environmental, social, and public health considerations in policy, strategy, project appraisal, and design. The bill's changes to the Act's purpose statement and decision criteria move in the opposite direction with a narrow focus on economic efficiency.

While there is some worthwhile streamlining of planning processes, the strengthening of the Government Policy Statement on Land Transport without any requirement for consultation with local authorities nor alignment with local policy statements or plans, will have the effect of further tilting the power to set priorities in favour of central Government and away from communities.

The bill's abolition of the mechanism for a Regional Fuel Tax further undermines local autonomy in setting transport priorities. A Regional Fuel Tax can allow regions to fund projects that do not fit central Government priorities. Given that any Regional Fuel Tax has to be approved by the Minister it seems draconian to repeal the legislative mechanism that at least allows it as an option.

Labour opposes the bill's provision enabling NZTA to borrow for land transport projects beyond the current allowance for cash flow smoothing. We support in principle the case for borrowing as a means of spreading the cost of long term infrastructure across generations. However, we are so opposed to the current funding priorities we believe it would be irresponsible to pass on the costs of the current large new state highway projects to future generations.

Similarly, with the provisions facilitating Public Private Partnerships (PPPs), we are opposed to their being used to front-load current new state highway projects and push the debt burden on to future taxpayers. Together the borrowing and the PPP provisions open the door to a significant expansion of debt-funding of the current National Land Transport Programme at a time when we believe the priority should be a reconsideration of the programme's direction and priorities.

Finally, we are supportive of the bill's new Public Transport Operating Model, recognising it is the result of serious effort by both the public transport operators and local authorities to design a new framework.

Green Party minority view

Members of the Green Party do not support the bill for the following reasons:

Changes to the purpose of the Land Transport Management Act

The bill simplifies the purpose of the Act so it no longer contains the five transport objectives: "an affordable, integrated, safe, respon-

sive and sustainable land transport system”. While we could support some simplification of the purpose and criteria, the new proposed purpose “to contribute to an effective, efficient and safe land transport system in the public interest” was not supported by the majority of submitters. We do not feel “effective” has a meaning other than giving effect to the Government Policy Statement, and “in the public interest” is vague. The land transport system directly impacts social, economic, and environmental outcomes, including public health, carbon emissions, air and water quality, and the amount households and business have to spend on transport. We would prefer those linkages to be explicit and included in the purpose of the Act.

Changes to the makeup of Regional Transport Committees

The majority of submitters, including representatives from Regional Transport Committees, preferred to maintain the status quo of requiring specialist experts, including the Police, disability experts, and representatives from walking and cycling groups, on regional transport committees, as they have provided valuable input. Having a wide variety of experts and perspectives involved in the transport planning and funding process at the outset ensures more robust decisions are made about transport projects and priorities. Without the requirement to have these diverse views, it is entirely possible that regional councils will come under financial pressure to remove them from RLTCs. This move to simplify the committees could appear *prima facie* to save money and time, but cost significantly more in the long term as problems with transport infrastructure are not proactively identified.

Borrowing to pay for projects in the National Land Transport Programme

The bill makes changes that enable borrowing for reasons other than covering cash flow. While the argument has been put forward that it is logical to spread the cost of infrastructure over multiple generations, transport projects do not generate revenue or appreciate in value over time. The ability for NZTA to borrow to fund projects in the National Land Transport Programme will be a one-off increase in funds, which will then need to be paid back with interest from future National Land Transport Funds. Effectively, what this provision is allowing is for

the Government of the day to fund more of its priorities, which will have to be paid back by future generations of taxpayers, who will have less money available for new infrastructure investments and possibly also less available for operational expenses.

PPPs

The bill makes provisions for public–private partnerships for the purposes of building and operating transport infrastructure. Our concerns about using PPPs to fund transport infrastructure are very similar to our concerns about borrowing for the National Land Transport Fund. The NZTA is currently pursuing an availability payment model, which locks the NLTF into a long-term contract with a private company that will secure high rates of return. This type of PPP is effectively borrowing at a higher interest rate. This will mean less money is available in future land transport funds, just like direct Crown borrowing, but even more expensive. The Government of the day can have a one-off increase to spend on its transport priorities, which will be paid back with interest for generations.

Removal of the Regional Fuel Tax

We do not support the removal of the provisions that would allow a region to raise its own fuel tax to pay for transport infrastructure. While this bill allows some creative ways of increasing the money available to the NZTA in the short term, through borrowing and PPPs, it removes the provision that would allow regions to responsibly raise revenue to fund regional transport priorities. We note that many submitters opposed the removal of this funding tool.

A regional fuel tax is a transparent and inexpensive way for regions to raise revenue, and in the case of Auckland, it would have been a logical way to fund alternative transport options such as improvements to commuter rail. It makes sense to use fuel taxes to pay for alternatives because 1) public transport alternatives are a cost-effective way to free up the roads for those who are driving, and 2) it provides a price signal that will further encourage those at the margins to choose the more cost-effective option.

Appendix

Committee process

The Land Transport Management Amendment Bill was referred to the committee on 11 September 2012. The closing date for submissions was 26 October 2012. We received and considered 98 submissions from interested groups and individuals. We heard 29 submissions, which included holding hearings in Auckland.

We received advice from the Ministry of Transport and the New Zealand Transport Agency. The Regulations Review Committee reported to the committee on the powers contained in clause 69.

Committee membership

David Bennett (Chairperson)

Chris Auchinvole

Dr Cam Calder

Darien Fenton

Iain Lees-Galloway (from 27 February 2013)

Andrew Little (until 27 February 2013)

Sue Moroney (from 27 February 2013)

Simon O'Connor

Denise Roche

Mike Sabin

Phil Twyford (until 27 February 2013)

Julie Anne Genter replaced Denise Roche, and Ian Lees-Galloway replaced Andrew Little, for this item of business.

**Land Transport Management
Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Gerry Brownlee

Land Transport Management Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Land Transport Management Amendment Act **2012**.
- 2 Commencement** 5
(1) **Sections 42 and 70(2)** come into force on a date appointed by the Governor-General by Order in Council.
(2) **Section 66** comes into force on **1 May 2013**.
(3) The rest of this Act comes into force on **1 April 2013**.
- 3 Principal Act** 10
This Act amends the Land Transport Management Act 2003 (the **principal Act**).

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- 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 ~~that supports~~ in the public interest.” 20
- 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)** 25
(1AA) 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”.
- (1) In section 5(1), replace the definition of **Auckland Council** 30 with:

“**Auckland Council** means the governing body of the Auckland Council”.

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

“**bus service**—

“(a) means a service for the carriage of passengers for hire or reward by means of— 5

“(i) a large passenger service vehicle; or

“(ii) a small passenger service vehicle; but

“(b) does not include—

“(i) a shuttle service: 10

“(ii) a service—

“(A) that is contracted or funded by the Ministry of Education for the purpose of transporting school children to and from school:

“(B) that carries passengers and that is operated to transport all those passengers to or from a predetermined event: 15

“(C) that is operated primarily for the purpose of tourism, rather than for transporting people from place to place: 20

“(D) that does not run to a schedule:

“(E) ~~that carries passengers and~~ that is not available to the public generally

“**commercial public transport service**—

“(a) means a public transport service that is not supplied under contract with the regional council; and 25

“(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 30

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

“**exempt service** means a public transport service that is exempt under **section 129(2) or 150(2)** 35

“**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

~~“**New Zealand Railways Corporation** means the corporation constituted under section 4 of the New Zealand Railways Corporation Act 1981~~ 5

“**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 10

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

“**railway track 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 15

“**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) 20

“**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 25

“(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 30

“**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 35

“**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 whom 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, ~~that~~—

“(a) ~~that a regional council identifies in its regional public transport plan 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 on the route or routes 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”.

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

“**public transport service**—

“(a) means, subject to **paragraph (b)**, 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 ~~carries passengers but is not~~ is available to the public generally; but,
- “(b) in relation to **Part 5**, does not include—
- “(i) a shuttle service: 5
- “(ii) a service—
- “(A) that is contracted or funded by the Ministry of Education for the purpose of transporting school children to and from school: 10
- “(B) that carries passengers and that is operated to transport all those passengers to or from a predetermined event: 10
- “(C) that is operated primarily for the purpose of tourism, rather than for transporting people from place to place: 15
- “(D) that does not run to a schedule; 15
- “(E) that is not available to the public generally”.
- (4) In section 5(1), replace the definition of **regional council** with: 20
- “**regional council**— 20
- “(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: 25
- “(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” 30
- (5) In section 5(1), replace the definition of **regional land transport programme** with: 35
- “**regional land transport plan** means a regional land transport plan prepared under Part 2, as from time to time amended or varied”.
- (6) 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 118**, ~~and includes any variations to, or renewals of, the plan made under section 448 as from time to time varied or renewed~~”.
- (7) In section 5(1), replace the definition of **regional transport committee** with: 5
- “**regional transport committee** means—
- “(a) a regional transport committee established under section 105; or
- “(b) in the case of Auckland,— 10
- “(i) the governing body of Auckland Transport; or
- “(ii) a joint regional transport committee that includes Auckland Transport as a member”.
- (8) In section 5(1), replace the definition of **road** with: 15
- “**road**—
- “(a) means a road as defined in section 2(1) of the Government Roding 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” 20
- (9) 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**. 25
- (10) In section 5(1), definition of **State highway**, paragraph (c), replace “programmes” with “plans”.
- (11) 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.” 30 35

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) 5**
- (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) 20**
- 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 25**
- 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) 30**
- (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) 5**
 Replace section 14 with:
- “14 Core requirements of regional land transport plans 10**
 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— 15
 “(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 20
 “(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.” 25
- 15 Section 15 repealed (Core requirements of regional land transport programmes prepared by Auckland Transport) 30**
 Repeal section 15.
- 16 Section 16 replaced (Form and content of regional land transport programmes (for regions other than Auckland)) 35**
 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— 5
- “(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 10
- “(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 15
- “(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,— 20
- “(a) for regions other than Auckland, activities proposed by approved organisations in the region relating to local road maintenance, local road renewals, local road minor capital works, and existing public transport services; and 25
- “(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: 30
- “(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 35
- “(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)**; 5
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 10
- “(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 15
- “(v) any other relevant information; and
- “(f) the measures that will be used to monitor the performance of the activities. 20
- “(4) An organisation may only propose an activity for inclusion in the regional land transport plan if ~~that 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,— 25
- “(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)**. 30
- “(6) A regional land transport plan must also include—
- “(a) an assessment of how the plan complies with **section 14**; and 35
- “(b) an assessment of the relationship of Police activities to the regional land transport plan; and

- “(c) a list of activities that ~~has~~ have been approved under section 20 but ~~is~~ 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 5
- “(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 10
- “(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.” 15
- 17 Section 17 repealed (Form and content of Auckland Transport’s regional land transport programmes)** 20
- 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 25
- “(b) may use the special consultative procedure specified in section 83 of the Local Government Act 2002.”
- 19 Section 18A amended (Consultation principles)** 30
- (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 35

- (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”. 5
- 20 Section 18B amended (Process for approving regional land transport programmes prepared by regional transport committees)** 10
- (1) In the heading to section 18B, replace “**programmes prepared by regional transport committees**” with “**plans prepared for regional councils**”.
- (2) In section ~~18B~~ 18B(1) to (6) and (8), replace “programme” with “plan” in each place. 15
- (3) In section 18B(7), replace “regional land transport programme” with “regional land transport plan” in each place.
- 21 Section 18C replaced (~~Reasons for not including activities in Auckland’s regional land transport plan~~) (Auckland Transport must give Agency reasons for not including in its regional land transport programme activities or combinations of activities proposed by Agency)** 20
- Replace section 18C with:
- “18C Reasons for not including activities in Auckland’s regional land transport plan** 25
- 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. 30
- “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. 35

“(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) 5

(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— 10

“(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”. 15

(4) In section ~~18D(5), (6), (7), and (8)~~ 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”. 20

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)**”. 25

(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**”. 30

(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. 5
- (2) In section 18G(2), replace “approved organisation or the Agency”, with “approved organisation, the Auckland Council, or the Agency”. 10

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 15
 “(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. 20

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”. 25

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). 30
 (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.” 5
- (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)** 10
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 ~~in a regional public transport plan~~ 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” 15
20
- 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”. 25
- (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. 30
- 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)** 5
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— 15
“(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 20
“(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.” 25
- (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** 30
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. 35

“48B When tolling power is exercisable for Route K

“(1) The power of a public road controlling authority or toll operator to begin tolling a road or part of it in accordance with an Order in Council made under **section 48A** is exercisable from the date that the order commences. 5

“(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 10

“(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.

43A Section 50 amended (Privacy) 15

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; 20

“(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.” 25

44 Section 51 amended (Payment of tolls)

Repeal section 51(3).

45 Section 52 amended (Who is liable to pay toll)

(1) After section 52(3), insert: 30

“(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.”
- 46 Section 54 amended (Offences and penalties)**
In section 54(1), delete “refuses or”.
- 47 Cross-heading above section 56 replaced**
Replace the cross-heading above section 56 with:
“Delegation”.
- 48 Sections 56 to 60 repealed**
Repeal sections 56 to 60.
- 49 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 ~~toll~~ 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 5
“(b) Part 4 of the Government Rounding 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”. 10
- (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: 15
- “(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 ~~the Crown~~ a road controlling authority to construct or operate a new ~~toll~~ road.”
- 50 Section 62 amended (Effect of delegation under section 61)** 20
In section 62(4), replace “on the terms and conditions agreed in the relevant concession agreement” with “at any time”.
- 51 Section 63 amended (Leasing)**
- (1) Replace 63(1) with:
- “(1) A road controlling authority may, for the purpose of enabling another person to construct or operate a ~~toll~~ 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.” 25
- (2) Repeal section 63(2). 30
- (2A) 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”.
- (3) Repeal section 63(4)(a).
- (4) In section 63(4)(b), replace “concession” with “written”. 35

- (5) In section 63(5), replace “concession” with “written agreement”.
- (6) 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 ~~the Crown~~ a road controlling authority to construct or operate a new ~~toll~~ road.” 5
- 52 Section 65 amended (This Part and other land legislation enforceable in relation to concession roads and toll roads)**
- (1) In the heading to section 65, delete “**concession roads and**”. 10
- (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”. 15
- (4) In section 65(2)(b), after “section 208(1)”, insert “or **(3)(a)(iii)**”.
- (5) In section 65(3), delete “concession road or”.
- 53 Subpart 3 of Part 2 repealed**
Repeal subpart 3 of Part 2. 20
- 54 Sections 66 to 71 and cross-heading above section 66 replaced**
Replace sections 66 to 71 and the cross-heading above section 66 with:
- “GPS on land transport”* 25
- “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 six financial years. 30
- “(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— 5

“(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 10

“(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. 15

“(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)**. 20

“(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. 25

“**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 30

“(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— 35

- “(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: 5
- “(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: 10
- “(ii) the activity classes to be funded from the national land transport fund: 10
- “(iii) likely revenue, including changes to the duties, fees, and charges paid into the national land transport fund: 15
- “(iv) the identification of an expenditure target for the national land transport programme for each year: 15
- “(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): 20
- “(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: 25
- “(vii) funding ranges for each activity class: 30
- “(viii) the allowable reasons for varying the expenditure target identified under **subparagraph (iv)** when making funding allocation decisions: 30
- “(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 35
- “(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 may include the following:~~
- ~~“(a) the background of the GPS on land transport, including any relevant land transport policies;~~
 - ~~“(b) any relevant funding policy;~~
 - ~~“(c) subject to the Public Finance Act 1989, any additional expected funding for land transport activities, including (but not limited to) any money that Parliament may appropriate for the purpose;~~ 5
 - ~~“(d) any other relevant matters.~~
- “(3) The GPS on land transport— 10
- “(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. 15
- “69 Status of GPS on land transport** 20
- 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. 25
- “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. 30
 - “(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. 35

- “71 Availability of GPS on land transport**
As soon as practicable after issuing a GPS on land transport, the Minister must—
- “(a) present a copy of the GPS on land transport to the House of Representatives; and 5
 - “(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: 10
 - “(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.”
- 55 Sections 72 to 89 and related cross-headings repealed** 15
Repeal sections 72 to 89 and the cross-headings above sections 73 and 84.
- 56 Section 90 replaced (Amending current GPS)**
Replace section 90 with:
- “90 Amending GPS on land transport** 20
- “(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 25
 - “(b) do not apply if the amendment to the GPS on land transport is not significant.”
- 57 Section 91 amended (Availability of GPS)**
- (1) In the heading to section 91, replace “GPS” with “**amended GPS on land transport**”. 30
 - (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”. 35

- (4) Replace section 91(b)(iv) with:
 “(iv) every approved organisation:
 “(v) the Auckland Council; and”.
- 58 Section 92 amended (Overview)**
- (1) Replace section 92(2)(b) with: 5
 “(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: 10
 “(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”.
- 59 Section 94 amended (Objective of Agency)**
- ⊕ ~~In section 94, replace “an affordable, integrated, safe, responsive, and sustainable land transport system” with “the purpose of this Act”.~~ 15
- 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”. 20
- 60 Section 95 amended (Functions of Agency)**
- ⊕ ~~Replace section 95(1)(a) with:~~
- ~~“(a) to promote an efficient, effective, and safe land transport system that supports the public interest.”~~
- (1) Replace section 95(1)(a) with: 25
 “(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.” 30
- (3) In section 95(1)(e)(i), delete “and regional fuel taxes”.

- 61 Section 96 amended (Operating principles)**
Replace section 96(1)(a) with:
“(a) exhibit a sense of social and environmental responsibility; and”.
- 62 Section 100 amended (Statement of intent)** 5
In section 100(1)(a), replace “GPS” with “GPS on land transport”.
- 63 Section 101 amended (Secretary must monitor and review specified activities and procedures)**
(1) In the heading to section 101, replace “**must**” with “**may**”. 10
(2) In section 101(1), replace “must” with “may”.
- 64 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”. 15
(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). 20
- 65 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: 25
“(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.” 30
(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.” 5
- 66 Section 105 amended (Regional transport committees) 10**
- (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). 15
- (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. 20
- “(9A) Despite subsections (1) to (3), the parties to a joint regional transport committee established under **subsection (9)** must appoint to the committee— 25
- “(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: 30
- “(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. 35

- “(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: 5
- “(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: 10
- “(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. 15
- “(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). 20
- 67 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— 25
- “(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. 30
- “(2) Each regional transport committee, including the regional transport committee for Auckland, must adopt a policy that determines significance in respect of— 35
- “(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 5
- “(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.” 10

68 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.” 15 20

69 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 25

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. 30

“114A 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: 35

- “(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: 5
- “(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: 10
- “(c) competitors should have access to regional public transport markets to increase confidence that public transport services are priced efficiently: 15
- “(d) incentives should exist to reduce reliance on public subsidies to cover the cost of providing public transport services: 20
- “(e) the planning and procurement of public transport services should be transparent. 25
- “(2) Without limiting **subsection (1)**, the principles specified in **subsection (1)** must be taken into account by— 30
- “(a) the Agency when— 35
- “(i) approving procurement procedures under section 25(1): 40
- “(ii) preparing guidelines to be issued under section 95(1): 45
- “(iii) approving the approach to procurement under **section 119(3)**: 25
- “(b) the Environment Court when it considers an appeal against a regional public transport plan under **section 139**: 30
- “(c) the Minister when the Minister considers making a recommendation under **section 149**. 35

“Compare: 2004 No 92 s 4

“115 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. 35
- “(2) A regional council must contract for the provision of every unit on an exclusive basis. 40

“Subpart 1—Regional public transport plan

~~“116 Purpose of regional public transport plans~~

~~The purpose of a regional public transport plan is to—~~

- ~~“(a) specify the public transport services that the regional council proposes to be provided in the region in a manner that is consistent with the regional land transport plan; and~~ 5
- ~~“(b) encourage co-operation and co-ordination between regional councils, operators, and territorial authorities to provide services that are better value for money and that support passenger growth; and~~ 10
- ~~“(c) establish a fair basis upon which a competitive and efficient market for public transport services can grow.~~

“116 Purpose of regional public transport plans

The purpose of a regional public transport plan is to provide— 15

- “(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 20
- “(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 25
 - “(iii) the information and infrastructure that support those services.

“117 Validity of regional public transport plans not affected by certain events 30

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 125(1)(b)**; or** 35

~~“(b) has included any matter that is not referred to in the regional land transport plan so long as the included matter is consistent with the regional land transport plan.”~~

“(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.” 5

“General requirements

“118 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— 10

“(a) enter into any contract for the supply of any public transport service:

“(b) provide any financial assistance to any operator or user of— 15

“(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. 20

“(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. 25

“(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. 30

“(5) If a territorial authority has joined a regional transport committee under section 105(11), the plan applying in the region 35

of the regional transport committee applies to the entire area of the territorial authority.

~~119~~ **Contents of regional public transport plans**

- ~~(1)~~ A regional council, in a regional public transport plan, ~~—~~
- ~~(a)~~ must specify any objectives and policies that are to apply to public transport services described in the plan, and to any services referred to in **paragraph (c)(viii)**; in a manner that is consistent with the public transport components of the regional land transport plan that applies to the region; and
 - ~~(b)~~ must specify the classes of services to which the objectives and policies apply; and
 - ~~(c)~~ must—
 - ~~(i)~~ describe how the regional council will implement its public transport policies; and
 - ~~(ii)~~ describe the network of public transport services (excluding exempt services) that the regional council proposes to provide; and
 - ~~(iii)~~ specify the routes, capacities, times, and frequencies of the public transport services referred to in **subparagraph (ii)**; and
 - ~~(iv)~~ arrange all of the public transport services (excluding exempt services) into units; and
 - ~~(v)~~ indicate the date by which any public transport service is expected to start operating as a unit or part of a unit; and
 - ~~(vi)~~ indicate the date by which any public transport service that is not an exempt service and is not included in a unit in the plan is to be deregistered; and
 - ~~(vii)~~ identify any public transport services for which the regional council intends to provide financial assistance; and
 - ~~(viii)~~ identify any taxi services or shuttle services for which the regional council intends to provide financial assistance; and
 - ~~(ix)~~ describe how the network of public transport services and the services referred to in **subpara-**

- graph (viii)** will assist the transport-disadvantaged; and
- “(d) may state or describe any other matters that the regional council thinks fit.
- “(2) Without limiting **subsection (1)(a)**; a regional council— 5
- “(a) must, in relation to any public transport services (other than exempt services), include in a regional public transport plan policies on—
- “(i) the information that the operators must supply to the regional council and the Agency for public transport planning, contracting, and monitoring purposes; and 10
- “(ii) accessibility standards, quality standards, and performance standards; and
- “(iii) fares and the method or formula or other bases for setting and reviewing those fares; and 15
- “(iv) the process for establishing units; and
- “(v) the contracting procedure that will be used to procure the delivery of the service or services in a unit; and 20
- “(vi) how the procurement of units will be phased in over time; and
- “(vii) managing, monitoring, and evaluating the performance of units; and
- “(b) may include in a regional public transport plan— 25
- “(i) policies on providing or promoting an integrated public transport system:
- “(ii) any other policies that the regional council thinks fit.
- “(3) The contracting procedure specified in **subsection (2)(a)(v)** must,— 30
- “(a) in relation to any public transport service for which the regional council intends to provide financial assistance, be an approved procurement procedure under section 25; and 35
- “(b) in relation to any 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 425(6)**.”~~

~~“(5) A regional public transport plan may— 5~~

~~“(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. 10~~

~~“(6) **Subsection (5)** does not limit or affect anything in the Local Government Act 2002.”~~

“119 Contents of regional public transport plans

“(1) A regional council, in a regional public transport plan,—

“(a) must— 15

“(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 20**

“(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 25

“(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 30

“(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 35**

- “(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 5
- “(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. 10
- “(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 15
- “(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 20
- “(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. 25
- “(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 125(6)**. 30
- “(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 35
- “(b) specify conditions that apply to that action.
- “(6) **Subsection (5)** does not limit or affect anything in the Local Government Act 2002.

“120 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 5

“(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 10

“(c) within 20 working days of adopting or varying a regional public transport plan,— 15

“(i) notify, in writing or electronically, each of the following of the regional public transport plan or variation:

“(A) the Agency:

“(B) the Secretary: 20

“(C) the Minister of Education:

~~“(D) the New Zealand Railways Corporation:~~

“(D) the relevant railway track access provider:

“(E) territorial authorities in the region:

“(F) the relevant regional transport committee: 25

“(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 30 35

“(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.

“121 **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. 5

“122 ~~General~~ **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. 10

“(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 15

“(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. 20

“123 **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— 25

~~“(i) is consistent with the public transport service components of the regional land transport plan; and~~

“(ii) contributes to the purpose of this Act; and

~~“(iii) is consistent with the GPS on land transport; and 30~~

“(iv) has been prepared in accordance with any relevant guidelines that the Agency has issued; and

“(v) is, if it includes a matter that is not within the scope of the regional land transport plan, otherwise consistent with that plan; and 35

“(ab) be satisfied that it has applied the principles specified in section 114A(1); and

“(b) take into account—

“(i) any national energy efficiency and conservation strategy; and 5

“(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 10

“(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 15

“(v) the views of public transport operators in the region; and

~~“(vi) any guidelines that the Agency has issued for the purposes of developing regional public transport plans; and~~ 20

“(c) consider the needs of persons who are transport-disadvantaged.

“124 Consultation requirements for regional public transport plans

“(1) When preparing a draft regional public transport plan, a regional council must consult— 25

“(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 30

“(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 35

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

~~“(g) the New Zealand Railways Corporation.~~

“(g) the relevant railway track 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 5
- “(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. 10 15
- “(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.
- “**125 Currency and variation of regional public transport plans** 20
- “(1) A regional public transport plan adopted under **section 118**—
- “(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. 25
- ~~“(2) The purpose of a review of a regional public transport plan is to consider whether the plan will continue to be consistent with the public transport service components of the relevant regional land transport plan. 30~~
- ~~“(3) If the regional council is—~~
- ~~“(a) reasonably satisfied that the plan does the thing specified in **subsection (2)**; it must give public notice of that decision. 35~~

- ~~“(b) not reasonably satisfied that the plan does the thing specified in subsection (2); it must vary or renew the plan in accordance with this Act.~~
- “(4) Subject to **subsections (6) and (7)**, 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. 5
- “(5) A variation forms part of the regional public transport plan it varies.
- “(6) **Section 124(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 124(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. 10 15
- “(7) **Subsection (6)** 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. 20
- “(8) 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. 25
- “**126 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 revenue and patronage data for the unit for the preceding 3 or more financial years; and~~
- ~~“(b) must publish the patronage data for the unit; and~~
- ~~“(c) may disclose, in accordance with the contracting procedure described in **section 419(2)(a)(v)**, the revenue data for the unit to potential bidders when tendering for the provision of the unit. 30 35~~

- “(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— 5
- “(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. 10
- “(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. 15
- “127 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 126**. 20
- “(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. 25
- “(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 126**. 30 35
- “(4) If the Auckland Council requires Auckland Transport to provide any information under **subsection (3)**, Auckland Trans-

port must provide the information as soon as is reasonably practicable.

“128 Disclosure of information received under sections 126 and 127

- “**(1)** If a regional council or the Auckland Council (an **organisa- 5**
tion) receives under **section 126 or 127** fare revenue data
that may, in the organisation’s opinion, be withheld under sec-
tion 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 or- 10
ganisation must not disclose the fare revenue data without the
operator’s consent except—
“**(a)** to ~~potential bidders~~ registered tenderers under **section**
126(1)(c); or
“**(b)** to the organisation’s professional advisers; or 15
“**(c)** in the case of information received by an organisation
that is a regional council, to those persons or entities en-
gaged by the regional council to carry out public trans-
port planning, contracting, or monitoring; or
“**(d)** to the Agency, in accordance with **section 127(2)**; or 20
“**(e)** in the case of information received by Auckland Trans-
port, to the Auckland Council, in accordance with **sec-**
tion 127(4); or
“**(f)** subject to **subsection (2)**, in response to a request
made under the Local Government Official Information 25
and Meetings Act 1987; or
“**(g)** where the fare revenue data was provided to the organ-
isation 5 years or more before the date of the disclosure;
or
“**(h)** where— 30
“**(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. 35
“**(2)** If an organisation receives a request under the Local Govern-
ment 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 127(1)** fare revenue data that was provided to a regional council under **section 126** 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 5
- “(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. 10 15

“Subpart 2—Registration of exempt services

“*Register of exempt services*

“**129 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. 20
- “(2) The following public transport services are exempt services:
 - “(a) an inter-regional public transport service:
 - “(b) ~~a ferry service registered with the regional council as a commercial public transport service under the Public Transport Management Act 2008 on 30 June 2014;~~ 25
 - “(c) ~~a bus service registered with the regional council as a commercial public transport service under the Public Transport Management Act 2008 on 30 June 2014 that, as of that date, did not offer fares in accordance with the fare schedule published by the regional council;~~ 30
 - “(d) a public transport service that began operating after **30 June 2014** that—
 - “(i) ~~is not identified in the regional council’s regional public transport plan; and~~ 35

- ~~“(ii) operates without a subsidy for the provision of the service.”~~
- “(d) a public transport service,—
- “(i) in a region that is required to have a regional public transport plan, that— 5
- “(A) begins 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 provi- 10
sion of the service:
- “(ii) in a region that is not required to have a regional public transport plan, that operates within the re-
gion:
- “(e) a public transport service that is specified as an exempt 15
service by an Order in Council made under **section 149.**
- “(3) For the purposes of **subsection (2)(d)(i)(C), subsidy** does not 20
include anything done under an agreement between a regional council and an operator to reduce passenger fares.
- “130 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— 25
- “(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 30
- “(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 35
- “(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 iden-

tified 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 136**.

“131 Contents of register to be made available to public 5

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 10
- “(b) a copy of the information that is on the register can be made available for purchase by the public at a reasonable price.

“132 Notification of proposal to operate or vary exempt services 15

“(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— 20
 - “(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 25
 - “(iii) the contact details of the operator (including the operator’s business address, telephone number, email address, and Internet site address (if any)); and 30
 - “(iv) the proposed route or routes of the service; and
 - “(v) the date the service is intended to ~~commence:~~ commence; and
 - “(vi) the timetables for the service; and
 - “(vii) the stops, stations, or terminals for the service; 35
- “(b) vary any of the details of an exempt service ~~notified to a regional council under~~ described in paragraphs (a)(i)

- ~~to (iv) 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 5
 - “(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. 10
- “(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. 15
- “(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— 20
- “(a) was registered under the Public Transport Management Act 2008; and
 - “(b) will continue to operate as an exempt service under this Part.
- “133 **Grounds for declining registration or variation of exempt services** 25
- “(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 30 of an exempt service.
- “(2) ~~The grounds are that the exempt service, or the variation of the route or routes, is—~~
- “(a) ~~likely to have a material adverse effect on the financial viability of any public transport service provided under contract with the regional council; or~~ 35

- ~~“(b) likely to increase the net cost to the regional council of any public transport service provided under contract with the regional council; or~~
- ~~“(c) contrary to sound traffic management or any environmental factor identified by the regional council as important to its region.”~~ 5
- “(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 10
- “(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 15
- “(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.” 20

“134 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 133**, it must, within 15 working days (or such longer period as the regional council and operator may agree) of receiving notice under **section 132(1)**, give written notice to the operator of— 25

- “(a) the decision; and 30
- “(b) the reasons for the decision and a summary of the information supporting the decision; and
- “(c) the operator’s right under **section 140** to appeal against the decision.

“135 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 132(1)**, a regional council must—

“(a) register the exempt service to which the notice relates, unless the regional council declines to register the service under **section 133**; and 5

“(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 133**. 10

“(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 136(1), (2), or (4), or 138(3)**. 15

“136 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— 20

“(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. 25

“(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. 30

“(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. 35

- ~~“(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 identified in the regional council’s regional public transport plan.”~~ 5
- “(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 10
- “(b) identified in the regional council’s regional public transport plan as integral to the public transport network.”
- “137 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 136** unless it has first— 15
- “(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— 20
- “(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 140** to appeal against a final decision; and 25
- “(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). 30
- “(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 35

- “(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 5
 - “(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 10
 - “(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— 15
- “(a) the decision; and
 - “(b) the reasons for the decision and a summary of the information supporting the decision; and 20
 - “(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 140** to appeal against the decision. 25
- “(5) This section does not apply to the deregistration of a public transport service under **section 136(4)**.
- “**138 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. 30
- “(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. 35

- “(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*

5

“**139 Right to appeal to Environment Court**

~~“(1) An operator of a unit or proposed exempt service affected by a decision of a regional council to adopt a regional public transport plan may appeal to the Environment Court against the plan.~~

10

“(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.

15

“(2) An operator of a ~~unit or proposed exempt~~ 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 120(1)(b)** or a longer time that the court allows.

20

“(3) An operator of a ~~unit or proposed exempt~~ 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 ~~unit or proposed exempt~~ public transport service in the region within 5 working days after the appeal is lodged.

25

“(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:

30

“(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

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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. 5

“(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.

“**140 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. 10

“(2) For the purposes of **subsection (1)**, **adverse decision** means a decision of a regional council to— 15

“(a) decline to register an exempt service under **section 133**; or

“(b) decline to record in the register a variation of the route or routes of an exempt service under **section 133**; or

“(c) deregister an exempt service under **section 136**; or 20

“(d) remove the details of a variation of the route or routes of an exempt service from the register under **section 136**.

“**141 Procedure for appeals to District Court**

“(1) An appeal under **section 140** 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. 25 30

“(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 143 and 144**, the decision of the District Court on an appeal under **section 140** is final. 35

“142 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 140, 143, or 144** 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. 5
- “(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. 10

“143 Appeals to High Court on questions of law

- “(1) A party to an appeal under **section 140** 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. 15
- “(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.

“144 Further appeals to Court of Appeal 20

- “(1) A party to an appeal under **section 143** 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. 25
- “(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. 30

“Offences

“145 Operating unregistered exempt services

- “(1) A person who, without reasonable excuse, operates, in a region, an exempt service that is not registered under **section** 35

135 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. 5

~~“(2) The operator of a public transport service has a defence to an offence under **subsection (1)** if **section 130(3), 150(2), or 151(2)** applies.~~

“(2) However, **subsection (1)** does not apply if the person was operating in accordance with **section 130(3), 150(2), or 151(2).** 10

“146 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— 15

“(a) \$30,000, in the case of a first offence against this section; and 20

“(b) \$60,000, in the case of a second or subsequent offence against this section.

~~“(2) The operator of a public transport service has a defence to an offence under **subsection (1)** if **section 130(3), 150(2), or 151(2)** applies.~~ 25

“(2) However, **subsection (1)** does not apply if the person was operating—

“(a) in accordance with **section 130(3), 150(2), 151(2), or 154;** or 30

“(b) under an emergency contract that is funded in accordance with **section 26(e).**

“147 Varying registered exempt services without giving notice required by section 132

A person who, without reasonable excuse, operates, in a region, a registered exempt service and varies the route or ~~routes~~ 35

routes, timetables, or stops, stations, or terminals of the registered exempt service without giving the notice required under **section 132** 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.

“**148 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*

“~~149~~ **Regulations**

- “(1) ~~The Governor-General may, by Order in Council, on the recommendation of the Minister, 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 provided under contract.~~
- “(2) ~~Before recommending the making of an Order in Council under **subsection (1)(a)**, the Minister—~~
 - “(a) ~~must consult, or be satisfied that the Secretary has consulted, the Agency; and~~
 - “(b) ~~must be satisfied that—~~

- ~~“(i) the Agency has consulted the relevant regional council and the affected operator of the public transport service; and~~
~~“(ii) the public transport service, while operating as an exempt service, will not—~~ 5
~~“(A) receive a subsidy for the provision of the service; and~~
~~“(B) be an integral part of the relevant region’s public transport network; and~~
~~“(C) need its fares to be regulated.”~~ 10
- ~~“(3) Before recommending the making of an Order in Council under **subsection (1)(b)**, the Minister must—~~
~~“(a) consult, or be satisfied that the Secretary has consulted, the Agency; and~~
~~“(b) be satisfied that—~~ 15
~~“(i) the Agency has consulted the relevant regional council and the affected operator of the exempt service; and~~
~~“(ii) the public transport service—~~
~~“(A) is an integral part of the relevant region’s public transport network; and~~ 20
~~“(B) needs its fares to be regulated.”~~
- “149 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— 25
 “(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; 30
 “(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,— 35

- “(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,— 5
- “(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 10
- “(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— 15
- “(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. 20
- “(4) 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. 25
- “(5) 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 30

“Transitional and savings provisions

“149A Interpretation

For the purposes of **sections 149B, 150, and 151**, 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. 35

“149B 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— 5

“(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— 10

“(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: 15

“(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. 20

“(3) A regional council— 25

“(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.** 30

“150 Transitional provisions for existing registered public transport services that will become exempt services

“(1) This section applies to a public transport service that, before the commencement of this section,—

“(a) was a registered commercial public transport service under the Public Transport Management Act 2008; or 35

- ~~“(b) was treated as a registered commercial public transport service under the Public Transport Management Act 2008.~~
- “(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 ~~that falls within the definition of an exempt service~~ is to be treated as an exempt service that has been registered under **section 135**.
- “151 Transitional provisions for bus services registered under Public Transport Management Act 2008 other existing public transport services that will stop operating**
- ~~“(1) This section applies to a bus service that, on **30 June 2014**, was a registered commercial public transport service under the Public Transport Management Act 2008 and offered fares in~~

~~accordance with the fare schedule published by the regional council of the region in which the service operated.~~

~~“(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 115**, a bus 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 bus public transport service to which this section applies is expected to stop operating.~~

~~**152 Transitional provisions for notifications received but not processed before commencement of Act**~~

~~“(1) This section applies to notice of a proposal—~~

~~“(a) to start operating a commercial public transport service under section 32 of the Public Transport Management Act 2008; or~~

~~“(b) to vary a commercial public transport service under section 36(1)(a), (b), (c), or (d) of the Public Transport Management Act 2008; or~~

- ~~“(c) to withdraw a commercial public transport service under section 46 of the Public Transport Management Act 2008.~~
- ~~“(2) A notice of a proposal to which this section applies is to be treated as a notification received under **section 132 or 138** of this Act, as the case may require, if—~~
- ~~“(a) it has been received by a regional council but not determined before the commencement of this section; and~~
- ~~“(b) the commercial public transport service to which it relates falls within the definition of an exempt service.~~
- “152 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**.**
- “153 Transitional provisions for certain existing documents or activities**
- “(1) Any regional public transport plan ~~in existence immediately before this section commences~~ 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 118**:
- “(ii) the close of **30 June 2015**; and 5
- “(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 **2012**). 10
- “(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 ~~be consistent~~ must not be inconsistent with the relevant regional land transport programme. 15
- “(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 20
- “(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 **2012**) as if it were a regional land transport plan. 25
- “(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 30
- “(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— 35
- “(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 **2012**).
- “(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**. 5
- “(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. 10
- “**154 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 operating until the time that 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. 15 20
- “**155 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 **2012**) during the period beginning with the commencement of this section and ending with the close of **30 June 2015**. 25
- “(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 30
- “(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 **2012**); and 35

- “(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 70(2)** of the Land Transport Management Amendment Act **2012**, was liable under the Tauranga District Council (Route K Toll) Empowering Act 2000 to pay a toll under that Act remains liable to pay the toll as if that Act were still in force. 5
- “(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. 10
- “(5) A proceeding commenced, before the commencement of **section 70(2)** of the Land Transport Management Amendment Act **2012**, under the Tauranga District Council (Route K Toll) Empowering Act 2000 may continue under that Act as if that Act were still in force. 15
- “(6) A toll collected, before the commencement of **section 70(2)** of the Land Transport Management Amendment Act **2012**, 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. 20
- “(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 70(2)** of the Land Transport Management Amendment Act **2012** comes into force. 25
- “(8) Despite **subsection (7)**,—
- “(a) a person who, immediately before the commencement of **section 70(2)** of the Land Transport Management Amendment Act **2012**, 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: 30 35
- “(b) the Tauranga City Council must refund any unused prepayment or transponder hire.

“156 Transitional regulations

“(1) ~~The~~ 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 concern- 5
ing 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 10
subject to any specified conditions,—**

**“(i) specified provisions of this Act (including defini-
tions) do not apply:**

**“(ii) specified terms of this Act have the meaning
given to them by ~~the~~ regulations made under this
Act:** 15

**“(iii) specified provisions repealed or amended or re-
voked by this Act are to continue to apply.**

“(1A) The Minister must, before making any recommendation,—

“(a) have regard to the principles specified in **section 114A;
and 20**

**“(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**.**

**“(2) Any regulations made under this section are revoked on the 25
close of **30 June 2015**.**

“(3) This section is repealed on **1 July 2015.”**

**Part 2
Miscellaneous**

70 Repeals 30

**(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.**

71 Consequential amendments

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

Schedule

s 71

Consequential amendments

Part 1

Acts consequentially amended

Canterbury Earthquake Recovery Act 2011 (2011 No 12)

Replace section 26(2)(b) with: 5

“(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 118** 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. 20

Government Roding 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,”. 25

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: 30

“(a) the refusal of the Agency to issue a notice under subsection (1); or”.

Part 1—*continued***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”. 5

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

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”. 10

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: 15

“(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) 20

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”. 25

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”. 30

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

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

Repeal section 15(1)(cb).

Part 1—*continued*

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

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**”. 5

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

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”. 10

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

In section 46(1)(i), delete “and concession agreements”. 15

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

~~In section 54(1)(a), replace “regional land transport programme under the Land Transport Management Act 2003 and the regional public transport plan under the Public Transport Management Act 2008” with “regional land transport plan and the regional public transport plan under the Land Transport Management Act 2003”.~~ 20

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 25

“(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) 30

~~Repeal section 64(1)(d).~~

~~Repeal section 65(1)(d)(ii).~~

Part 1—*continued*

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

In section 65(3), replace “Each” with “Subject to **section 153** of the Land Transport Management Act 2003, each”.

In section 65(4), replace “The” with “Subject to **section 153** of the Land Transport Management Act 2003, the”.

In section 82(3)(b), replace “30 June 2016” with “30 June 2015”. 5

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). 10

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)”. 15

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”. 20

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”. 25

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)”.

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

Repeal section 5(4)(f). 30

**Land Transport Management
Amendment Bill**

Part 1—*continued*

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

Repeal section 16(14).

Part 2

Regulations consequentially amended 5

**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 15

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

Legislative history

13 August 2012
11 September 2012

Introduction (Bill 46–1)
First reading and referral to Transport and Industrial
Relations Committee
