

Public Transport Management Bill

Government Bill

As reported from the Transport and
Industrial Relations Committee

Commentary

Recommendation

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

Introduction

The Public Transport Management Bill seeks to help regional councils deliver better public transport services by giving them greater regulatory powers over public transport services in their regions. The bill would repeal the Transport Services Licensing Act 1989. The replacement regulatory framework introduced by this bill would provide regional councils with new functions and powers over those services that are not contracted by the councils (commercial services).

Our submissions process attracted a wide range of comment from regional councils, public transport service providers, and users of public transport. Submitters were well informed about the proposals contained in the bill, and the alternatives considered by officials in developing the policy underlying it. The options ranged from preserving the status quo (“Option A”) to enabling regional councils to

require that all services in their region be operated under contract (“Option C”).

As introduced, the bill takes the middle ground (“Option B”). It would empower regional councils to achieve their objectives mainly through two planning mechanisms—regional public transport plans, and controls imposed by councils on commercial services to implement these plans—and a compliance and enforcement regime.

In considering issues raised by submitters, we noted that different regions face different challenges for public transport management. For example the ratio of commercial bus services to contracted bus services varies widely between the regions. The Auckland Regional Transport Authority (ARTA) asked the committee to recommend a re-drafting of the bill in favour of Option C, which would have given ARTA the option of a fully contracted public transport system.

We gave this proposal serious consideration. Labour members believe that this option would enable ARTA to manage their public transport system more effectively than imposing controls on certain aspects of commercial services. However, most of us consider that the bill, with the recommended amendments, would provide regional councils in general with better tools for managing public transport services. At the same time, the recommended amendments would provide more appropriate checks and balances on the exercise of those powers.

This commentary focuses on the main amendments we recommend to the bill. It does not cover minor or technical amendments.

Interpretation

We recommend several amendments to clause 4 and a number of minor amendments.

We considered arguments for and against the inclusion of specific services in the definition of “public transport service”. We recommend that the definition of public transport service in clause 4 be amended to exclude services operating primarily for the benefit of tourism. We believe it would be inappropriate for regional councils to plan for and manage tourism services, and this should be explicitly stated in the bill. For clarity we also recommend that school bus services (contracted or funded by the Ministry of Education) be explicitly excluded from the definition.

This bill would require regional councils to consider the needs of and consult groups that represent people who can be considered “transport disadvantaged”. We agree with submitters that the term should be defined, but not by listing such groups. We recommend that “transport disadvantaged” be defined to include people identified by the regional council as least able to get to basic community activities and services such as work, education, healthcare, welfare, and food shops. We note that the term might apply to people living in isolated rural areas.

As the term “existing service” is not defined in the bill, we recommend inserting a definition in clause 4 to define an existing service as a registered commercial public transport service operating on or before the adoption of a plan or a variation of a plan that includes or amends a control over a commercial service.

Clause 10(3) as introduced would define performance and quality standards. We recommend shifting these definitions from clause 10(3) to clause 4 and including additional matters. Performance standards should also specify degrees of reliability and compliance on matters such as punctuality, routes, and pick-up points. Quality standards should also apply to the design and performance of vehicles, the comfort of passengers, seating for drivers, and customer service training and standards of conduct for staff.

Regional public transport plans

We recommend a number of amendments to clause 10 of the bill, which prescribes the contents of regional public transport plans.

Content and criteria

As we discuss later in this commentary, we are recommending a new provision for a right of appeal against controls the regional councils might impose on commercial services (new clause 40A). Such a right of appeal would require consequential changes to clause 10, because any controls specified in a regional public transport plan would need to be consistent with the purpose of the plan and contribute to its implementation.

We therefore consider that more transparency and clarity about policies and controls are needed. Accordingly we recommend that clause

10(1) be amended to clarify the requirement for plans to specify the following:

- any policies that apply to public transport services
- the classes of public transport services to which policies in the plan apply
- how the regional council will implement the policies
- the criteria for determining whether a proposed variation to the plan is significant.

We also recommend amendments to clause 10(2) to clarify that the types of policies that regional councils may include in a plan include

- specifying any services, contracted or commercial, whether or not on the same route, that must operate as a group
- the application of common emblems and designs of vehicles, but not colour schemes
- minimum operating periods
- policies for monitoring compliance with controls.

We also recommend amending clause 12 to require that plans explain why the particular controls are included and the alternatives considered, and assess the effectiveness of the controls. We believe that this provision would ensure that regional councils regarded the imposition of a control as just one measure among others for meeting their objectives.

Timeframes

We recommend an amendment to clause 11 to require that regional public transport plans take effect 25 working days after they have been formally adopted, instead of 20 working days as proposed. This would allow more time for operators and other stakeholders to be notified of the plan requirements before they come into force. In addition we recommend an explicit requirement that all operators be notified and sent a copy of the plan as soon as possible after its adoption. These amendments are needed to allow operators to exercise the right of appeal, should they have grounds for doing so.

We also recommend a reduction in the transitional periods for controls from 18 months (under certain conditions) to a blanket 12 months. We consider that the conditions attached to the 18-month timeframe are unnecessary.

Controls on commercial services

Clause 12 of the bill would enable regional councils to impose controls over commercial services. Such controls would allow a regional council to require a commercial service to operate an integrated service, with integrated fares, ticketing, and related technology; set, and require operators to apportion and collect, fares; and require common colour schemes, emblems, signs and designs of vehicles.

We agree with some submitters that the intended scope of such controls is not clear, and that regional councils might appear to have unlimited scope to impose controls on commercial services.

We recommend amending clause 12 to provide guidance and place limits on the scope of the controls that regional councils might impose upon commercial services, by deleting clauses 12(1)(a) and 12(5) and inserting criteria for the inclusion of a control in a regional public transport plan. These criteria would require regional councils to consider the impact of controls on existing operators and services, and require their consistency with the purpose of the plan.

We recommend further that clause 12 be amended to clarify the kinds of controls that could be imposed, as follows:

- minimum periods of operation
- frequency, capacity, and times of public transport services
- requiring services to be registered as a group
- quality and performance standards
- requiring the integration of services, and the acceptance and use of integrated ticketing, fares and technology, and the application of common emblems, signs, or designs
- setting and apportioning integrated fares
- any other type permitted by regulation.

We also recommend amending clause 12 to state that regional councils may not impose more requirements on commercial services than contracted services of a similar class, and to provide that a control may not be made for the purpose of eliminating an existing commercial service. If a control is likely to result in the withdrawal of a service that has been specified in the plan as needed by the community, we also recommend that a similar service must be available to the users of that service. These amendments should provide operators with more certainty as to potential controls.

Bundling of services

As noted, we have recommended an amendment to clauses 10 and 12 to allow regional councils to require the registration of all the services on one or more routes as a group (“bundling”), either as contracted services or commercial services, but not as a combination of both. We understand that the intention of the bundling provision is to prevent commercial operators from “cherry-picking” preferred routes and times, leaving regional councils to contract out the remainder at a greater cost overall.

Submitters were concerned about the extent of “bundling” permitted under the bill, and about the limits on bundling. Many feared that the bundling provision might require operators to run services that were uneconomic; they submitted that commercial operators would be discouraged from providing public transport services. We agree that more clarity is needed about these matters.

We recommend amendments to clause 12 to allow a regional council to require certain services to be operated collectively as a group, if it is satisfied that it would cost less for a single operator to run the group than to allow multiple operators. This amendment would require an associated amendment to define the “operating cost of a service” as the cost to an operator before any revenue is taken into account.

We considered but rejected calls for placing limits or restrictions on the powers of regional councils to bundle services.

Notice periods

As introduced, clause 12(2) would enable regional councils to set a minimum period of notice for commencing or withdrawing a commercial public transport service or varying the service; the minimum period under the current legislation is 21 days. We considered arguments for extending the notice period beyond the proposed 90 days, and others for not extending it so that operators would not be forced to continue unprofitable routes. We do not support an extension of the 90-day period, which we consider sufficient to allow regional councils to respond to the withdrawal of a commercial service. Nor do we support reducing the minimum notice period. If a service became unprofitable, we understand that an operator could make a case for “reasonable excuse” and so would not be penalised under clauses 48 and 49 of the bill for an early withdrawal of service.

Clause 12(2)(a) would allow regional councils to adopt a control to set limits on the minimum period of notice for registering, varying and withdrawing the operation of services, up to a maximum of 90 working days. We recommend that minimum periods of notice be specified in the regional public transport plan, rather than by way of a control. This would require deleting clause 12(2)(a) and amending clause 10. Although this would remove any right of appeal, because that right (which we recommend in clause 40A) would apply only to a control and not to a policy in a plan, we understand that the recommended notice periods are supported by stakeholders.

As introduced clause 12(2)(b) would allow regional councils to set a minimum period of their choice for the operation of a commercial service. We recommend that clause 12(2)(b) be amended to make 12 months the upper limit, to give operators more certainty and to tie in with regional council funding and planning cycles.

Clause 12(2)(c) would allow regional councils to set a maximum period between the registration of a commercial service and its commencement date, and any variation. We recommend that this provision be deleted, as it would be simpler to apply this under the deregistration processes provided for in clause 36.

Integration of services, tickets and fares

A key objective of this bill is to provide regional councils with the ability to integrate public transport services in their regions. Clause 12 would allow regional councils to impose controls for integrating services, technology, ticketing, and fares. Although most submitters supported integration, many were concerned about the scope of the controls that could be applied for this purpose, and the apportionment of integrated fares.

We believe that regional councils should have the means to require the scheduling of services to connect with other services, and to set policies for integrating fares, technology, and ticketing. For example, a regional council might decide that public transport users in its region should have the option of purchasing a single ticket for a journey that involved a bus ride, which connected with a ferry service, then a train trip to the final destination.

As introduced, clause 12 would empower regional councils to apportion fares for integrated services. We consider that regional councils

must act reasonably in apportioning fares, taking account of the cost involved in providing a service that is subject to an integrated fare. We therefore recommend that clause 12(3) explicitly require regional councils to apportion fares reasonably, without undue discrimination between operators.

We also recommend that clause 12 be amended to clarify that a commercial operator might be required to accept a lower fare for travel on their service, if the fare were integrated with other services, than they might otherwise have set.

Clause 12(3) as introduced would allow regional councils to impose common colour schemes, emblems, signs and visual designs to help integrate and promote services. Many submitters opposed these controls for reasons of cost. We consider that the use of common emblems, signs or visual designs would promote integrated services adequately. We do not agree, however, that regional councils should be able to require common colour schemes. We therefore recommend that the provision for controls requiring common colour schemes be deleted from the bill.

Information use and availability

Clause 12(4) would enable regional councils to require operators to provide information about commercial services to help them to plan and monitor public transport. Such information would include details of patronage, revenue, and vehicle and service performance.

We are concerned that the proposed provision might not adequately safeguard commercially sensitive information. We recommend that subclauses (4), (6) and (11) of clause 12 as introduced be deleted, and a new provision (now clause 13) be inserted to empower regional councils to require specific information from operators. As amended, commercially sensitive information acquired by regional councils under clause 13 could not be disclosed without the operator's consent, except in specified circumstances (for example, only under the Local Government Official Information and Meetings Act 1987, following consultation with the operator where the council cannot identify a reason to withhold it).

Consultation on regional public transport plans

Clause 15 of the bill as introduced sets out consultation requirements for developing and adopting regional public transport plans, in addition to the consultation principles and special consultative procedures set out in the Local Government Act 2002.

Clause 15(1) as introduced lists a wide range of parties with whom regional councils must consult on the basis that they would be directly affected by a regional public transport plan. Amongst others, they include public transport users, the public in the region, affected communities, and Māori in the region. We consider that the proposed list of stakeholders is too broad and the consultation requirement unnecessarily onerous for regional councils, especially given that the interests of these four groups are already provided for under Local Government Act consultation requirements. We therefore recommend deleting them from the list of parties requiring additional consultation.

We recommend extending the requirement to consult, to include commercial operators who have notified a proposal to operate a commercial public transport service in a region, because they would also be directly affected by the adoption of a plan.

We further recommend replacing the single-phase consultation approach, as set out in clause 15(1) of the bill, with two consultation phases. The first phase would require regional councils to consult stakeholders with a direct interest in the funding or provision of public transport when developing a plan. This list would include operators, the New Zealand Transport Agency, and territorial authorities. Before adopting a regional public transport plan, regional councils would be required to conduct full public consultation under Local Government Act procedures, and also notify specific groups listed in the bill and invite them to make submissions.

We recommend that clause 16 as introduced be amended to require regional councils to follow the consultation procedures now set out in clause 17 when significant amendments to a regional public transport plan are proposed. Some submitters were concerned that regional councils might vary a plan without full consultation, and others were unclear about what might constitute a significant change or a minor change.

We agree that clarification is needed, and recommend that the provisions that were in clause 16 be deleted, and that clauses 10 and 18 now require regional councils to

- set out their general approach to determining what is significant
- consult on any significant variation to a regional public transport plan, reflecting the two-stage approach to consultation set out in clause 17
- consult on variations that are not deemed significant under the standard Local Government Act provisions.

We recommend that any proposal to include a control or amend a control be defined as a significant variation to a plan and thus subject to full consultation. And we recommend altering the timing for reviewing regional public transport plans so that they must be reviewed whenever a relevant regional land transport strategy, regional land transport programme, or a long-term council community plan is adopted.

Processes for declining to register and to deregister commercial public transport services

We are concerned that the processes set out in clause 30 would not allow enough time for regional councils to comply with consultation requirements before declining an application for registering a commercial public transport service. We are similarly concerned that the time between notifying an unsuccessful applicant and the proposed start date of a service is too short. We recommend an extension of the period within which a regional council must decide to accept a registration from 21 days to 30 working days, and the provision of a formal process requiring regional councils to make an initial assessment and provide operators with an opportunity to be heard before the final decision.

We recommend consequential amendments to clauses 10, 28, and 32 so that the minimum notice period for commencing or varying a service would be no less than 35 working days, to ensure a minimum of five working days' notice of a decision prior to the planned commencement or variation of a service.

We also recommend the addition of further provisions in clause 37 requiring regional councils to notify operators of a proposed decision to deregister, and to set out the reasons for the decision and the process for appeal. Operators would then have an opportunity to make submissions within 30 working days, have their case heard, receive notification of the decision and reasons for the decision, and be advised of a further right of appeal against deregistration.

Monitoring and compliance with controls

Some submitters complained that the bill contains insufficient means of ensuring compliance with controls. We agree, and have considered various options for strengthening the compliance regime. We considered but rejected arguments for introducing a minor offence regime or an infringement notice regime.

We recommend amending clause 38 to allow regional councils to serve notice on an operator for failure to comply with a control, setting out the process for notification and the consequence of non-compliance. If after receiving a notice the operator continued to fail to meet a control the regional council could apply for a court order.

We also consider that regional councils need additional powers to monitor compliance with controls, similar to those that apply to contracted services. We recommend inserting new clause 35B to provide additional functions and powers for regional councils, to

- monitor commercial public transport services and vehicles used in those services for compliance with controls
- conduct interviews and passenger surveys for the purpose of monitoring compliance with controls
- board vehicles for the purpose of monitoring compliance with controls
- inspect an operators' complaints register and maintenance records.

We consider that these additional powers and functions would enable a regional council to monitor commercial services effectively and thus increase their compliance with controls.

Right of appeal

Several submitters were concerned that commercial operators would have no right to be heard by an independent third party. We agree that controls might have a significant effect on commercial operators, and that a right of appeal should be provided.

We recommend inserting a right of appeal for operators of existing commercial services (new clause 40A). We consider the Environment Court to be the appropriate body to consider appeals because of its experience in decisions that involve weighing up commercial benefits against public benefits. We note too that the Environment Court has more flexibility in its mode of inquiry than district courts.

We also recommend that new clause 40A limit the grounds for appeal to these areas: failure by a regional council to properly consider the impacts of the control on the operator; inconsistency between the control and the purpose of the plan; inappropriateness of the control; imposing a higher standard on commercial services than contracted services; and failure to plan for replacement services. New clause 40A would replace the provisions under clause 52(b)(ii) and (c) for regulations to be made to limit, restrict or suspend controls, which we recommend be deleted.

New provisions are also needed to define the decision-making powers of the Environment Court. We recommend that new clause 40B empower the Environment Court to dismiss an appeal, modify (or remove) the provisions of the plan relating to the control, modify arrangements to alleviate any material adverse effects of the control on existing services, or modify the relevant provisions of the regional public transport plan.

Labour members' view

The committee heard submissions from Auckland regional and territorial local government, ARTA, some operators and public transport users in support of adding an option to the bill known as Option C but this did not receive majority support of the committee. We believe it should have been added as an option and were convinced by ARTA that it is necessary to have this available to better enable them to deal with Auckland's unique set of difficulties in providing a truly efficient integrated public transport network. Although the bill as amended will significantly improve on the status quo for many re-

gions it is interesting to note that local government in Auckland is united in supporting the addition of Option C. We also received letters of support from other metropolitan regional councils supporting Auckland's position.

The evidence we heard from users of the system showed clearly that Auckland needs the tools to fix a system that is groaning at the seams due to a growing demand from the public. We believe adding a new Option C would have been highly desirable.

National members' view

The New Zealand National Party believes this bill imposes too much bureaucratic burden on public transport services and shifts the balance of power in contract negotiations too far in favour of regional councils.

The Government originally consulted with industry on a scheme referred to as Option B. Although there was some level of disquiet among operators they were prepared to accept that regime. National also would have supported this.

The bill that was eventually introduced to Parliament by the Government differed markedly from that which industry had agreed to. This new Option B went further than had been envisaged.

There are two distinct classes of public transport services. Those that are stand-alone without subsidy (commercial services), and those that need public subsidy to be viable (contracted services). National believes that these two types of service must be treated differently.

National accepts that where operators are receiving a subsidy for their services, the regional councils have every right to set the terms and conditions under which those contracted services will be delivered. But this bill allows regional councils to have direct control over private operators and what commercial services they can or cannot operate.

National believes there may be some justification for bundling commercial and contracted services together into the one contract but this should be done as part of a negotiated process. We believe that because the regional councils are the "keeper of the purse" for large sums of public subsidy, they already have a very strong upper hand in any contract negotiations. This bill moves the balance even further in the direction of the regional councils almost to the point of allow-

ing them to dictate the terms and conditions in a “take it or leave it” type environment.

For these reasons National opposes the bill.

Appendix

Committee process

The Public Transport Management Bill was referred to the committee on 16 October 2007. The closing date for submissions was 14 December 2007. We received and considered 62 submissions from interested groups and individuals. We heard 37 submissions, which included holding hearings in Auckland and Christchurch.

We received advice from the Ministry of Transport and Land Transport New Zealand.

Committee membership

Hon Mark Gosche (Chair)

Hon Maurice Williamson (Deputy Chair)

David Bennett

Peter Brown

Russell Fairbrother

Darien Fenton

Lesley Soper

Hon Judith Tizard

Kate Wilkinson

Pansy Wong

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Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Annette King

Public Transport Management Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Public Transport Management Act **2007**.
- 2 Commencement**
This Act comes into force on ~~1 February 2008~~ **1 October 2008**.

Part 1
Preliminary provisions

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

- (a) ~~specifies the~~ confers powers ~~of~~ on regional councils to set standards for ~~the~~ commercial public transport services provided in their regions; and
- (b) provides for and regulates the registration of commercial public transport services ~~provided on a commercial basis~~; and
- (c) helps ~~regions~~ regional councils and the ~~Authority~~ Agency obtain the best value for money in achieving an affordable, integrated, safe, responsive, and sustainable public transport system, having regard to the desirability of encouraging fair competition and a competitive and efficient market for public transport services.

4 Interpretation

For the purposes of this Act, unless the context otherwise requires,—

accessibility standards, in relation to a public transport service, means standards concerning the ease with which passengers, or a class of passengers, can access 1 or more aspects of the public transport service, and may include standards concerning the ease with which—

- (a) information about the service can be accessed:
- (b) the service can be identified:
- (c) the service can be boarded:
- (d) a passenger can access the facilities provided to pay the fare:
- (e) a passenger can get to a seat:
- (f) a passenger can use a seat:
- (g) a passenger can identify the desired place to alight from the service:
- (h) a passenger can alight from the service

~~affected community~~ has the same meaning as in section 5 of the Land Transport Management Act 2003

Agency has the same meaning as in section 5 of the Land Transport Management Act 2003

approved public organisation has the same meaning as in section 5 of the Land Transport Management Act 2003

ARTA has the same meaning as in section 5 of the Land Transport Management Act 2003

Auckland region—

- (a) means the Auckland region as defined in the Local Government (Auckland) Amendment Act 2004; and 5
- (b) to avoid doubt, includes all the district of the Franklin District Council

Auckland Regional Council has the same meaning as in section 5 of the Land Transport Management Act 2003

~~**Authority** has the same meaning as in section 5 of the Land Transport Management Act 2003~~ 10

commercial public transport service—

- (a) means a public transport service for the supply of which the regional council has not contracted to pay; and
- (b) includes, to the extent that the regional council has not contracted to pay for the supply of only a part of the service, only that part 15

Commissioner has the same meaning as in section 5 of the Land Transport Management Act 2003

contracted public transport service— 20

- (a) means a public transport service—
- (i) that is ~~specified~~ described in the regional public transport plan of a regional council; and
- (ii) for the supply of which a regional council has contracted to pay; and 25
- (b) includes, to the extent that a regional council has contracted to pay for the supply of only a part of the service, only that part; but
- (c) ~~to avoid doubt,~~ does not include anything done under an agreement between a regional council and an operator 30 for the purpose of reducing passenger fares or installing equipment (including information technology systems and computer software)

control—

- (a) means a control adopted under ~~section 12;~~ and 35
- (b) ~~in relation to sections 10, 11, 12, 13, and 38;~~ includes an amended control

control means a provision of a regional public transport plan that imposes a requirement on commercial public transport services that is authorised under **section 12**; and includes an amended control

~~**dial-a-driver service**~~

5

(a) ~~means a passenger service in which—~~

(i) ~~the carriage of passengers is made using the vehicle provided by one of the passengers or a vehicle accompanying that vehicle; and~~

(ii) ~~the driver is paid for the carriage or vehicle transfer; but~~

10

(b) ~~does not include a service in which a vehicle is driven by a private chauffeur~~

dial-a-driver service has the meaning given to it by Part 2 of the Land Transport Rule: Operator Licensing 2007

15

district has the same meaning as in section 5 of the Land Transport Management Act 2003

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

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

20

existing commercial service,—

(a) in relation to a control, means a registered commercial public transport service to which the control applies and that was operating on or before the day on which the regional council resolved under **section 9** to adopt the plan containing the control or to vary the plan to include the control:

25

(b) in relation to an amended control, means a registered commercial public transport service to which the amended control applies and that was operating on or before the day on which the regional council resolved under **section 9** to vary the plan to include the amended control

30

GPS has the same meaning as in section 5 of the Land Transport Management Act 2003

35

integrated fare means a ~~single~~ fare for a journey or journeys on public transport services that—

- (a) may apply regardless of—
 - (i) the mode or modes of transport used on the journey: 5
 - (ii) the number of—
 - (A) public transport services used on the journey:
 - (B) operators providing the public transport services; and 10
- (b) if there is more than 1 operator, is—
 - (i) collected by 1 operator on behalf of all operators providing the relevant public transport services; and
 - (ii) shared among all operators providing the relevant public transport services 15

integrated service means a ~~public transport~~ registered service that is scheduled to connect with 1 or more ~~public transport~~ registered services, whether or not the registered services are provided by the same operator 20

integrated technology means any integrated communication and transaction system that supports an integrated service, including (but not limited to)—

- (a) an interoperable electronic system that enables the standard processing of transactions between passengers, the operator, and the regional council by means of a central processing centre: 25
- (b) technology that enables communication between a vehicle or other mode of transport used in a public transport service and a real-time traffic control, journey planning system, or other kind of information system ~~or bus priority system~~ 30

integrated ticket means, in relation to any public transport ~~service~~ journey (whether or not by means of an integrated service or provided by 1 or more operators), a ticket (whether in paper, electronic, or other form) that allows a person to travel on— 35

- (a) more than 1 service:
- (b) a service more than once

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

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

Ministry means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act 5

national land transport strategy has the same meaning as in section ~~2(1) of the Land Transport Act 1998~~ 5 of the Land Transport Management Act 2003 10

New Zealand Railways Corporation means the corporation constituted under section 4 of the New Zealand Railways Corporation Act 1981

notify means to notify in writing; and **notification** has a corresponding meaning 15

~~**operate**, in relation to a vehicle, boat, craft, or other mode of transport, means to cause or permit the vehicle, boat, craft, or other mode of transport to be driven, sailed, or used, whether or not the person who operates is present with the vehicle, boat, craft, or other mode of transport; and **operator** has a corresponding meaning~~ 20

operator, in relation to a public transport service or proposed public transport service, means the person who carries on (or, in the case of a proposed service, will carry on) the public transport service 25

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

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

performance standards means standards specifying levels of performance required of commercial public transport services, including (but not limited to) standards setting— 30

(a) levels of reliability of commercial public transport services required over specified periods, including levels of reliability in— 35

(i) departing from and arriving at the commencement and termination points on routes registered for commercial public transport services; and

- (ii) collecting passengers on routes registered for commercial public transport services; and
- (b) levels of compliance over specified periods with—
- (i) routes registered for commercial public transport services; and 5
- (ii) timetables registered for commercial public transport services (including levels of punctuality required)
- private hire service** means a passenger service that is carried on by means of a private hire vehicle or vehicles 10
- private hire service** has the meaning given to it by Part 2 of the Land Transport Rule: Operator Licensing 2007
- private hire vehicle** means a motor vehicle that—
- (a) is a small passenger service vehicle that is designed or adapted to carry 12 or fewer persons (including the driver); and 15
- (b) carries passengers for hire or reward; and
- (c) is pre-booked on an agreed fare basis
- private hire vehicle** has the meaning given to it by Part 2 of the Land Transport Rule: Operator Licensing 2007 20
- public transport service—**
- (a) means, subject to **paragraphs (b) and (c)**, 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 25
- (iii) a harbour ferry; or
- (iv) a hovercraft; or
- (v) a passenger rail service vehicle; or
- (vi) a monorail; or
- (vii) a tramway; or 30
- (viii) a vehicle within the definition of rail vehicle in section 4(1) of the Railways Act 2005; or
- (ix) any other vehicle, boat, craft, or other mode of transport mode of transport (other than air transport) that runs to a schedule and is available to the public generally; and 35
- (b) includes a service specified by the Governor-General by Order in Council as a public transport service for the purposes of this ~~Part~~ Act; but

- (c) except as specified under **paragraph (b)**, does not include the following services:—
- (i) a taxi service:
 - (ii) a dial-a-driver service:
 - (iii) a shuttle service: 5
 - (iv) an ambulance service:
 - (v) a private hire service:
 - ~~(vi) a service that uses a large passenger service vehicle that is chartered:~~
 - ~~(vii) a service that is not available to the public generally~~ 10
 - (vi) a service—
 - (A) that is contracted or funded by the Ministry of Education for the purpose of transporting school children to and from school: 15
 - (B) carrying passengers that is operated to transport all those passengers to a pre-determined event:
 - (C) that is operated primarily for the purpose of providing a tourism experience, rather than for transporting people from place to place: 20
 - (D) carrying passengers that is not available to the public generally:
 - (vii) any service excluded by the Governor-General by Order in Council from the definition of public transport service for the purposes of this Act 25
- quality standards** means standards applying to vehicles and other modes of transport (including their design, performance, emissions, equipment, systems, components, devices, and fittings) and drivers and other operational staff, to ensure the quality of commercial public transport services, including (but not limited to)— 30
- (a) standards regarding accessibility:
 - (b) standards applying to the design and performance of vehicles and other modes of transport: 35
 - (c) standards applying to the age of vehicles or other modes of transport:

- (d) standards of cleanliness required of vehicles or other modes of transport:
- (e) standards applying to the comfort of passengers on vehicles and other modes of transport:
- (f) standards applying to facilities provided for passengers with disabilities on or in vehicles and other modes of transport: 5
- (g) standards applying to compartments or seating areas used by drivers and other operational staff on vehicles and other modes of transport: 10
- (h) standards concerning the emissions of vehicles or other modes of transport:
- (i) standards applying to customer service training for drivers and other operational staff:
- (j) standards of conduct for drivers and other operational staff 15

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

regional council has the same meaning as in section 5(1) of the Local Government Act 2002 and, in relation to this Act,— 20

- (a) includes—
 - (i) ARTA, in relation to the Auckland region; and
 - (ii) any territorial authority that has the functions, powers, and duties of a regional council under this Act; but 25
- (b) does not include—
 - (i) the Auckland Regional Council; and
 - (ii) the Waikato Regional Council in relation to that part of its region that is within the district of the Franklin District Council 30

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

regional land transport strategy has the same meaning as in section ~~2(1) of the Land Transport Act 1998~~ 5 of the Land Transport Management Act 2003 35

regional public transport plan or plan means a regional public transport plan adopted under **section 9**, and includes any ~~amendments or~~ variations to the plan made under **section 16 9**

registered commercial public transport service—

(a) means a commercial public transport service that is registered under **section 31**; but

(b) excludes—

(i) a commercial public transport service that is varied after it has been registered under **section 31**, if the details of the variation is not registered are not recorded in the register under **section 35**: 5

(ii) a commercial public transport service that is deregistered under **section section 36(1) or 39(5)** 10

registered service—

(a) means—

(i) a registered commercial public transport service; 15
and

(ii) in respect of a public transport service that is specified described in a regional public transport plan, any part of the service that is a registered commercial public transport service; and 20

(b) includes a contracted public transport service

Secretary means the chief executive of the Ministry

service includes an operation carried out on 1 occasion only

shuttle means a motor vehicle that is—

(a) a ~~small passenger service vehicle originally designed to carry no fewer than 8 persons and no more than 12 persons (including the driver); and~~ 25

(b) ~~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 has the meaning given to it by Part 2 of the Land Transport Rule: Operator Licensing 2007

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

shuttle service has the same meaning as in Part 2 of the Land Transport Rule: Operator Licensing 2007 35

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

taxi 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

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

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

- (a) the capacity of traffic infrastructure to accommodate the vehicles or other modes of transport operated in the service; and 10
- (b) the compatibility of the traffic infrastructure intended to support the service with vehicles or other modes of transport operated in the service

Transit has the same meaning as in section 5 of the Land Transport Management Act 2003. 15

transport disadvantaged means people whom the regional council has reasonable grounds to believe are the least able to get to basic community activities and services (for example, work, education, health care, welfare, and food shopping) 20

trip means the operation of a service on a single occasion

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

5 Act binds the Crown

This Act binds the Crown. 25

Part 2

Regulation of public transport

6 Application of certain provisions of Local Government Act 2002 to ARTA

For the purposes of this Act, sections 76 to 83, 83A, 87, and 89 of the Local Government Act 2002 apply, with any necessary modifications, to ARTA as if it were a local authority. 30

Subpart 1—Regional public transport plan

- 7 **Purpose of regional public transport plans**
 The purpose of a regional public transport plan is to—
- (a) specify how the regional council intends to give effect to the public transport service components of the regional land transport strategy that applies to the region; and 5
 - (b) contribute to the purpose specified in **section 3** in an efficient and effective manner.
- 8 **Validity of regional public transport plans not affected by certain events** 10
 The validity of a regional public transport plan is not affected by—
- (a) ~~a change made to, or renewal of, the approval or variation of~~ a regional land transport strategy; or
 - (b) ~~the failure of a regional council to complete the renewal of—~~
 - (i) ~~a regional land transport strategy within the time required by section 176(1)(b) of the Land Transport Act 1998; or~~
 - (ii) ~~the regional public transport plan within the time required by **section 16(1)(b)**; or~~ 20
 - (b) a failure by a regional council (or in the case of the Auckland region, the Auckland Regional Council) to approve a regional land transport strategy within the time required by section 74 of the Land Transport Management Act 2005; or 25
 - (ba) the failure of a regional council to complete the review of the regional public transport plan within the time required by **section 18(1)(b)**; or
 - (c) the inclusion of any matter that— 30
 - (i) is not referred to in a regional land transport strategy; and
 - (ii) is not inconsistent with a provision in that strategy.

*General requirements***9 Adoption of regional public transport plans**

- (1) A regional council must, by resolution, adopt a regional public transport plan if it intends to—
- (a) enter into a contract ~~to pay~~ for the supply of public transport services: 5
 - (b) impose controls on commercial public transport services:
 - (c) provide financial assistance to the operators or users of— 10
 - (i) a taxi service:
 - (ii) a shuttle service.
- (1A) A regional council may, by resolution at any time, vary or renew a regional public transport plan previously adopted by it.
- (2) No person is entitled to require a regional council to implement ~~the provisions of~~ a regional public transport plan, ~~except that an existing commercial service operator may require a regional council to implement any provisions included in a plan under **section 12(2)**.~~ 15
- ~~(3) If a regional land transport strategy is amended, the regional council must take the necessary steps to ensure that the regional public transport plan continues to give effect to the public transport service components of the strategy.~~ 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 whom the responsibility has been 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 35
- (5) Except in Auckland, a regional council may adopt a regional public transport plan for the first time under this Act at the

same time as it approves a regional land transport programme or a regional land transport strategy under the Land Transport Management Act 2003.

- (6) ARTA may prepare and adopt a regional public transport plan for the first time under this Act at the same time as it prepares and approves a regional land transport programme under the Land Transport Management Act 2003. 5
- (7) If a territorial authority (other than a territorial authority in the Auckland Region) has joined a regional transport committee under section 105(11) of the Land Transport Management Act 2003, the plan adopted by the regional council that established the regional transport committee applies to the entire area of the territorial authority. 10

10 Contents of regional public transport plans

- (1) A regional council, in a regional public transport plan must plan— 15
- (a) ~~state or must describe, as appropriate,—~~
- (i) the public transport services that the regional council ~~proposes to be provided~~ wants in its region, and may include (but is not limited to) a statement or description of routes, capacity, and times and frequency of services; and 20
- (ii) any taxi services or shuttle services ~~under section 9(1)(c) that the regional council for which it intends to provide financial assistance for~~; and 25
- (iii) how the public transport services and any services referred to in **subparagraph (ii)** will assist the transport disadvantaged; and
- (b) ~~specify any policies that apply to the public transport services and the services described in paragraph (a)(ii) that operate in the region; and~~ 30
- (c) ~~specify the methods for implementing these policies, including any controls adopted under section 12; and~~
- (d) ~~state why the regional council is satisfied that each control contributes to the purpose of the regional public transport plan; and~~ 35
- (b) must specify any policies that are to apply to public transport services, and to any services referred to in

- subsection (1)(a)(ii)**, in the regional council's region;
and
- (ba) must specify the classes of service to which the policies apply; and
- (bb) must describe how it will implement the policies; and 5
- (c) may specify any controls under **section 12** and, if it does so, must state the matters required by **subsection (3)**; and
- (d) may require a minimum period of notice (which may be not less than 35 working days and no more than 65 working days) for— 10
- (i) commencing a commercial public transport service;
- (ii) varying a commercial public transport service;
- and 15
- (c) ~~identify any control that the regional council considers likely to have a material adverse effect on the financial viability of any registered commercial public transport service; and~~
- (e) may require a minimum period of notice (which may not be more than 65 working days) for withdrawing a commercial public transport service; and 20
- (f) ~~specify the date or dates that any controls take effect; and~~
- (g) ~~describe the manner in which the regional council took into account the matters specified in **section 14** when preparing the regional public transport plan; and~~ 25
- (h) ~~set out the regional council's general approach to determining whether a proposed amendment to the regional public transport plan is significant for the purpose of **section 16(4)**; and~~ 30
- (h) 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 18(6)**; and 35
- (i) ~~contain transitional arrangements (other than those provided under **section 13(2)**); if any control is adopted that the regional council considers likely to have a ma-~~

- ~~terial adverse effect on a registered commercial public transport service; and~~
- (j) ~~specify any other matter~~ must state or describe anything else prescribed by regulations made under this Act.
- (2) Without limiting **subsection (1)(b)**, ~~the policies specified in the~~ a regional council may include in a regional public transport plan may include (but are not limited to)—
- (a) policies on—
- (i) ~~the information that the regional council will seek from public transport operators~~ must supply to the regional council for public transport planning, ~~contracting,~~ and monitoring purposes: 10
- (ii) quality standards and performance standards:
- (iii) providing ~~or promoting~~ an integrated public transport system, which may include (without limitation) policies on integrated services, integrated ticketing, integrated fares, and integrated technology: 15
- ~~(iv) identifying services that are to be contracted for or registered collectively, and those not contracted for or registered separately:~~
- (iv) specifying services that are to be operated as a group of all contracted public transport services or all commercial public transport services whether or not they are on the same route: 25
- (v) ~~maximum~~ fares for contracted public transport services in the region or the method or formula ~~for setting those fares~~ or other bases ~~on which those fares may be set~~ for setting those fares, for example, time, zone or stage, mode of travel, number of journeys, and the availability of concessions: 30
- ~~(vi) the application of common colour schemes, emblems, signs, or designs to the vehicles, boats, craft, or other modes of transport used in public transport services in the region:~~
- (vi) the application of common emblems, signs, or designs to the vehicles, or other modes of trans-

- port used in public transport services in the region:
- (vii) fostering co-operation between the regional council and public transport operators ~~in making to make~~ timetables and journey-planning information available to the public in a specified format, for example, in electronic or printed form or on their respective Internet sites: 5
- (viii) the minimum period of operation of public transport services in the region: 10
- ~~(b) special policies and provisions for any users of any specified class or description of public transport services or any services referred to in subsection (1)(a)(ii):~~
- (b) special policies and provisions for any users of any specified class or description of— 15
- (i) public transport services; or
- (ii) taxi service or shuttle service for which the regional council intends to provide financial assistance:
- (ba) policies on the standards and procedures for monitoring compliance with controls: 20
- (c) any other policies that the regional ~~councils~~council thinks fit.
- ~~(3) For the purposes of subsection (2)(a)(ii),—~~
- ~~performance standards includes (but is not limited to) service reliability standards~~
- ~~quality standards includes (but is not limited to) vehicle age, cleanliness, emissions, and accessibility standards.~~ 25
- (3) If any controls are specified in a plan, the plan must include a summary of— 30
- (a) the regional council’s reasons for including the controls in the plan, including a statement explaining why the regional council is satisfied that the controls contribute to the purpose of the plan; and
- (b) the alternatives to those controls (including alternative controls) that were considered by the regional council; and 35
- (c) the likely effectiveness of those alternatives in implementing the policies in the plan.

- (4) A regional public transport plan may 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 may specify conditions applying to the doing of the action. 5
- (5) Subsection (4) does not limit or affect anything in the Local Government Act 2002.
- 11 Regional public transport plans take effect 20 working days after date adopted**
- (1) A regional public transport plan takes effect on the day that is 20 working days after the date on which the regional council adopts a resolution that approves the plan. 10
- (2) Despite **subsection (1)**, a control specified in a regional public transport plan takes effect on the date specified in the plan, which may be— 15
- (a) the date on which the plan takes effect; or
- (b) a later date.
- 12 Controls on commercial public transport services**
- (1) Except as provided in **subsection (8)**, a regional council may, by resolution, adopt ~~1~~ or more controls, if— 20
- (a) the regional council—
- (i) has considered the impact of the control or controls on the financial viability of commercial public transport services in the region; and
- (ii) is satisfied that the control or controls contribute to the purpose of the regional public transport plan; and 25
- (b) the control complies with any regulations made under **section 52(b)(ii)**.
- (2) A regional council may adopt a control that— 30
- (a) sets a minimum period of notice (which may not exceed 90 days) for—
- (i) commencing a commercial public transport service;
- (ii) varying a commercial public transport service; 35
- (iii) withdrawing a commercial public transport service.

- (b) sets a minimum period for the operation of a commercial public transport service (which must include any period of notice required for varying or withdrawing the service) immediately following the commencement of— 5
- (i) the registered commercial public transport service;
 - (ii) a variation to the registered commercial public transport service:
- (c) sets a maximum period between the registration of a— 10
- (i) commercial public transport service and the date on which it starts;
 - (ii) variation to a registered commercial public transport service and the date on which it starts:
- (d) requires a commercial public transport service on a specified route to operate according to the frequency, capacity, and times specified in the regional public transport plan for the operation of a public transport service on that route: 15
- (e) subject to **subsections (3), (4), and (5)**; is intended to implement in respect of commercial public transport services any policy specified in the regional public transport plan other than the implementation of policy under section **10(2)(a)(v), (vi), (vii), and (2)(c)**; except where this is permitted by regulations made under this Act: 20 25
- (f) is permitted by regulations made under this Act.
- (3) A regional council may adopt a control that—
- (a) requires any commercial public transport service to be an integrated service: 30
 - (b) requires the application of common colour schemes, emblems, signs, or designs to the vehicles, boats, craft, or other modes of transport used in integrated public transport services in the region:
 - (c) requires the operator of any commercial public transport service to use integrated technology specified in the regional public transport plan: 35

- (d) requires the operator of any commercial public transport service to issue, use, and accept an integrated ticket specified in the regional public transport plan.
- (e) sets and apportions integrated fares, in accordance with 5
 † or more of the following factors:
- (i) time;
 - (ii) zone;
 - (iii) mode of travel;
 - (iv) any concessionary fares policy;
 - (v) the number of journeys to be travelled: 10
- (f) requires the operator of any commercial public transport service to collect an integrated fare that is set in accordance with a control made under **paragraph (e)**:
- (g) requires the operator of any commercial public transport service to accept a portion of an integrated fare that is set in accordance with a control made under **paragraph (e)**; as payment for travel on the service: 15
- (4) A control may require the operator of any commercial public transport service to provide detailed patronage, financial, and operational information about the service— 20
- (a) to the regional council, its professional advisers, and those persons or organisations that the regional council has engaged to carry out public transport planning and monitoring; and
 - (b) for the purpose of assisting the regional council with public transport planning and monitoring and; in the case of patronage data and fare-box revenue, only for that purpose: 25
- (5) A control that is adopted under **subsections (2)(d), (e), (2)(f), (3), or (4)** may impose lesser, but not greater, requirements than a condition in a contract intended to implement the same policy in respect of a contracted public transport service: 30
- (6) If withholding any information provided in accordance with a control made under **subsection (4)** is necessary under section 7 of the Local Government Official Information and Meetings Act 1987 because of its commercial sensitivity, the regional council must not, without the consent of the person who pro- 35

- vided the information, make the information available to any person other than—
- (a) a person specified in **subsection (4)**; or
 - (b) the Authority, in accordance with **section 48**.
- (7) Different types of controls in a regional public transport plan may be applied to different classes or descriptions of public transport services. 5
- (8) A regional council may not adopt a control that applies to a commercial public transport service that—
- (a) operates outside the region to which the regional public transport plan applies; or 10
 - (b) is specified by the Governor-General by Order in Council as an exempt commercial public transport service for the purposes of this section.
- (9) A control that is adopted by a regional council— 15
- (a) may, subject to **subsection (8)**, apply to any commercial public transport service serving its region, whether or not the service is stated or described in the regional public transport plan as a public transport service that the council proposes to be provided in its region; and 20
 - (b) to the extent that the control is inconsistent with any regulations made under **section 52(b)(ii)**, is subject to the regulation.
- (10) A control is not a regulation for the purposes of the Regulations (Disallowance) Act 1989. 25
- (11) For the purposes of this section,—
- financial and operational information** includes (but is not limited to) information about fare-box revenue, kilometres travelled, service quality, vehicles used, and service performance, including reports on individual trips that did not operate or that departed from their starting points early or late, together with reasons for such irregularities 30
- times** means any time of the week, day or night, including weekends.

13 Implementation of controls on commercial public transport services

- (1) If a regional council adopts a control under **section 42**, the control—
- (a) takes effect on the date specified in the regional public transport plan for that control to take effect; and 5
 - (b) subject to **subsection (2)**, applies to every commercial public transport service that is subject to the control from the date the control takes effect or the date the service is registered; whichever is the later. 10
- (2) A control adopted under **section 42(2)(d) to (f) or (3)** applies to a registered commercial public transport service from the date that the control takes effect or 18 months after the date that the control is adopted; whichever is the later; if—
- (a) the service is operating on or before the date that a control to which the service is subject takes effect; and 15
 - (b) the control has been identified under **section 10(1)(e)** as likely to have a material adverse effect on the financial viability of any registered commercial public transport service. 20
- (3) Despite **section 42(2)(a)(ii) or 42(2)(c)(ii)**, the relevant regional council may require or allow a variation to commence on the date that a control applies to a registered commercial public transport service under **subsection (2)** if the variation is registered to enable the service to meet the control. 25
- (4) An operator of a registered commercial public transport service must, within 6 months after the date on which a regional council adopts a control referred to in **subsection (2)(b)**,—
- (a) notify the regional council about whether the operator intends to continue the service once the control applies to the service; and 30
 - (b) if complying with the control requires a variation to the service, advise the regional council on whether the operator intends to notify a variation under **section 32**.
- (5) A regional council is not liable to pay compensation to any person in respect of any costs incurred or losses suffered by an operator of a registered commercial public transport service, or any other public transport service, that arise from the adoption of a control by the council. 35

- ~~(6)~~ An operator of a public transport service must ensure that its commercial public transport service is operated in accordance with every applicable control.

14 Matters to take into account when preparing or adopting regional public transport plans 5

A regional council must, when preparing or adopting a regional public transport plan,=

(a) take into account=

(i) how the regional public transport plan=

(A) assists economic development; and 10

(B) assists safety and personal security; and

~~(C) improves access and mobility; and~~

~~(D) protects and promotes public health; and~~

~~(E) ensures environmental sustainability; and~~

(ii) any current national land transport strategy and 15

national energy efficiency and conservation strategy (within the meaning of the Energy Efficiency and Conservation Act 2000); and

(iii) any guidelines issued by the Authority under the Land Transport Management Act 2003 for the 20

purposes of developing regional public transport plans; and

(iv) the public transport funding likely to be available 25

within the region during the period covered by the regional public transport plan; and

(v) the views of public transport providers; and

(b) consider the needs of persons who are transport disad-

vantaged.

15 Consultation requirements

~~(1)~~ Before adopting a regional public transport plan, a regional 30

council must consult=

(a) the relevant regional land transport committee; and

(b) Transit; and

~~(c) the Authority; and~~

~~(d) the Commissioner; and~~ 35

~~(e) the Minister of Education; and~~

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

- (g) the adjoining regional councils and territorial authorities; and
- (h) public transport users and providers; and
- (i) the public in the region; and
- (j) the district health boards in the region; and 5
- (k) every affected approved public organisation in the region; and
- (l) affected communities; and
- (m) Māori of the region; and
- (n) the Accident Compensation Corporation; and 10
- (o) groups that represent the interests of the transport disadvantaged; and
- (p) the New Zealand Railways Corporation.
- (2) In carrying out the consultation required by **subsection (1)**; a regional council must use the special consultative procedure specified in sections 83, 87, and 89 of the Local Government Act 2002, which applies for the purposes of this section with the necessary modifications. 15
- (3) If withholding any information provided in any written submission is necessary under section 7 of the Local Government Official Information and Meetings Act 1987 because of the information's commercial sensitivity, the regional council must not, without the consent of the person who provided the information, make the information available to any person other than— 20
- (a) the regional council; its professional advisers; and those persons or organisations that the regional council has engaged to carry out public transport planning and monitoring; or
- (b) the Authority, in accordance with **section 18**. 30
- (4) A regional council that is preparing a regional public transport plan may request any information from any territorial authority within its region that the 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. 35
- (5) For the purposes of this section, Part 7 of the Local Government Official Information and Meetings Act 1987 applies to ARTA as if it were a local authority.

16 Currency of regional public transport plans

(1) A regional public transport plan adopted under **section 9**—

(a) must, at all times, be kept current for a period of not less than 3 years in advance, but not more than 10 years; and

(b) may be renewed from time to time, but must be renewed— 5

(i) at least once every 3 years;

(ii) at the same time as, or as soon as practicable after, the relevant regional land transport strategy is renewed. 10

(2) A regional council that adopts a regional public transport plan may amend it at any time while it is current.

(3) Subject to **subsections (4) to (7)**, the provisions of this Act that apply to the adoption of a regional public transport plan apply with the necessary modifications to an amendment to a regional public transport plan. 15

(4) A regional council that proposes to significantly amend a regional public transport plan must meet the consultation requirements specified in **section 15**; except where the regional council is satisfied that it is not necessary to consult any person or organisation other than those persons or organisations that it considers may be affected or have an interest in the proposed amendment. 20

(5) If a regional council proposes a minor amendment to a regional public transport plan, or the exception in **subsection (4)** applies, then the regional council is only required to consult those persons or organisations likely to be affected by or have an interest in the proposed amendment. 25

(6) The exception in **subsection (4)** does not apply to an amendment that would alter a regional council's general approach in determining whether a proposed amendment to a regional public transport plan is significant. 30

(7) A regional council may, by resolution publicly notified, correct 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. 35

17 Copies of regional public transport plans to be made available to certain persons

Within 20 working days of adopting a regional public transport plan or an amendment to a regional public transport plan, the relevant regional council must—

(a) forward a copy of the regional public transport plan or the amendment to each of the following:

(i) the Authority;

(ii) Transit;

(iii) the Secretary;

(iv) the Minister of Education;

(v) territorial authorities in the region;

(vi) every operator of a public transport service that is within the region to which the regional public transport plan applies;

(vii) the relevant regional land transport committee; and

(b) make a copy of the regional public transport plan or the amendment available to the public in a printed or electronic form during its usual business hours:

18 Provision of information

(1) The Authority may require a regional council to provide any information related to the preparation of a regional public transport plan as is necessary to enable the Authority to perform its functions under the Land Transport Management Act 2003, including (but not limited to) information provided in accordance with a control made under **section 12**:

(2) Despite **section 12(4) or 15(3)**, if the Authority requests any information relevant to the regional council's decision, the regional council must supply that information as soon as is reasonably practicable.

11 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 regional newspaper of the adoption or vari-

- ation of the plan and its availability for inspection and purchase; and
- (b) give, as soon as practicable, to the operator of every existing registered commercial public transport service in the region and to every person who has notified the regional council of a proposal to operate a commercial public transport service in the region— 5
- (i) written notice of the adoption, and a copy, of the plan (or variation); and
- (ii) if the plan states under **section 12** a process for determining the transitional arrangements that the regional council will adopt, written notice of the adoption, and a copy, of those arrangements once they have been adopted; and 10
- (c) within 20 working days of adopting a regional public transport plan or a variation to a regional public transport plan,— 15
- (i) forward a copy of the regional public transport plan or the variation to each of the following:
- (A) the Agency; 20
- (B) the Secretary;
- (C) the Minister of Education;
- (D) territorial authorities in the region;
- (E) the relevant regional transport committee;
- (F) in the case of a plan or a variation of a plan adopted by ARTA, the Auckland Regional Council; and 25
- (ii) ensure that—
- (A) copies of the plan or varied plan 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
- (B) a copy of the plan or varied plan is made available on the regional council’s Internet site. 35

- (2) A regional council (except ARTA) may publish a regional public transport plan, a regional land transport programme and a regional land transport strategy as a single document.
- (3) ARTA may publish a regional public transport plan and a regional land transport programme as a single document. 5

11A When regional public transport plans take effect

- (1) A regional public transport plan (and a variation to a regional public transport plan) takes effect on the day that is 25 working days after the date on which the regional council resolves to adopt a resolution that approves the plan (or variation). 10
- (2) Despite **subsection (1)**, a control specified in a regional public transport plan takes effect on the latest of the following dates, except to the extent that an operator agrees otherwise in writing in respect of a particular service and this agreement is specified in the plan: 15
- (a) the date on which the plan (or variation including or amending the control) takes effect:
- (b) any date specified in the plan as the date on which the control takes effect:
- (c) to the extent that a control of a kind referred to in **section 12(3)(b) to (n)** applies to an existing commercial service, the day that is 12 months after the day on which **subsection 11(1)(b)** is complied with in respect of that service: 20
- (d) if the control is appealed under **section 40A**, 20 working days after the day on which the appeal is finally decided or such later date as the court may order. 25
- (3) A control that has come into effect continues in effect until it is amended or revoked by a variation to or revocation of the plan in which it is specified. 30

12 Controls on commercial public transport services

- (1) A regional council may specify a control in a regional public transport plan, if—
- (a) the regional council—
- (i) has used reasonable endeavours to ascertain whether the inclusion of the control in the plan 35

- is likely to have a material adverse effect on any existing commercial services in the region; and
- (ii) has properly considered the impact of the control on existing commercial services in the region and the operators of those services; and 5
- (b) the regional council is satisfied that—
- (i) the control is consistent with the purpose of the plan after taking into account the matters referred to in **section 16**; and
- (ii) the control contributes to the implementation of the policies in the plan; and 10
- (iii) the policy that the control is intended to help implement cannot be more effectively implemented in any other way.
- (2) If a regional council specifies a control in a regional public transport plan, it may also specify in the plan— 15
- (a) any transitional arrangements (which may be any 1 or more of delaying the commencement date of the control, providing financial or other assistance to operators, or anything else that assists operators to comply with the control) that the regional council, in its discretion, has or will put in place to alleviate any material adverse effects that the council considers the control is likely to have on existing commercial services; or 20
- (b) the process that the regional council will adopt for determining any such transitional arrangements. 25
- (3) A control may—
- (a) require a minimum period not exceeding 12 months for the operation of a commercial public transport service (which must include any period of notice required for varying or withdrawing the service) immediately following the commencement of— 30
- (i) the registered commercial public transport service;
- (ii) a variation to the registered commercial public transport service; 35
- (b) require a person who operates, or wishes to operate, a service that the plan has specified is to be operated as part of a group, to operate all the services in the group

- as commercial public transport services, whether or not on the same route,—
- (i) if the regional council is satisfied that the operating costs of the services in the group will be less if they are operated by 1 operator than if they are operated by more than 1 operator; and 5
- (ii) regardless of how the services in the group are operated on the date the control is specified in the plan:
- (c) require a commercial public transport service on a specified route to operate according to the frequency, capacity, and times specified in the regional public transport plan for the operation of a public transport service on that route: 10
- (d) require compliance with specified quality standards and performance standards: 15
- (e) require any commercial public transport service to be an integrated service:
- (f) require common emblems, signs, or designs (but not common colour schemes) for vehicles or other modes of transport used in integrated public transport services in the region: 20
- (g) require the operator of any commercial public transport service to use integrated technology specified in the regional public transport plan: 25
- (h) require the operator of any commercial public transport service to issue, use, and accept an integrated ticket specified in the regional public transport plan:
- (i) set and apportion integrated fares on a reasonable basis without undue discrimination and in accordance with 1 or more of the following factors: 30
- (i) time:
- (ii) zone:
- (iii) mode of travel:
- (iv) any concessionary fares policy: 35
- (v) the number of journeys to be travelled:
- (j) require the operator of any commercial public transport service to collect on behalf of other operators an inte-

- grated fare that is set in accordance with a control made under **paragraph (i)**:
- (k) specify the point at which an integrated fare becomes payable:
- (l) require the operator of any commercial public transport service to accept a portion of an integrated fare that is set in accordance with a control made under **paragraph (i)**, as full payment for travel on the service: 5
- (m) provide that the operator of any commercial public transport service may not collect an additional fare from a passenger who transfers from another service on which the passenger has already paid an integrated fare, if the integrated fare includes payment for the passenger's travel on the operator's service: 10
- (n) require anything that is permitted by regulations made under this Act. 15
- (4) If a regional council has contracted a public transport service of a similar class to a commercial public transport service, a control may impose no greater requirements or higher standards on the commercial public transport service than the requirements or standards applying under the contract to the contracted public transport service. 20
- (5) For the purposes of **subsection (4)**, the contract that imposes the lesser requirement is the relevant contract for the purposes of comparison with a control if— 25
- (a) there is more than 1 contracted public transport service of a similar class to the commercial public transport service; and
- (b) the contracted public transport services are provided under separate contracts; and 30
- (c) the contracts impose different requirements on the contracted public transport services.
- (6) **Subclause (4)** does not apply to a control of the type described in **subclause (3)(b)**.
- (7) If a regional council has reasonable grounds to believe that the inclusion of a control in a regional public transport plan may result in the withdrawal of an existing commercial service that is described in the plan, the regional council may only include the control in the plan if— 35

- (a) there is a similar public transport service available to users of the existing commercial service; or
- (b) the plan states that the regional council intends that, if the existing commercial service is withdrawn, it will replace it with a similar public transport service. 5
- (8) A control may not be made for the purpose of eliminating any existing commercial service.
- (9) Different types of controls in a regional public transport plan may be applied to different classes or descriptions of public transport services. 10
- (10) A regional council may not adopt a control that—
- (a) applies to a commercial public transport service that—
- (i) operates outside the region to which the regional public transport plan applies; or
- (ii) is of a class or description that is specified by the Governor-General by Order in Council as an exempt commercial public transport service for the purposes of this section; or 15
- (b) would require an operator to breach a rule made under the Land Transport Act 1998 or the Maritime Transport Act 1994. 20
- (11) A control may, subject to **subsection (10)**, apply to any commercial public transport service, whether or not the service is described in the regional public transport plan as a public transport service that the council proposes to be provided in its region. 25
- (12) A control is not a regulation for the purposes of the Regulations (Disallowance) Act 1989.
- (13) For the purposes of this section, **operating costs** means the cost to an operator of operating a public transport service before any revenue is taken into account. 30
- 13** **Power to require information from operators of commercial public transport services**
- (1) A regional council may, to assist the council with public transport planning, contracting, and monitoring, require an operator of any commercial public transport service to provide the re- 35

- gional council with the following information held by the operator:
- (a) the number of passengers carried on the service:
 - (b) the types of tickets used on the service:
 - (c) the fare revenue earned by the operator: 5
 - (d) the distance travelled by the vehicles or other modes of transport used by the operator on the service:
 - (e) the quality of the service, including vehicle age, cleanliness, emissions, and accessibility:
 - (f) the vehicles or other modes of transport used on the service: 10
 - (g) the performance of the service, including information on any individual trip of the service that did not operate or that departed from the starting point on its route earlier or later than the time specified in the timetable for the service: 15
 - (h) any other information that may be required by regulations made under **section 52** that is necessary for the purpose of assisting regional councils to plan and monitor public transport services. 20
- (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. 25
- (3) If a regional council receives under **subsection (1)** information from the operator of a commercial public transport service and the information may, in the regional council's opinion, be withheld under section 7(2)(b) of the Local Government Official Information and Meetings Act 1987 or has been described as commercially sensitive by the operator, the regional council must not disclose the information without the operator's consent except— 30
- (a) to the regional council's professional advisers; or
 - (b) to those persons and organisations engaged by the regional council to carry out public transport planning, contracting, or monitoring; or 35
 - (c) to the Agency, in accordance with **section 18A**; or

- (d) in the case of the Auckland region, to the Auckland Regional Council, in accordance with **section 18A**, or
- (e) subject to **subsection (4)**, in response to a request made under the Local Government Official Information and Meetings Act 1987; or 5
- (f) where the information was provided to the regional council 5 years or more before the date of the disclosure; or
- (g) where—
- (i) the operator of the commercial public transport service (the **former operator**) no longer exists; and 10
- (ii) the former operator’s public transport business has not been disposed of as a going concern to any other person. 15
- (4) If a regional council receives a request under the Local Government Official Information and Meetings Act 1987 to release any information described in **subsection (3)**,—
- (a) the regional council 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; and 20
- (b) the person must, within 10 working days after receiving the notice, advise the regional council whether that person believes that the information should be withheld under section 7(2)(b) of that Act and give reasons for that belief; and 25
- (c) the regional council 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 regional council cannot identify any reason that would permit it to refuse the request under that Act. 30
- 14** **Implementation of controls on commercial public transport services** 35
- (1) A control specified in a regional public transport plan under **section 12**—
- (a) takes effect on the date provided in **section 11(3)**; and

- (b) applies to every commercial public transport service that is subject to the control from the date the control takes effect or the date the service is registered, whichever is the later.
- (2) Despite any minimum period specified in a plan under **section 10(1)(d)(ii)**, the relevant regional council may require or allow a variation to commence on the date that a control applies to an existing commercial service under **section 11(3)** if the variation is necessary to enable the service to meet the control. 5
- (3) If a control takes effect for an existing commercial service on the date referred to in **section 11(3)(c)**, the operator of that service must, within 6 months after the date on which the regional council adopts or varies the plan,— 10
- (a) notify the regional council whether the operator intends to continue the service once the control takes effect for the service; and 15
- (b) if complying with the control requires a variation to the service, advise the regional council whether the operator intends to notify a variation under **section 32**. 20
- (4) An operator of a public transport service must ensure that its commercial public transport service is operated in accordance with every applicable control.
- 15** **Regional council not liable to pay compensation**
- (1) Nothing included in a regional public transport plan (whether a control or otherwise), done by a regional council in implementing any control, or done by a regional council in declining to register a commercial public transport service or to vary a registered commercial public transport service makes the regional council liable to pay compensation to any person. 25
- (2) **Subsection (1)** does not limit **section 12(2)**. 30
- 16** **Matters to take into account when preparing or adopting regional public transport plans**
- A regional council must, when preparing a statement of proposal to adopt a regional public transport plan and before adopting a regional public transport plan,— 35

- (a) take into account—
- (i) how the regional public transport plan—
- (A) assists economic development; and
- (B) assists safety and personal security; and
- (C) improves access and mobility; and 5
- (D) protects and promotes public health; and
- (E) ensures environmental sustainability; and
- (ii) the relevant GPS; and
- (iii) any current national land transport strategy and national energy efficiency and conservation strategy (within the meaning of the Energy Efficiency and Conservation Act 2000); and 10
- (iv) any guidelines issued by the Agency under the Land Transport Management Act 2003 for the purposes of developing regional public transport plans; and 15
- (v) any relevant regional policy statement, regional plan, district plan, or proposed regional plan or district plan under the Resource Management Act 1991; and 20
- (vi) the public transport funding likely to be available within the region; and
- (vii) the need to obtain the best value for money, having regard to the desirability of encouraging fair competition and a competitive and efficient market for public transport services; and 25
- (viii) the views of public transport operators in the region; and
- (b) consider the needs of persons who are transport disadvantaged. 30

17 Consultation requirements for regional public transport plans

- (1) When preparing a statement of proposal under section 83 of the Local Government Act 2002 to adopt a regional public transport plan, a regional council must consult— 35
- (a) the relevant regional transport committee (or, in the case of ARTA, the Auckland Regional Council); and
- (b) the Agency; and

- (c) every operator of a public transport service in the region; and
- (d) every person who has notified the regional council of a proposal to operate a commercial public transport service in the region; and 5
- (e) the Minister of Education; and
- (f) the territorial authorities in the region; and
- (g) the New Zealand Railways Corporation.
- (2) Before adopting a regional public transport plan, a regional council must carry out consultation using the special consultative procedure specified in sections 83, 87, and 89 of the Local Government Act 2002, which applies for the purposes of this section with the necessary modifications, and forward a copy of the statement of proposal to adopt the plan to, and invite submissions from,— 10 15
- (a) the Agency; and
- (b) the Commissioner; and
- (c) the Minister of Education; and
- (d) the territorial authorities in the region; and
- (e) the adjoining regional councils and territorial authorities; and 20
- (f) every operator of a public transport service in the region; and
- (g) every person who has notified the regional council of a proposal to operate a commercial public transport service in the region; and 25
- (h) the district health boards in the region; and
- (i) every affected approved public organisation in the region; and
- (j) the Accident Compensation Corporation; and 30
- (k) groups that the regional council has reasonable grounds to believe represent the transport disadvantaged; and
- (l) the New Zealand Railways Corporation.
- (3) If a regional council receives from the operator of a commercial public transport service a written submission on a draft plan, or a draft variation to a plan, that contains information that may, in the regional council's opinion, be withheld under section 7(2)(b) of the Local Government Official Information and Meetings Act 1987 or has been described as commercially 35

- sensitive by the operator, the regional council must not disclose information without the operator's consent except—
- (a) to the regional council's professional advisers; or
 - (b) to those persons and organisations engaged by the regional council to carry out public transport planning, contracting, or monitoring; or 5
 - (c) to the Agency, in accordance with **section 18A**; or
 - (d) in the case of the Auckland region, to the Auckland Regional Council, in accordance with **section 18A**; or
 - (e) subject to **subsection (4)**, in response to a request made under the Local Government Official Information and Meetings Act 1987; or 10
 - (f) where the submission was provided to the regional council 5 years or more before the date of the disclosure; or 15
 - (g) where—
 - (i) the operator of the commercial public transport service (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 persons. 20
- (4) If a regional council receives a request under the Local Government Official Information and Meetings Act 1987 to release any information described in **subsection (3)**,— 25
- (a) the regional council 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; and
 - (b) the person must, within 10 working days after receiving the notice, advise the regional council whether that person believes that the information should be withheld under section 7(2)(b) of that Act and give reasons for that belief; and 30
 - (c) the regional council 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 35

- any), the regional council cannot identify any reason that would permit it to refuse the request under that Act.
- (5) 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. 5
- (6) For the purposes of this section, Part 7 of the Local Government Official Information and Meetings Act 1987 applies to ARTA as if it were a local authority. 10
- (7) Except in the Auckland region, a regional council may carry out consultation on a proposal to adopt a regional public transport plan for the first time under this Act in conjunction with the relevant regional transport committee's consultation on its regional land transport programme or regional land transport strategy under the Land Transport Management Act 2003. 15
- (8) In the Auckland region, ARTA may carry out consultation on a proposal to adopt a regional public transport plan for the first time under this Act in conjunction with— 20
- (a) ARTA's consultation on its regional land transport programme under the Land Transport Management Act 2003;
- (b) the Auckland Regional Council's consultation on its long-term council community plan or its annual plan under the Local Government Act 2002. 25
- 18** **Currency and variation of regional public transport plans**
- (1) A regional public transport plan adopted under **section 9**—
- (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 30
- (b) may be reviewed by the regional council from time to time, but must be reviewed at the same time as, or as soon as practicable after, a GPS, relevant regional land transport strategy, regional land transport programme, or long-term council community plan is issued, approved, varied, or amended (as appropriate). 35

- (2) The purpose of a review of a regional public transport plan is to consider whether the plan continues to give effect to the public transport service components of the relevant regional land transport strategy, properly takes into account the GPS and the public transport funding likely to be available, and meets the needs of the community. 5
- (3) If the regional council is—
- (a) reasonably satisfied that the plan does the things specified in **subsection (2)**, it must give public notice of that decision: 10
- (b) not reasonably satisfied that the plan does the things 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 (including **sections 16 and 17**) apply with the necessary modifications to a variation or renewal of a regional public transport plan. 15
- (5) A variation forms part of the regional public transport plan it varies. 20
- (6) **Section 17(1) and (2)** do not apply in respect of a proposed variation to a regional public transport plan if the variation is not significant, in which case,—
- (a) consultation must be carried out in accordance with the consultation principles in section 82 of the Local Government Act 2002; and 25
- (b) for the purposes of that section, 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 commercial public transport service in the region. 30
- (7) **Subsection (6)** does not apply to a variation that would—
- (a) include or amend a control in a regional public transport plan; or 35
- (b) alter the policy that the regional council applies in determining whether a proposed variation to a regional public transport plan is significant.

- (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. 5

18A Provision of information

- (1) The Agency may require a regional council to provide it with information related to the preparation of a regional public transport plan that is necessary to enable the Agency to perform its functions under the Land Transport Management Act 2003, including information provided to the regional council under **section 13**. 10
- (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. 15
- (3) The Auckland Regional Council may require ARTA to provide it with any information (including information provided to ARTA under **section 13**) related to the preparation of ARTA's regional public transport plan that is necessary to enable the Auckland Regional Council to perform its functions of— 20
- (a) approving its regional land transport strategy; and
- (b) providing funds to ARTA for land transport purposes in the Auckland region under the Local Government (Auckland) Amendment Act 2004.
- (4) If the Auckland Regional Council requires ARTA to provide any information under **subsection (3)**, ARTA must provide the information as soon as is reasonably practicable. 25
- (5) If the Agency receives under **subsection (1)** information from a regional council that was provided by an operator of a commercial public transport service under **section 13 or 17** and the information 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 as commercially sensitive, the Agency must not disclose that information without the operator's consent except— 30
- (a) to the Agency's professional advisers; or
- (b) subject to **subsection (6)**, in response to a request made under the Official Information Act 1982; or 35

- (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 commercial public transport services (the **former operator**), no longer exists; and 5
- (ii) the former operator's public transport business has not been disposed of as a going concern to any other person. 10
- (6) If the Agency receives a request under the Official Information Act 1982 to release any information described in **subsection (5)**,—
- (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 15
- (b) the person must, within 10 working days after receiving the notice, advise the Agency whether that person believes that the information should be withheld under section 9(2)(b) of that Act and give reasons for that belief; and 20
- (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 that would permit it to refuse the request under that Act. 25
- (7) If the Auckland Regional Council receives under **subsection (3)** information from ARTA that was provided by an operator of a commercial public transport service under **section 13 or 17** and the information may, in the Auckland Regional Council's opinion, be withheld under section 7(2)(b) of the Local Government Official Information and Meetings Act 1987 or has been described by the operator as commercially sensitive, the Auckland Regional Council must not disclose the information without the operator's consent except— 30
- (a) to the Auckland Regional Council's professional advisers; or 35

- (b) subject to **subsection (8)**, in response to a request made under the Local Government Official Information and Meetings Act 1987; or
- (c) where the information received from ARTA was provided to ARTA 5 years or more before the date of the Auckland Regional Council's disclosure; or 5
- (d) where—
- (i) the operator of the commercial public transport service (the **former operator**) no longer exists; and 10
- (ii) the former operator's public transport business has not been disposed of as a going concern to any other person.
- (8) If the Auckland Regional Council receives a request under the Local Government Official Information and Meetings Act 1987 to release any information described in **subsection (7)**,— 15
- (a) the Auckland Regional Council must make all reasonable efforts to notify immediately the person who provided the information to ARTA that a request to release the information has been received by the Council; and 20
- (b) the person must, within 10 working days after receiving the notice, advise the Auckland Regional Council whether that person believes that the information should be withheld under section 7(2)(b) of that Act and give reasons for that belief; and 25
- (c) the Auckland Regional Council 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 Council cannot identify any reason that would permit it to refuse the request under that Act. 30

Incorporation by reference

19 Incorporation of documents by reference in regional public transport plans 35

- (1) The following written material may be incorporated by reference in a regional public transport plan:

- (a) standards, requirements, or recommended practices of international or national organisations:
- (b) standards, requirements, or recommended practices prescribed in any country or jurisdiction:
- (c) any other written material that deals with technical matters and is too large or impractical to include in, or print as part of, the plan. 5
- (2) Material may be incorporated by reference in a plan—
- (a) in whole or in part; and
- (b) with modifications or additions specified in the plan. 10
- (3) Material incorporated by reference in a plan has legal effect as part of the plan.
- ~~(4) A control may incorporate material by reference only if referring to or incorporating, in whole or in part, with or without modification, a standard, requirement, or rule (related to the subject matter of the control) of—~~ 15
- ~~(a) Standards New Zealand; or~~
- ~~(b) a comparable organisation in a jurisdiction other than New Zealand.~~
- 20 Effect of amendments to, or replacement of, material incorporated by reference in regional public transport plans** 20
- An amendment to, or replacement of, material incorporated by reference in a regional public transport plan has legal effect as part of the plan only if the plan is ~~amended~~ varied to state that the amendment or replacement has that effect. 25
- 21 Proof of material incorporated by reference**
- (1) A copy of material incorporated by reference in a regional public transport plan, including any amendment to, or replacement of, the material, must be— 30
- (a) certified by the chief executive or an authorised officer of the regional council as a correct copy of the material incorporated by reference; and
- (b) retained by the regional council.
- (2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient 35

evidence that the material is incorporated by reference in the regional public transport plan.

22 Effect of expiry of material incorporated by reference

Material incorporated by reference in a regional public transport plan and that expires, is revoked, or ceases to have effect, ceases to have legal effect as part of the plan only if the plan is ~~amended~~ varied to state that the material ceases to have effect. 5

23 Consultation on proposal to incorporate material by reference

(1) During consultation on a proposed regional public transport plan, the regional council— 10

(a) must make copies of any material proposed to be incorporated by reference in the plan (or the proposed amendment to, or replacement of, material incorporated by reference in the plan) available during working hours at the offices of the regional council for inspection by the public free of charge; and 15

(b) may make copies of the ~~proposed~~ material proposed to be incorporated by reference in the plan available in any way that the chief executive of the regional council considers appropriate in the circumstances (for example, on an Internet ~~website~~ site maintained by or on behalf of the regional council). 20

(2) The reference in **subsection (1)** to ~~the proposed~~ any material proposed to be incorporated by reference in a plan includes, if the material is not in an official New Zealand language, an accurate translation of that material in an official New Zealand language. 25

~~(3) A failure to comply with this clause does not invalidate a regional public transport plan that incorporates material by reference.~~ 30

(3) If the provision in a regional public transport plan that incorporates material by reference is a control, and that material was not readily available during consultation to the public from other sources, a failure to comply with this section invalidates that control; but any other failure to comply with this section does not invalidate all or part of a plan. 35

24 Access to material incorporated by reference

- (1) The regional council—
- (a) must make the material referred to in **subsection (2)** available for inspection during working hours at the offices of the regional council; and 5
 - (b) may make copies of the material available in any other way that the chief executive of the regional council considers appropriate in the circumstances (for example, on an Internet ~~website~~ site maintained by or on behalf of the regional council); and 10
 - (c) must state in the regional public transport plan—
 - (i) that the material is incorporated in the regional public transport plan; and
 - (ii) that the material is available for inspection during working hours free of charge and the place at which it can be inspected; and 15
 - (iii) if copies of the material are available under **paragraph (b)**, how and where the copies may be obtained or accessed.
- (2) The material referred to in **subclause (1)** is— 20
- (a) material incorporated by reference in the regional public transport plan;
 - (b) any amendment to, or replacement of, that material that is incorporated in the regional public transport plan or the material referred to in **paragraph (a)** with the amendments or replacement material incorporated: 25
 - (c) if the material referred to in **paragraph (a)** is not in an official New Zealand language, as well as the material itself, an accurate translation of that material in an official New Zealand language. 30

Subpart 2—Registration of public transport
services

Register of public transport services

25 Register of public transport services

- (1) A regional council must keep a current register of— 35
- (a) all commercial public transport services registered by it under this subpart; and

- (b) all public transport services contracted by it.
- (2) A regional council must record in the register—
- (a) the name of the operator of the public transport service; and
- (aa) 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 5
- (b) the contact details of the operator of the public transport service (including the operator’s business address, telephone number, fax number (if any), and email address (if any)); and 10
- (c) routes ~~or areas of operation~~ of the public transport service; and 15
- (d) timetables ~~or operating hours~~ of the public transport service; and
- (e) fares of the public transport service; and
- (f) the date the public transport service commenced; and
- (fa) the date the public transport service was registered; and 20
- (g) the intended duration of the public transport service (if applicable); and
- (h) the expiry date of any contract between the regional council and the operator of a public transport service under which a contracted public transport service is supplied. 25
- (3) The register may be kept in the manner that the regional council thinks fit, including, either wholly or partly, by means of a device or facility that—
- (a) records or stores information electronically or by other means; and 30
- (b) permits the information so recorded to be readily inspected or reproduced in usable form; and
- (c) permits the information in the register to be accessed by electronic means, including (without limitation) by means of remote logon access. 35

Compare: 1989 No 74 s 52(1)

26 Contents of register to be made available to public

A regional council that keeps a register of public transport services under this subpart must ensure that—

- (a) the information on the register is reasonably readily available for public inspection, free of charge, and during normal office hours; and 5
- (b) a copy of the information that is on the register can be made available for purchase by the public at a reasonable price. 10

Compare: 1989 No 74 s 53

Registration of commercial public transport services

27 All commercial public transport services must to be registered

- (1) No person may operate a commercial public transport service in a region unless, at the time it is ~~provided~~ operated, the service is registered with the regional council of that region. 15
- (2) **Subsection (1)** does not apply if the commercial public transport service does not pick up or drop off passengers in the region. 20
- (3) A commercial public transport service ~~may~~ must be registered whether or not it provides a service that is ~~proposed~~ described in a regional council's regional public transport plan as a public transport service that the regional council wants. 25

28 Notification of proposal to operate commercial public transport services

- (1) ~~In accordance with the applicable period referred to in subsection (3), a~~ A person who proposes to operate a commercial public transport service must ~~notify~~ , in accordance with the applicable period referred to in subsection (3), give written notice to every regional council in whose region the commercial public transport proposed service is to operate, of the details of that public transport proposed service, which must include— 30
 - (a) the name of the operator; and 35

- (aa) 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 5
- (b) the contact details of the operator (including the operator's business address, telephone number, fax number (if any), and email address (if any)); and
- (c) the proposed route or routes or areas of operation; and
- (d) the proposed timetables or operating hours; and 10
- (e) the proposed fares; and
- (f) the date that the public transport proposed service is intended to commence; and
- (g) the intended duration of the public transport proposed service; and 15
- (h) any other matters that ~~may be required by~~ the regional council requires to be notified.
- (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 20
- (b) relate to any number of commercial public transport services.
- (2A) 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 of the commercial public transport service. 25
- (3) For the purposes of **subsection (1), applicable period** means—
- (a) the period of notice for commencing the commercial public transport service that is specified in the relevant regional public transport plan; or 30
- (b) if the period of notice for commencing the commercial public transport service is not specified in the regional public transport plan, a period of notice that is not less than ~~21~~ 35 working days before the commercial public transport service is to start. 35

Compare: 1989 No 74 s 48(1), (3)

29 Grounds for declining to register commercial public transport services

A regional council may decline to register a commercial public transport service—

- (a) that is likely to have a material adverse effect on the financial viability of any contracted public transport service; or 5
- (b) that is likely to increase the net cost to the regional council of any contracted public transport service; or
- (c) that is contrary to sound traffic management or any environmental factor identified by the regional council as ~~being of importance~~ important to its region; or 10
- (d) if the regional council has reasonable grounds to believe that the commercial public transport service is unlikely to ~~meet~~ be operated in accordance with a control that will apply to the commercial public transport service; or 15
- (e) if—
 - (i) the service to be registered is ~~stated or~~ described in the regional public transport plan as a public transport service that the regional council ~~proposes to be provided~~ wants in its region; and 20
 - (ii) notification of the registration is submitted between the date on which the regional council resolves to tender the provision of the service as a contracted public transport service and the date on which the service commences as a contracted public transport service. 25

Compare: 1989 No 74 s 49(2)

30 Process for declining to register commercial public transport services 30

~~(1) A regional council may not decline to register a proposed commercial public transport service unless it has first—~~

- ~~(a) notified the operator of the service within 7 days of receiving a notice from the operator under **section 28** that it intends to decline the proposed service; and 35~~
- ~~(b) given the operator an opportunity to be heard within the next 7 days of receiving the notice.~~

- (2) If a regional council declines to register a proposed commercial public transport service under **section 29**, it must, within 7 days of completing a hearing under **subsection (1)** or within 21 days of receiving notice from the operator under **section 28**, give written notice of— 5
- (a) the decision to the operator; and
 - (b) the grounds for the decision; and
 - (c) the factors supporting those grounds.
- Compare: 1989 No 74 s 49(3)
- 31 Registration of commercial public transport services** 10
- (1) Within the applicable period referred to in **subsection (2)**, a regional council must register a commercial public transport service notified to it in accordance with **section 28** unless the regional council declines registration of the commercial public transport service under **section 29**: 15
- (2) For the purposes of **subsection (1)**, **applicable period** means a period of notice that is within 21 days of receiving the notice concerned.
- (3) The registration of a commercial public transport service under this section remains in force until the service is deregistered under **section 36(1)** or **39(5)**: 20
- Compare: 1989 No 74 s 49(1)
- 30 Process for declining to register commercial public transport services**
- (1) A regional council may not decline to register a proposed commercial public transport service unless it has first— 25
- (a) notified the operator of the proposed service within 15 working days of receiving a notice of the proposed service under **section 28(1)** of—
 - (i) its intention to decline to register the proposed service; and 30
 - (ii) the reasons for the intention to decline; and
 - (iii) the information relied upon in support of those reasons; and
 - (iv) the procedure to be followed in making a final decision; and 35

- (v) the operator's right under **section 41** to appeal a final decision; and
- (b) given the operator an opportunity to make written submissions and, if the operator wishes, be heard (either in person or by representative) within 5 working days of receiving the notice from the regional council (or such longer period as the regional council and operator may agree). 5
- (2) If a regional council declines to register a proposed commercial public transport service under **section 29**, it must, within 30 working days (or such longer period as the regional council and operator may agree) of receiving notice of the proposed service under **section 28(1)**, give written notice to the operator of— 10
- (a) the decision; and 15
- (b) the reasons for the decision; and
- (c) the information relied on in support of those reasons; and
- (d) the operator's right under **section 41** to appeal the decision. 20

Compare: 1989 No 74 s 49(3)

31 **Registration of commercial public transport services**

- (1) Within 30 working days (or such longer period as the regional council and operator may agree) of receiving a notice under **section 28(1)**, a regional council must register the commercial public transport service to which the notice relates unless the regional council declines registration of the service under **section 29**. 25
- (2) The registration of a commercial public transport service under this section remains in effect until the service is deregistered in accordance with **section 36(1) or 39(5)**. 30

Compare: 1989 No 74 s 49(1)

Registration of variation Variation to registered commercial public transport services

32 Notification of proposed variation to registered commercial public transport services

- (1) In accordance with the applicable period referred to in **sub-section (5)**, ~~a person~~ the operator of a registered commercial public transport service must notify every regional council in whose region ~~a commercial public transport service is registered~~ if the person proposes the variation will apply if it is proposed to vary the—
- (a) name of the operator of the registered commercial public transport service;
 - (aa) if the operator is a company that is not a listed company, the name of a 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);
 - (b) contact details of the operator of the registered commercial public transport service;
 - (c) route ~~or area~~ or routes of the ~~operator's~~ registered commercial public transport service;
 - (d) timetable for ~~or hours of operation of~~ the operator's registered commercial public transport service;
 - (e) fares of the ~~service~~ registered commercial public transport service;
 - (f) size of any vessels used in providing the registered commercial public transport service.
- (2) The notice must specify the—
- (a) date the registered commercial public transport service is to be varied; and
 - (b) intended duration of the variation.
- (3) With the consent of the regional council concerned, any notice required by this section to be given by any ~~person~~ operator may—
- (a) be given by an organisation on behalf of the ~~person~~ operator; and
 - (b) relate to any number of registered commercial public transport services.

- (4) 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 variation to the registered commercial public transport service. 5
- (5) For the purposes of **subsection (1)**, **applicable period** means—
- (a) the period of notice for varying the registered commercial public transport service that is specified in the relevant regional public transport plan; or 10
- (b) if the period of notice for varying the registered commercial public transport service is not specified in the regional public transport plan, a period of notice that is not less than ~~21~~ 35 working days before the variation to the registered commercial public transport service is to take effect. 15

Compare: 1989 No 74 s 50(1), (2)

33 Grounds for declining to ~~register variation to registered~~ vary registered commercial public transport services

- (1) A regional council may decline ~~to register~~ a variation to a registered commercial public transport service— 20
- (a) that is likely to have a material adverse effect on the financial viability of any contracted public transport service; or
- (b) that is likely to increase the net cost to the regional council of any contracted public transport service; or 25
- (c) that is contrary to sound traffic management or any environmental factor identified by the regional council as being ~~of importance~~ important to its region; or
- (d) if— 30
- (i) a public transport service is ~~stated or~~ described in the regional public transport plan as a public transport service that the regional council ~~proposes to be provided~~ wants in its region; and
- (ii) the effect of ~~registering~~ the variation would mean that all or part of the service would be provided as a commercial public transport service; and 35

- (iii) notification of the variation is submitted between the date on which the regional council resolves to tender the provision of the public transport service as a contracted public transport service and the date on which the service commences as a contracted public transport service; or 5
- (e) if the regional council has reasonable grounds to believe that operating the service in accordance with the variation to the registered commercial public transport would mean the service is unlikely to meet be operated in accordance with a control that will apply to it. 10
- (2) A regional council may not decline a variation to a registered commercial public transport service that is only a change of name, shareholder, or contact details of the operator.
- 34 Process for declining to register variation to registered commercial public transport services** 15
- ~~(1) A regional council may not decline to register a variation to a proposed commercial public transport service unless it has first—~~
- ~~(a) notified the operator of the service within 7 days of receiving notice from the operator under **section 32** that it intends to decline the variation; and~~ 20
- ~~(b) given the operator an opportunity to be heard within the next 7 days of receiving the notice.~~
- ~~(2) If a regional council declines to register a variation to a registered commercial public transport service under **section 33**; the regional council must, within 7 days of a hearing under **subsection (1)** or within 21 days of receiving notice from the operator under **section 32**; give written notice of—~~ 25
- ~~(a) the decision to the operator; and~~ 30
- ~~(b) the grounds for the decision; and~~
- ~~(c) the factors supporting those grounds.~~
- Compare: 1989 No 74 s 50(6)*
- 34 Process for declining variation to registered commercial public transport services** 35
- (1) A regional council may not decline a variation to a registered commercial public transport service unless it has first—

- (a) notified the operator of the registered commercial public transport service within 15 working days of receiving notice from that operator under **section 32** that—
- (i) it intends to decline the variation; and
 - (ii) the reasons for the intention to decline; and 5
 - (iii) the information relied upon in support of those reasons; and
 - (iv) the procedure to be followed in making a final decision; and
 - (v) the operator’s right under **section 41** to appeal a final decision; and 10
- (b) given the operator an opportunity to make written submissions and, if the operator wishes, be heard (either in person or by representative) within 5 working days of receiving the notice from the regional council (or such longer period as the regional council and operator may agree). 15
- (2) If a regional council declines a variation to a registered commercial public transport service under **section 33**, it must, within 30 working days (or such longer period as the regional council and operator may agree) of receiving notice from the operator of the service under **section 32**, give written notice to the operator of— 20
- (a) the decision; and
 - (b) the reasons for the decision; and 25
 - (c) the information relied on in support of those reasons; and
 - (d) the operator’s right under **section 41** to appeal the decision.
- Compare: 1989 No 74 s 50(6) 30
- 35 ~~Registration of variation~~ Variation to registered commercial public transport services**
- (1) A regional council must ~~register~~ record in the register the details of a variation to a registered commercial public transport service that has been notified to it ~~under~~ in accordance with **section 32**, and that has not been declined in accordance with **section 33**, on the later of— 35

- (a) ~~21~~ 30 working days (or such longer period as the council and operator may agree) after the date on which the notification of the proposed variation to the registered commercial public transport service was received by it, or on an earlier date that may be appropriate having regard to any waiver of or reduction in the period of notice ~~required~~ under **section 32(4)**; or 5
- (b) the date on which the operator of the registered commercial public transport service has specified that the service is to be varied. 10
- (2) If ~~registration of~~ a variation is required to enable a registered commercial public transport service to meet a control of the type described in **section 13(2)(b) 11(3)(c)**, the relevant regional council may require ~~a variation that~~ service as varied to commence on the date that the control applies to the service under **section 13(2) 11(3)(c)**. 15
- (3) However, if a variation is notified under **section 32**, nothing in this section requires a regional council to register the variation on a date that is later than the date that the control is to apply to the registered commercial public service under **section 13(2) 11(3)(c)**. 20
- (4) The details of a variation form part of the registration of the commercial public transport service that is varied.

Compare: 1989 No 74 s 50(4)

35A Procedure for consideration of information

If a notice is given to an operator under **section 30(1)(a) or 34(1)(a)**,—

- (a) it is the responsibility of the operator to ensure that all information that—
- (i) the operator wishes to have considered by the regional council in relation to its intended decision to decline registration or variation is received by the regional council within the period specified under **section 30(1)(b) or 34(1)(b)**, as the case may be; 30
- (ii) is requested by the regional council is received by the regional council within any reasonable period that the regional council specifies; 35

- (b) the regional council may, but is not obliged to, consider any information supplied by the operator after the expiry of the period referred to **paragraph (a)(i)**, other than information requested by the regional council and supplied by the operator within the period referred to in **paragraph (a)(ii)**: 5
- (c) the regional council must consider any information supplied in accordance with **paragraph (a)**.

Deregistration Monitoring and deregistration of commercial public transport services 10

35B **Monitoring**

- (1) A regional council, or a person authorised by the council for the purpose, may—
- (a) monitor, without notice, a commercial public transport service and any vehicle or other mode of transport used in the service, for compliance with any applicable control: 15
- (b) conduct interviews and passenger surveys for the purpose of monitoring compliance of a commercial public transport service with any control: 20
- (c) inspect the maintenance records held by an operator for vehicles or other modes of transport used in a commercial public transport service for the purpose of monitoring compliance with any control:
- (d) inspect the complaints register held by any operator of a commercial public transport service under the Land Transport Act 1998 for the purpose of monitoring compliance with any control. 25
- (2) An authorisation under **subsection (1)** must be in writing and must specify the functions and powers that the person has been authorised to exercise. 30
- (3) An authorised person must provide identification and evidence of the person's authorisation whenever reasonably required to do so by any person.
- (4) An authorised person may board any vehicle or other mode of transport used in a commercial public transport service to which a control applies for the purpose of carrying out and 35

- exercising the functions and powers that he or she is authorised to carry out and exercise.
- (5) The operator of any vehicle or other mode of transport used in a commercial public transport service must—
- (a) permit any authorised person to travel for free on the vehicle or other mode of transport for the purpose of performing the function for which he or she is authorised; and 5
- (b) permit an authorised person to inspect the operator’s complaints register held under the Land Transport Act 1998 and maintenance records for the purpose of monitoring compliance with any control. 10
- (6) In this section, **authorised person** means a person authorised by a regional council under **subsection (1)**.
- 36 Deregistration of commercial public transport services** 15
- (1) A regional council may, at any time, deregister all or part of a commercial public transport service from the register if the regional council is satisfied that the service—
- (a) does not meet the controls that—
- (i) are adopted under **section 42**; and 20
- (ii) are specified in the relevant regional public transport plan; and
- (iii) apply to the commercial public transport service from the date specified in **section 43**; or
- (b) has,— 25
- (i) in the case of a service registered before the commencement of this section, failed to commence operating within 90 days of the date that this section comes into force; or
- (ii) in the case of a service registered on or after the commencement of this section, failed to commence operating within 90 days of registration. 30
- (2) If the regional council determines to deregister a commercial public transport service, the regional council must give written notice of— 35
- (a) the decision to the operator; and
- (b) the grounds for the decision; and
- (c) the factors supporting those grounds; and

- (d) the date on which the deregistration takes effect (which may not be earlier than the date of notification):

37 Circumstances in which regional councils may not deregister commercial public transport services

- (1) A regional council may not deregister a commercial public transport service under **section 36** unless it has first—
- (a) notified the operator of the commercial public transport service of the intention to deregister, its reasons for deregistration, and the grounds in support of its reasons; and
 - (b) given the operator 20 working days within which to be heard:
- (2) A regional council may not deregister a commercial public transport service if the service fails to meet a control owing to—
- (a) obedience to orders or directions given by a lawful authority; or
 - (b) any action or omission necessary to save or prevent danger to human life; or
 - (c) *force majeure*; or
 - (d) compliance with a regulation made under **section 52(b)** that is inconsistent with a control adopted under **section 42**:

38 Regional councils may issue notices to comply

- (1) Despite **section 37**, a regional council may give an operator of a commercial public transport service written notice to comply with a control if the regional council has reasonable grounds to believe that the operator—
- (a) is failing to comply with a control that applies to the service;
 - (b) has failed to comply with a control that applies to the service, and that the failure is likely to recur:
- (2) The notice to comply—
- (a) must—
 - (i) state that the regional council believes that the operator to whom it relates is failing; or has failed

- and is likely to fail again; to comply with a control that applies to the service; and
- (ii) specify the—
- (A) relevant details of the control; and
 - (B) regional council's reasons for believing 5
that the operator is failing; or has failed
and is likely to fail again; to comply with
any control that applies to the service; and
 - (C) nature of the failure or likely failure; and
 - (D) day before which compliance must be 10
achieved.
- (b) may specify any steps that may be taken to ensure that
the service complies with a control that applies to the
service.
- (3) An operator to whom a notice to comply is given or posted 15
must comply with the notice.
- (4) A notice to comply may be—
- (a) given to the operator to whom or which it relates; or
 - (b) posted to the operator by registered post.
- (5) If, by the date specified in the notice, the operator is not complying 20
with the control, the regional council may apply to the
District Court for—
- (a) an order for specific performance; or
 - (b) an injunction restraining the operator's non-compliance 25
with the control; or
 - (c) relief by way of damages.
- (6) A document purporting to be a compliance notice must be received in evidence and; in the absence of proof to the contrary; be treated as a notice to comply; and in any proceedings the 30
production of a document purporting to be certified by or on
behalf of a regional council to be a true copy of the regional
council's notice to comply is, in the absence of proof to the
contrary, sufficient evidence of the notice.
- 36** **Deregistration of commercial public transport services**
and removing details of variations 35
- (1) A regional council may, at any time, deregister all or part of a
registered commercial public transport service if the regional
council is satisfied that the operator—

- (a) has persistently failed to operate the service, or part of the service, in accordance with an applicable control—
- (b) has,—
- (i) in the case of a commercial public transport service registered before the commencement of this section, failed to commence operating within 90 days of the date that this section comes into force; 5
- or
- (ii) in the case of a commercial public transport service registered on or after the commencement of this section, failed to commence operating within 90 days of registration. 10
- (2) A regional council may, at any time, remove the details of a variation to a registered commercial public transport service from the register, if the regional council is satisfied that the service has— 15
- (a) in the case of a variation recorded by the regional council before the commencement of this section, failed to commence operating in accordance with the variation within 90 days of the date that this section comes into force; or 20
- (b) in the case of a variation recorded by the regional council on or after the commencement of this section, failed to commence operating in accordance with the variation within 90 days of the regional council recording the details of the variation in the register. 25
- (3) A regional council may not deregister all or part of a commercial public transport service under **subsection (1)(a)** if the reason the operator has failed to operate the service in accordance with a control is due to— 30
- (a) obedience to orders or directions given by a lawful authority; or
- (b) any action or omission necessary to save or prevent danger to human life; or
- (c) *force majeure*. 35
- (4) For the purposes of **subsection (1)(a)**, the making by a District Court of 2 or more orders requiring a particular operator to operate a commercial public transport service in accordance with a control is, in the absence of special reasons to the con-

trary, sufficient evidence of a persistent failure to operate that service in accordance with the control.

37 Process for deregistering commercial public transport services or removing details of variations

- (1) A regional council may not deregister all or part of a registered commercial public transport service or remove the details of a variation to a registered commercial public transport service from the register under **section 36** unless it has first— 5
- (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— 10
- (i) the reasons for its intention; and
- (ii) the information relied upon in support of those reasons; and
- (iii) the procedure to be followed in making a final decision; and 15
- (iv) the operator’s right under **section 41** to appeal a final decision; and
- (b) given the operator the opportunity to make written submissions and, if the operator wishes, be heard within 30 working days of receiving the notice from the regional council (or such longer period as the regional council and operator may agree). 20
- (2) If the operator requests a hearing, the regional council must— 25
- (a) appoint a time and place for the hearing and give reasonable notice of this to the operator; and
- (b) hear the matter in public, unless permitted to do otherwise by the Local Government Official Information and Meetings Act 1987; and
- (c) establish a procedure for hearing the matter that is appropriate and fair in the circumstances. 30
- (3) In determining an appropriate procedure for a hearing, the regional council must—
- (a) avoid any unnecessary formality; and
- (b) not permit anyone other than the chairperson or a member of the regional council to question the operator; and 35
- (c) permit the operator to be heard (either in person or by a representative) and submit evidence; and

- (d) permit an officer of the council to present advice and reports; and
- (e) not permit any other person to be heard at the hearing.
- (4) If the regional council makes a final decision to deregister a commercial public transport service or remove from the register the details of a variation to a registered commercial public transport service, the regional council must give written notice of— 5
- (a) the decision to the operator; and
- (b) the reasons for the decision; and 10
- (c) the information relied upon in support of those reasons; and
- (d) 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 15
- (e) the operator’s right under **section 41** to appeal the decision.
- 38** **Regional councils may issue notices to comply**
- (1) Despite **section 36**, a regional council may give an operator of a commercial public transport service written notice to operate the service in accordance with a control that applies to it if the regional council has reasonable grounds to believe that the operator is failing or has failed to operate the service in accordance with the control. 20
- (2) A notice to comply under **subsection (1)**— 25
- (a) must—
- (i) state that the regional council believes that the operator to whom it relates is failing or has failed to operate the commercial public transport service in accordance with a control that applies to the service; and 30
- (ii) specify the—
- (A) relevant details of the control; and
- (B) regional council’s reasons for believing that the operator is failing or has failed to operate the commercial public transport service in accordance with the control; and 35

- (C) date by which the service must be operated in accordance with the control or the period within which the failure to do so must not recur, as the case may be; and
- (iii) state that the regional council may apply to the District Court for an order under **section 38A**, if the notice is not complied with; and 5
- (iv) be signed by the chief executive or an authorised officer of the regional council:
- (b) may specify any steps that may be taken to ensure that the service is operated in accordance with the control or to ensure that the failure to do so does not recur, as the case may be. 10
- (3) A regional council may give an operator of a commercial public transport service written notice to comply with **section 35B(5)** if the regional council has reasonable grounds to believe that the operator is failing to comply with that subsection. 15
- (4) A notice to comply under **subsection (3)**—
- (a) must—
- (i) state that the regional council believes that the operator to whom it relates is failing to comply with **section 35B(5)**; and 20
- (ii) specify the—
- (A) relevant details of the subsection; and
- (B) regional council’s reasons for believing that the operator is failing to comply with that subsection; and 25
- (C) date by which, or the period during which, the operator must comply with that subsection; and 30
- (iii) state that the regional council may apply to the District Court for an order under **section 38A**, if the notice is not complied with; and
- (iv) be signed by the chief executive or an authorised officer of the regional council: 35
- (b) may specify any steps that may be taken to ensure that the operator complies with that section.
- (5) A regional council may give an operator of a commercial public transport service written notice to comply with **section**

- 13(1)** if the regional council has reasonable grounds to believe that the operator holds information that the regional council has required and is failing to comply with that subsection.
- (6) A notice to comply under **subsection (5)**—
- (a) must— 5
- (i) state that the regional council believes that the operator holds information that the regional council has required under **section 13(1)** and is failing to comply with that subsection; and
- (ii) specify the— 10
- (A) relevant details of the subsection; and
- (B) regional council’s reasons for believing that the operator holds information that the regional council has required under **section 13(1)** and is failing to comply with that subsection; and 15
- (C) date by which the operator must comply with that subsection; and
- (iii) state that the regional council may apply to the District Court for an order under **section 38A**, if the notice is not complied with; and 20
- (iv) be signed by the chief executive or an authorised officer of the regional council;
- (b) may specify any steps that may be taken to ensure that the operator complies with that subsection. 25
- (7) An operator to whom a notice to comply is given under this section must comply with the notice.
- (8) A notice to comply may be given to an operator by being—
- (a) handed to the operator; or
- (b) posted to the operator by registered post. 30
- 38A** **Court orders requiring compliance**
- (1) A regional council may apply to the District Court for an order requiring the operator to operate the service in accordance with a control, or restraining the operator from engaging in conduct that would constitute a failure to operate the service in accordance with a control, if— 35

- (a) by the date specified in a notice to comply under **section 38(1)**, the operator is not operating the service in accordance with a control; or
- (b) a failure to operate a service in accordance with a control has recurred within the period specified in a notice to comply under that subsection. 5
- (2) An application by the regional council under **subsection (1)** must—
- (a) state the regional council’s reasons for believing that—
- (i) by the date specified in the notice to comply the operator was failing to operate the service in accordance with the control; or 10
- (ii) within the period specified in the notice the operator’s failure to operate the service in accordance with the control had recurred; and 15
- (b) describe the extent and frequency of the failure; and
- (c) be accompanied by a true copy of the notice, signed by the chief executive or an authorised officer of the regional council.
- (3) If, by the date specified in a notice to comply under **section 38(3)**, the operator is not complying with **section 35B(5)**, the regional council may apply to the District Court for an order requiring the operator to comply with **section 35B(5)**. 20
- (4) An application by the regional council under **subsection (3)** must— 25
- (a) state the regional council’s reasons for believing that by the date specified in the notice to comply the operator had failed to comply with **section 35B(5)**; and
- (b) describe the extent and frequency of the failure; and
- (c) be accompanied by a true copy of the notice, signed by the chief executive or an authorised officer of the regional council. 30
- (5) If, by the date specified in a notice to comply under **section 38(5)**, the operator is not complying with **section 13(1)**, the regional council may apply to the District Court for an order requiring the operator to comply with **section 13(1)**. 35
- (6) An application by the regional council under **subsection (5)** must—

- (a) state the regional council's reasons for believing that by the date specified in the notice to comply the operator held information that the regional council had required under **section 13(1)** and had failed to comply with **section 13(1)**; and 5
- (b) describe the extent and frequency of the failure; and
- (c) be accompanied by a true copy of the notice to comply signed by the chief executive or an authorised officer of the regional council.
- (7) The regional council must serve a copy of the application on the operator, who is entitled to be heard (either in person or by representative) and submit evidence at the hearing of the application. 10
- (8) The District Court may make an order under **subsection (1) or (3)** if it is satisfied that the notice under **section 38** has been validly given and the operator has failed to comply with it. 15
- (9) The District Court may make an order under **subsection (5)** if it is satisfied that the operator holds the information required by the regional council under **clause 13(1)**, the notice under **section 38** has been validly given, and the operator has failed to comply with it. 20
- (10) The production in proceedings of a notice to comply purporting to have been given under **section 38** or of a copy of a notice to comply purporting to have been certified by the chief executive or an authorised officer of the regional council is, in the absence of evidence to the contrary, sufficient evidence of the notice. 25
- 39 Withdrawal of commercial public transport services**
- (1) In accordance with the applicable period referred to in **subsection (4)**, the operator of a registered commercial public transport service who proposes to withdraw from providing ~~all or part of~~ that service must notify the regional council in whose region the commercial public transport service is registered of that proposal. 30 35
- (2) The operator of a registered commercial public transport service may not withdraw ~~all or part of~~ the service before the

- expiry of the minimum period of operation specified by any control in the regional public transport plan.
- (3) The regional council may reduce or waive the period of notice required by **subsection (1)**, or the minimum period of operation required under **subsection (2)**, if it is satisfied that the public would not be unreasonably disadvantaged by the earlier withdrawal of the registered commercial public transport service. 5
- (4) For the purposes of **subsection (1)**, but subject to **subsection (3)**, **applicable period** means— 10
- (a) the period of notice for withdrawing a registered commercial public transport service that is specified in the relevant regional public transport plan; or
- (b) if the period of notice for withdrawing a registered commercial public transport service is not specified in the regional public transport plan, a period of notice that is not less than ~~21 days~~ 15 working days before the registered commercial public transport service is to cease. 15
- (5) The regional council with which the commercial public transport service is registered must deregister the service on the later of— 20
- (a) ~~21 days~~ 15 working days after the date on which the notification of the proposed withdrawal from providing the registered commercial public transport service was received by it, or on an earlier date that may be appropriate having regard to any waiver of or reduction in the period of notice required under **subsection (3)**; or 25
- (b) the date on which the operator of the registered commercial public transport service has specified that the service is to be withdrawn. 30

Compare: 1989 No 74 s 50

Subpart 3—Miscellaneous

Notices

40 Notices

- ~~(1) Except as otherwise specified in this Act or in regulations, if a notice or other document is to be given, served on, or provided to a person under this Act, that notice or document may be—~~ 35

- (a) given to that person personally; or
- (b) sent by registered post to that person at that person's usual or last known place of business or residence; or
- (c) given personally to any other person authorised to act on behalf of that person; or 5
- (d) sent by registered post to that other person at that other person's usual or last known place of business or residence; or
- (e) except in the case of a notice or other document to be given or served in the course of, or for the purpose of, any court proceedings for an offence against this Act or an appeal under this Act, sent by post to that person, or any other person authorised to act on that person's behalf, at that person's or other person's usual or last known place of business or residence. 10 15
- (2) A notice or other document sent by post or registered post is deemed to have been given, served, or received 7 days after the date on which it was posted, unless the person to whom it was posted proves that, otherwise than through that person's fault, the notice or other document was not received. 20
- Compare: 1989 No 74 s 61

40 Notices

- (1) Except as otherwise specified in this Act or in regulations made under it, if a notice or other document is to be given, served on, or provided to a person under this Act, that notice or document may be given, served, or provided by— 25
- (a) personal delivery to an addressee that is not a corporate body; and to a corporate body, if the personal delivery is made to the addressee's office during working hours; 30
- or
- (b) sending it by fax machine to a telephone number used by the person for the transmission of documents by fax;
- or
- (c) an electronic means of communication to the addressee, if the chief executive of the regional council complies with the Electronic Transactions Act 2002; or 35
- (d) post or registered post to the street address of the addressee's usual or last known place of business or resi-

dence; or to any other address, if the addressee has notified the chief executive that they accept notices at that address.

- (2) Unless the person to whom a notice or other document is sent proves that, otherwise than through that person's fault, the notice or other document was not received, the notice or other document sent by—
- (a) personal delivery is to be treated as having been given, served, or received on the day of delivery:
 - (b) fax machine is to be treated as having been given, served, or received on the working day immediately following the date on which it was faxed:
 - (c) electronic means is to be treated as having been given, served, or received on the working day immediately following the date on which it was transmitted:
 - (d) post or registered post is to be treated as having been given, served, or received 5 working days after the date on which it was posted.

Appeals to Environment Court

- 40A** Appeals in respect of controls
- An operator of an existing commercial service to which a control specified in a regional public transport plan will apply may appeal to the Environment Court against the control on any of the following grounds:
- (a) the regional council has not properly considered the impact of the control on existing commercial services in the region and the operators of those services:
 - (b) the control is not consistent with the purpose of the plan after taking into account the matters referred to in **section 16**:
 - (c) the control does not contribute to the implementation of the policies in the plan:
 - (d) the policy that the control is intended to help implement can be more effectively implemented in another way:
 - (e) the regional council has not complied with **section 12(7)**:
 - (f) the control does not comply with **section 12 or 13** or any other provision of this Act.

40B Procedure for appeals to Environment Court

- (1) An operator of an existing commercial service who wishes to appeal against a control must lodge a notice of appeal with the Environment Court within 15 working days of receiving notice of the adoption, and a copy of the plan under **section 11(1)(b)**, or a longer time that the court allows. 5
- (2) An operator of an existing commercial service who lodges a notice of appeal with the Environment Court under **subsection (1)** must serve a copy of the notice on the regional council and every other operator of an existing commercial service in the region within 5 working days after the appeal is lodged. 10
- (3) The court must hear the appeal on the merits of the case and do any 1 or more of the following:
- (a) dismiss the appeal;
 - (b) modify the plan in order to remove, or modify the provisions of the plan relating to, the control; 15
 - (c) insert or modify transitional arrangements in order to alleviate any material adverse effects of the control on any operator of an existing commercial service.
- (4) The court may not modify a plan or transitional arrangements, if the effect of the modification is to impose an additional obligation upon the regional council or any other person, unless the regional council or other person consents to that modification. 20
- (5) 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 **section 40A** or this section with all necessary modifications. 25

*Appeals to District Court***41 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 a commercial public transport service that is the subject of the decision. 30
- (2) ~~If an appeal is made under **subsection (1)**, the District Court must determine whether the person has complied with the relevant control regardless of its validity.~~ 35

- (2) If an adverse decision is appealed under **subsection (1)**, the District Court must determine whether the commercial public transport service has been, or is likely to be, operated in accordance with a control if this is the matter at issue in the decision appealed against, regardless of the control's validity. 5
- (3) Nothing in this section affects the person's right to apply, in accordance with the law, for judicial review of the validity of a control.
- (4) For the purposes of **subsection (1)**, **adverse decision** means a decision of a regional council to— 10
- (a) decline to register a commercial public transport service under **subpart 2 section 29**; or
 - (b) decline to ~~register a variation to~~ vary a registered commercial public transport service under **subpart 2 section 33**; or 15
 - (c) deregister a registered commercial public transport service under **subpart 2 section 36**; or
 - (d) remove the details of a variation to a registered commercial public transport service from the register under **section 36**. 20

Compare: 1989 No 74 s 59

42 Procedure for appeals to District Court

- (1) An appeal under **section 41** must be brought, ~~by way of an originating application~~ in accordance with the procedure under Part 9 of the District Court Rules 1992, no later than ~~28~~ 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
- (2) When considering an appeal under **section 41**,— 30
- (a) a District Court may hear all evidence tendered and representations made by, or on behalf of, any party to the appeal that the ~~Court~~ considers relevant to the appeal, whether or not that evidence would be otherwise admissible in the court; and
 - (b) the ~~Court~~ court may— 35
 - (i) confirm, reverse, or modify the decision appealed against, and make the orders and give the direc-

- tions to the regional council that may be necessary to give effect to the court's decision; or
- (ii) refer the matter back to the regional council with directions to reconsider the whole or any part of the matter; and 5
- (c) subject to this section, an appeal must be made and determined in accordance with the District Courts Act 1947 and the rules of the District Court made under that Act.
- (3) Subject to **sections 44 and 45**, the decision of the District Court on an appeal under **section 41** is final. 10
Compare: 1989 No 74 s 59
- 43 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 41, 44, or 45** 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. 15
- (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. 20
- 44 Appeals to High Court on questions of law**
- (1) A party to an appeal under **section 41** 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. 25
- (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. 30
Compare: 1989 No 74 s 60
- 45 Further appeals to Court of Appeal**
- (1) A party to an appeal under **section 44** who is dissatisfied with the decision of the High Court in respect of the appeal may, 35

- with the leave of the High Court or (if that leave is declined) with special leave of the Court of Appeal, appeal to the Court of Appeal on that question of law.
- (2) The Court of Appeal may make any order or determination that it thinks fit in relation to the appeal. 5
- ~~(3) The decision of the Court of Appeal on an appeal or any application for leave to appeal is final.~~
- (4) Except as provided in this section, the procedures 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. 10

Offences

46 Operating unregistered commercial public transport services

A person who operates, within any region, a commercial public transport service that is required under **section 27** to be registered but is not registered within 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 20
- (b) \$60,000, in the case of a second or subsequent offence against this section.

Compare: 1989 No 74 s 51(a)

47 Varying registered commercial public transport services without giving notice required by section 32 25

An operator of a registered commercial public transport service commits an offence and is liable on summary conviction to a fine not exceeding \$30,000 if the operator, without reasonable excuse,— 30

- (a) fails to comply with the notice requirement in **section 32**; and
- (b) varies the— 35
- (i) ~~name of the operator or the service;~~
- (ii) ~~contact details of the operator.~~

- (iii) route or ~~area routes~~ of the registered commercial public transport service:
- (iv) timetable for ~~or hours of operation of the operator's~~ registered commercial public transport service:
- (v) fares of the registered commercial public transport service.

5

Compare: 1989 No 74 s 51(b)

48 Withdrawing registered commercial public transport services without giving notice required by section 39

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- (1) An operator of a registered commercial public transport service who, without reasonable excuse, withdraws that service ~~or part of that service~~ without complying with the notice requirement in **section 39** commits an offence and is liable on summary conviction to a fine not exceeding \$30,000.

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- (2) Without limiting the meaning of reasonable excuse, **subsection (1)** does not apply if the withdrawal is necessary to comply with an obligation under another Act.

Compare: 1989 No 74 s 51(b)

49 Withdrawing registered commercial public transport services before expiry of minimum duration specified in regional public transport plans

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- (1) An operator of a registered commercial public transport service who, without reasonable excuse, withdraws that service ~~or part of that service~~ before the expiry of the minimum period for the operation of a commercial public transport service specified by a control in the regional public transport plan commits an offence and is liable on summary conviction to a fine not exceeding \$30,000.

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- (2) Without limiting the meaning of reasonable excuse, **subsection (1)** does not apply where the withdrawal is necessary to comply with an obligation under another Act.

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50 Failure to comply with section 25

~~A regional council that fails to comply with section 25 commits an offence and is liable on summary conviction to a fine not exceeding \$3,000.~~

~~Compare: 1989 No 74 s 52(2)~~

5

51 Power to inspect records

(1) For the purpose of ascertaining whether the provisions of this Act have been or are being complied with by any person to whom this Act applies, any enforcement officer may require that person to produce for inspection any documents, books, or records in that person's possession or over which that person has control, including (but not limited to) logbooks, records associated with logbooks, financial records relating to revenue or expenditure, vehicle maintenance records, and driver roster and time records.

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(2) The enforcement officer may take extracts from or make copies of any books or records so produced.

Compare: 1989 No 74 s 63A

*Regulations***52 Regulations**

20

The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations—

(a) specifying—

(i) a service as a public transport service:

(ii) a service, or class of service, as an exempt commercial public transport service:

25

~~(b) specifying—~~

~~(i) additional controls that a regional council may adopt for the purposes of its regional public transport plan:~~

30

~~(ii) any limits to, or conditions on, a control specified under section 42 or subparagraph (i):~~

~~(c) suspending the application of a control specified under section 42 or paragraph (b)(i):~~

(b) specifying additional controls that a regional council may include in its regional public transport plan if, in the opinion of the Minister,—

35

- (i) the additional controls will enable regional councils to implement the policies in their plans and are consistent with the purpose of those plans as set out in **section 7**; and
- (ii) the policies cannot be implemented effectively in any other way (including by applying existing controls): 5
- (c) specifying, for the purpose of assisting regional councils to plan and monitor public transport services, types of information held by the operator that a regional council may require an operator to provide to it: 10
- (d) providing for any matters that are contemplated by, or necessary for giving full effect to, the provisions of this Act or for its due administration.

Repeals and consequential amendments 15

53 Repeals and consequential amendments

- (1) The Transport Services Licensing Act 1989 (1989 No 74) is repealed.
- (2) The Acts set out in **Schedule 1** are consequentially amended in the manner specified in that schedule. 20
- (3) The Land Transport Rule: Operator Licensing 2007 (81001) is consequentially amended in the manner specified in **Schedule 2**.

Transitional and savings provisions

54 Transitional provision for existing registered ~~commercial~~ public transport services 25

- (†) ~~A passenger service, or any part of a passenger service that is registered under section 49 of the Transport Services Licensing Act 1989 is to be treated as a registered commercial public transport service under this Act.~~ 30
- (1) A passenger service (or any part of a passenger service) that, before the commencement of this Act, was not a contracted service under Part 2 of the Transport Services Licensing Act 1989 but was registered under section 49 of the Transport Services Licensing Act 1989 is to be treated as a registered commercial public transport service under this Act. 35

- (2) **Subsection (1)** does not apply to the following services:
- (a) taxi services; and
 - (b) shuttle services; and
 - (c) private hire services.
- (3) A passenger service that, before the commencement of this Act, was a contracted service under Part 2 of the Transport Services Licensing Act 1989, and a registered service under that Act, is to be treated as a contracted public transport service that is a registered service under this Act. 5
- (4) For the purposes of this section, **passenger service** means a passenger service as defined in section 47 of the Transport Services Licensing Act 1989, as if that Act were still in force. 10
- 55 Transitional provision for notifications received but not processed before commencement of Act**
- A notification received under the Transport Services Licensing Act 1989 but not processed before the commencement of this Act is to be treated as a notification received under **section 28, 32, or 39**, as the case may require. 15
- 56 Transitional provision for existing regional passenger transport plans** 20
- (1) ~~When~~ Except in the Auckland region, when a regional council ~~renews~~ approves a regional land transport strategy for the first time after the commencement of this Act, the regional council must, as soon as is reasonably practicable, adopt a regional public transport plan under **section 9**. 25
- (1A) In the Auckland region, when the Auckland Regional Council approves Auckland's regional land transport strategy for the first time after the commencement of this Act, ARTA must, as soon as is reasonably practicable, adopt a regional public transport plan under **section 9**. 30
- (2) A regional passenger transport plan prepared by a regional council under the Transport Services Licensing Act 1989 expires when the regional council adopts a regional public transport plan in accordance with **subsection (1) or (1A)** or 3 years after the commencement of this Act, whichever is earlier. 35

- (3) Subject to ~~subsection (4)~~ **subsection (3A) or (4)**, until a regional council adopts a regional public transport plan in accordance with **subsection (1) or (1A)**, the regional council's regional passenger transport plan prepared under the Transport Services Licensing Act 1989 remains in effect as if that Act (immediately before the commencement of this Act) was still in force. 5
- (3A) If a regional passenger transport plan remains in effect under **subsection (3)**, a regional council may not vary the plan to include a control under **section 12**. 10
- ~~(4)~~ ~~If a regional passenger transport plan continues in effect under **subsection (3)** and it is included in a regional land transport strategy under section 175(2)(k) of the Land Transport Act 1998, then—~~
- ~~(a)~~ ~~the following provisions continue to apply as if section 175(2)(k) of the Land Transport Act 1998 were not repealed under **section 53(2)**:~~ 15
- ~~(i)~~ ~~sections 181 and 182 of the Land Transport Act 1998; and~~
- ~~(ii)~~ ~~sections 12(5) and (6)(b), 12A(6), and 19(4) of the Land Transport Management Act 2003; and~~ 20
- ~~(b)~~ ~~the regional council may not adopt a control under **section 12**:~~
- (4) Sections 14(a)(iii)(B), 18J(2)(c)(ii), 19B(b)(ii), 20(3)(c), 48(1)(c)(i), 58(1)(c), 65J(b)(iii), 82, 105(13) of the Land Transport Management Act 2003 apply as if section 77(h) of that Act were not repealed under **section 53(2)** if a regional passenger transport plan (other than a plan that relates to the Auckland region) continues in effect under **subsection (3)** and— 25
- (a) is or, immediately before the commencement of this Act, was contained in a regional land transport strategy that has been approved or continued in accordance with the Land Transport Management Act 2003; or 30
- (b) would have been required to be contained in a regional land transport strategy but for the repeal of section 77(h) of the Land Transport Management Act 2003. 35
- ~~(5)~~ ~~Despite the repeal of section 175(2)(k) of the Land Transport Act 1998 under **section 53(2)**, a regional land transport strat-~~

egy is to be treated as including the relevant regional public transport plan for the purposes of the following provisions:

- (a) sections ~~181~~ and ~~182~~ of the Land Transport Act 1998; and
- (b) sections ~~12(5)~~ and ~~(6)(b)~~; ~~12A(6)~~; and ~~19(4)~~ of the Land Transport Management Act 2003. 5

57 Transitional provision for existing contracted services

A contracted service given effect under Part 2 of the Transport Services Licensing Act 1989 is to be treated as a contracted public transport service given effect under this Act. 10

58 Transitional provisions for register of services

- (1) Subject to **subsection (2)**, the register of services established under Part 2 of the Transport Services Licensing Act 1989 is to be treated as the register of services established under this Act. 15
 - (2) All entries in the register of services established under Part 2 of the Transport Services Licensing Act 1989 in relation to taxi services, shuttle services, and private hire services are to be treated as expunged and deleted.
-

Schedule 1

s 53(2)

Acts consequentially amended

Employment Relations Act 2000 (2000 No 24)

Section 93(5): omit “Transport Services Licensing Act 1989 (not including any service specified as an exempt service in Part 1 of Schedule 1 of that Act or in regulations referred to in that Part)” and substitute “Land Transport Act 1998”. 5

Foreshore and Seabed Act 2004 (2004 No 93)

Paragraph (b)(v) of the definition of **contiguous land** in section 32(6): omit “2(1) of the Transport Services Licensing Act 1989” and substitute “4(1) of the Railways Act 2005”. 10

Land Transport Act 1998 (1998 No 110)

Section 2(1): insert in its appropriate alphabetical order:

“**commercial public transport service** has the same meaning as in **section 4 of the Public Transport Management Act 2007**”. 15

Definition of **land transport documents** in section 2(1): omit “the Transport Services Licensing Act 1989.”.

Paragraph (b) of the definition of **traction engine** in section 2(1): repeal and substitute: 20

“(b) is not a rail vehicle within the meaning of section 4(1) of the Railways Act 2005; and”.

Section 79M(1): insert “or public transport service” after “passenger service”. 25

Section 79M: add:

“(3) For the purposes of this section, **public transport service** has the same meaning as in **section 4 of the Public Transport Management Act 2007**.”

~~Section 113(1)(a): omit “the Transport Services Licensing Act 1989.”.~~ 30

Section 113(1)(a): omit “Transport Services Licensing Act 1989” and substitute “**Public Transport Management Act 2007**”.

~~Section 168(1)(a): omit “the Transport Services Licensing Act 1989.”.~~ 35

Land Transport Act 1998 (1998 No 110)—continued

Section 168(1): add:

- “(c) ~~to prescribe fees~~ to meet, or assist in meeting, the costs incurred by a regional council in processing notifications of the commencement, variation, or withdrawal of commercial public transport services under the **Public Transport Management Act 2007**.” 5

~~Section 175(2)(k): repeal.~~

~~Section 176(2): omit “or to include a regional passenger transport plan (within the meaning of section 47 of the Transport Services Licensing Act 1989) that has been prepared by it since the preparation of the strategy”.~~ 10

Section 208(1): omit paragraph (a) and substitute the following paragraph:

- “(a) an enforcement officer for the purposes of—
 “(i) this Act; 15
 “(ii) Part 2 of the Land Transport Management Act 2003;
 “(iii) the **Public Transport Management Act 2007**;
 or”

Section 208(3): omit paragraph (a) and substitute the following paragraph: 20

- “(a) an enforcement officer for the purposes of—
 “(i) any of Parts 4A, 4B, 6A, and 6B, including any rules or regulations made in relation to transport services, or sections 22B, 22C, 36B, 113(2)(f), 113A, 115, 118(6), 124, 128A, 128B, 135(1A), 138, and 139; 25
 “(ii) the **Public Transport Management Act 2007**;
 or”

~~Section 218(4): omit “the Transport Services Licensing Act 1989”.~~ 30

Land Transport Amendment Act 2005 (2005 No 77)

New section 79M(1) in section 38: omit “passenger” and substitute “public transport”.

Land Transport Amendment Act 2005 (2005 No 77)—continued

New section 79M in section 38: add:

“(3) For the purposes of this section, **public transport service** has the same meaning as in section 5 of the Land Transport Management Act 2003.”

Land Transport Management Act 2003 (2003 No 118) 5

Definition of **public transport service** in section 5: repeal and substitute:

“public transport service—

“(a) means the carriage of passengers for hire or reward by means of— 10

“(i) a large passenger service vehicle; or

“(ii) a small passenger service vehicle; or

“(iii) a harbour ferry; or

“(iv) a hovercraft; or

“(v) a passenger rail service vehicle; or 15

“(vi) a monorail; or

“(vii) a tramway; or

“(viii) a vehicle within the definition of rail vehicle in section 4(1) of the Railways Act 2005; or

“(ix) any other vehicle, boat, craft, or other mode of transport available to the public generally; but 20

“(b) excludes air transport

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

“(a) a large passenger service vehicle as defined in section 2(1) of the Land Transport Act 1998; or 25

“(b) a small passenger service vehicle as defined in section 2(1) of the Land Transport Act 1998; or

“(c) a ferry; or

“(d) a rail vehicle as defined in section 4(1) of the Railways Act 2005; or 30

“(e) a hovercraft; or

“(f) any other mode of transport (other than air transport) available to the public generally”.

Land Transport Management Act 2003 (2003 No 118)—continued

Section 5: insert in its appropriate alphabetical order:

“regional public transport plan has the same meaning as in **section 4 of the Public Transport Management Act 2007**”.

Definition of **registered service** in section 5: repeal and substitute: 5

“registered service has the same meaning as in **section 4 of the Public Transport Management Act 2007**”.

Section 14(b)(iv): repeal and substitute:

“(iv) relevant regional public transport plan; and

“(v) likely funding from any source.” 10

Section 15(c)(iv): repeal and substitute:

“(iv) relevant regional public transport plan; and

“(v) likely funding from any source.”

Section 18G(2)(c)(iv): add “; and”.

Section 18G(2)(c): add the following subparagraph: 15

“(v) relevant regional public transport plan.”

Section 19B(b)(iv): add “; and”.

Section 19B(b): add the following subparagraph:

“(vi) relevant regional public transport plan.”

Section 20(3)(e): add “; and”. 20

Section 20(3): add the following subparagraph:

“(f) any relevant regional public transport plan.”

Section 26E: omit “6-month” and substitute “12-month”.

Section 48(1)(c): insert “relevant regional public transport plans, ”
after “strategies,”. 25

Section 58(1)(c): insert “relevant regional public transport plan, ”
after “relevant regional land transport strategy,”.

Section 65J(b)(iv): repeal and substitute:

“(iv) any relevant regional public transport plans;

“(v) the consultation undertaken under section 65H;
and” 30

Section 69(1): insert after paragraph (o):

“(oa) to issue guidelines for, and monitor the development of,
regional public transport plans.”.

Section 77(h): repeal. 35

Land Transport Management Act 2003 (2003 No 118)—continued

Section 82(1): insert “and any relevant regional public transport plans” after “strategies”.

Section 82(2): insert “and any relevant regional public transport plans” after “strategies”.

Section 82(3): insert “and any relevant regional public transport plans” after “strategies”. 5

Section 95(1): insert after paragraph (i):

“(ia) to issue guidelines for, and monitor the development of, regional public transport plans.”

Schedule 7: clause 5(2)(c): omit “passenger” and substitute “public”. 10

Local Government (Auckland) Amendment Act 2004 (2004 No 57)

Section 4(1): insert in its appropriate alphabetical order:

“**regional public transport plan** has the same meaning as in **section 4 of the Public Transport Management Act 2007**.” 15

Section 9(1)(a)(iii): omit “Transport Services Licensing Act 1989” and substitute “Land Transport Management Act 2003”.

~~Section 36(c): omit “passenger transport plan under section 175(2)(k)” and substitute “public transport plan”.~~ 20

New Zealand Railways Corporation Act 1981 (1981 No 119)

Section 119A: omit “Transport Services Licensing Act 1989” and substitute “**Public Transport Management Act 2007**”.

Sentencing Act 2002 (2002 No 9)

Definition of **leasing agreement** in section 127(1): omit “Transport Services Licensing Act 1989” and substitute “Land Transport Act 1998”. 25

Smoke-free Environments Act 1990 (1990 No 108)

Definition of **taxi** in section 2(1): repeal and substitute:

“**taxi** has the same meaning as in section 2(1) of the Land Transport Act 1998”. 30

Trans-Tasman Mutual Recognition Act 1997 (1997 No 60)

Schedule 3: omit “Transport Services Licensing Act 1989”.

Schedule 2 **s 53(3)**
**Land Transport Rule: Operator
Licensing 2007 (81001) consequentially
amended** 5

Rule 5.4(4): revoke and substitute:

“5.4(4) The ~~Director~~ Agency must:

“(a) acknowledge the registration under 5.4(3) in writing;
and

“(b) advise the regional council of any region in which the
shuttle service is to operate of:

“(i) the registration of the shuttle service; and

“(ii) the general area of operation of the shuttle ser-
vice.”

Rule 6.1(8): revoke and substitute:

“6.1(8) The ~~Director~~ Agency must:

“(a) acknowledge the registration under ~~5.4(3)~~ 6.1(7) in
writing; and

“(b) advise the regional council of any region in which the
private hire service is to operate of:

“(i) the registration of the private hire service; and

“(ii) the general area of operation of the private hire
service.”

Rule 8.7: add:

“8.7(4) The ~~Director~~ Agency must advise the regional council of any
region in which an approved taxi organisation is to operate of:

“(a) the approved taxi organisation’s operating area or areas;
and

“(b) any changes made to its operating area or areas.

“8.7(5) The ~~Director~~ Agency must advise the relevant regional coun-
cil of an exemption granted under 8.7(2).”

Definition of **local authority** in Part 2: revoke and substitute:

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

Definition of **regional council** in Part 2: revoke and substitute:

“**regional council** has the same meaning as in **section 4 of
the Public Transport Management Act 2007**”.

Public Transport Management Bill

Definition of **registered service** in Part 2: revoke and substitute:
“**registered service** has the same meaning as in **section 4 of the Public Transport Management Act 2007**”.

Legislative history

2 October 2007
16 October 2007

Introduction (Bill 155–1)
First reading and referral to Transport and Industrial
Relations Committee
