

Land Transport Management Amendment Bill

Government Bill

As reported from the committee of the whole House

This bill was formerly part of the Transport Legislation Bill as reported from the Transport and Industrial Relations Committee. The committee of the whole House has further amended the bill and has divided it into the following bills:

- The Civil Aviation Amendment Bill (No 2), comprising subpart 1 of Part 1
 - The Land Transport Amendment Bill (No 2), comprising subpart 2 of Part 1 and Schedule 1
 - This bill, comprising subpart 3 of Part 1, Part 2, and Schedules 2, 4, and 5
 - The Maritime Transport Amendment Bill, comprising subpart 4 of Part 1 and Schedule 3.
-

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (majority)

Subject to this Act,

Text struck out by a majority

New (majority)

Subject to this Act,

Text inserted by a majority

~~Subject to this Act.~~

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Hon Pete Hodgson

Land Transport Management Amendment Bill

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Land Transport Management Amendment Act
2004.

- (2) In this Act, the Land Transport Management Act 2003¹ is called “the principal Act”.

¹ 2003 No 118

2 Commencement

This Act comes into force on **1 December 2004**.

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25 Interpretation

- (1) Section 5 of the principal Act is amended by repealing the definitions of **approved safety administration programme, Authority, land transport, <Minister,> safety administration, safety administration programme, and Transfund**.

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- (2) Section 5 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**Authority** means Land Transport New Zealand established by **section 66**

“**land transport**—

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“(a) means—

“(i) transport on land by any means:

“(ii) the infrastructure, goods, and services facilitating that transport; and

“(b) includes—

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“(i) coastal shipping (including transport by means of harbour ferries, or ferries or barges on rivers or lakes) and associated infrastructure:

“(ii) the infrastructure, goods, and services (including education and enforcement), the primary purpose of which is to improve public safety in relation to the kinds of transport described in **paragraph (a)(i)**

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New (majority)

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

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- (3) Section 5 of the principal Act is amended by inserting in the definition of **land transport programme**, after the expression “section 12”, the words “or **section 12A**”.

26 Crown’s authority to incur certain land transport expenditure

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- (1) Section 9 of the principal Act is amended by repealing subsections (4) and (5), and substituting the following subsection:

“(4) The Crown incurs a liability to pay to the Commissioner the amount determined by the responsible Minister for the activities or activity classes delivered by the Commissioner under the Authority’s approved land transport programme less any revenue received or receivable by the Commissioner from other sources applicable to activities or activity classes in the programme.”

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- (2) Section 9(6) of the principal Act is amended by—

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(a) omitting the word “Transfund”, and substituting the words “the Authority”;

(b) omitting the expression “(5)”, and substituting the expression “(4)”.

New (majority)

26A National land transport account

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- (1) Section 10(2) of the principal Act is amended by inserting, after paragraph (a), the following paragraph:

“(ab) to the Authority for approved activities:”.

- (2) Section 10 of the principal Act is amended by inserting, after subsection (2), the following subsection:

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“(2A) Funding under subsection (2)(ab) is subject to compliance with section 25 (procurement procedures) unless exempt by or under section 26.”

- (3) Section 10(4) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

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“(b) the costs and expenses of the Authority that—

“(i) arise out of the performance of its functions and duties; and

“(ii) have been approved by the responsible Minister; and”.

35

27 Land transport programmes

(1) Section 12 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

“(1) In each financial year, every approved organisation that recommends that any activities or activity classes be included in a national land transport programme must, by a date or dates appointed by the Authority,—

“(a) prepare a land transport programme for the next financial year; and

“(b) forward copies to the Authority, Transit, the Commissioner, and the Secretary; and

“(c) make it available to the public in a written form.”

(2) Section 12(4) of the principal Act is repealed.

28 New section 12A inserted

The principal Act is amended by inserting, after section 12, the following section:

“12A Authority’s land transport programme

“(1) In each financial year and if it recommends that any activities or activity classes *<to be>**<, including those>* delivered by *<the Authority or>* the Commissioner*<, >* are to be included in a national land transport programme, the Authority must prepare a land transport programme for the next financial year.

New (majority)

“(1A) Before preparing a land transport programme under **subsection (1)**, the Authority must consult the Commissioner.

“(2) The Authority must—

“(a) include in each of its land transport programmes—

“(i) the recommended funding for *<the Authority and>* the Commissioner; and

“(ii) an estimate of the revenue to be received by the Authority and the Commissioner from sources (other than the national land transport fund) applicable to the outputs for which funding is sought from the national land transport programme; and

- “(b) forward copies of its land transport programme to local authorities, Transit, the Commissioner, and the Secretary; and
- “(c) make its land transport programme available to the public in a written form. 5
- “(3) The provisions of Part 1 of Schedule 1 (which relate to the contents of land transport programmes) apply to the Authority’s land transport programmes and to the Authority.
- “(4) The Authority must, in preparing a land transport programme, take into account how each activity or activity class— 10
- “(a) assists economic development; and
- “(b) assists safety and personal security; and
- “(c) improves access and mobility; and
- “(d) protects and promotes public health; and
- “(e) ensures environmental sustainability. 15
- “(5) The Authority must, in preparing a land transport programme, take into account any current national land transport strategy, the National Energy Efficiency and Conservation Strategy, and any relevant regional land transport strategies.
- “(6) If the Authority prepares a land transport programme *<that includes activities or activity classes that are to be delivered by the Authority or the Commissioner>* *<under **subsection (1)**>*, the Authority must *<first>* obtain the approval of the responsible Minister *<before including those activities or activity classes in the>* *<for that>* land transport programme.” 20 25

29 New section 14 substituted

The principal Act is amended by repealing section 14, and substituting the following section:

- “14 **Variation of land transport programmes**
- “(1) The organisation responsible for preparing a land transport programme may vary the programme from time to time during the financial year to which it applies,— 30
- “(a) if the programme has been prepared by the Authority, by agreement with the Minister:
- “(b) in every other case, by agreement with the Authority. 35
- “(2) The provisions of this Act that apply to the preparation of a land transport programme apply with the necessary modifications to a variation of a land transport programme.

“(3) The Minister or the Authority (as the case may require) may (without limitation) decline to agree to a variation of a land transport programme if the Minister or the Authority (as the case may require) is satisfied that the subject matter of the variation could reasonably have been included in the organisation’s land transport programme.” 5

30 Who must be consulted about land transport programme

(1) Section 15 of the principal Act is amended by repealing subsections (1)(a), (2)(a), (3)(a), and (4)(a). 10

(2) Section 15 of the principal Act is amended by inserting, after subsection (4), the following *<subsection>* *<subsections>*:

“(4A) When preparing a land transport programme under **section 12A**, the Authority must—

“(a) consult— 15

“(i) Transit; and

“(ii) every affected regional council; and

“(iii) every affected territorial authority; and

“(iv) every affected approved organisation; and

“(v) the Ministry of Health; and 20

“(vi) the Accident Compensation Corporation; and

“(vii) the Commissioner; and

“(viii) the Secretary; and

“(ix) the Ministry of Justice; and

“(x) land transport users and providers; and 25

“(xi) affected communities; and

“(xii) Māori; and

“(xiii) the public; and

“(b) carry out the consultation using the special consultative procedures set out in Part 2 of Schedule 2. 30

New (majority)

“(4B) The Authority need not consult any organisation or person referred to in **subsection (4A)** about any activity or activity class to be included in the Authority’s land transport programme if—

“(a) an approved organisation has, under **clause 2(5) of Schedule 1**, recommended that the activity or activity class is 35

New (majority)

to be included in the Authority's land transport programme; and

- “(b) the approved organisation has already consulted that organisation or person about the activity or activity class.”

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31 National land transport programme

- (1) Section 19 of the principal Act is amended by—

- (a) omitting from subsections (1) and (5) the word “Transfund”, and substituting the words “The Authority”;
 (b) omitting from subsections (2) and (4) the word “Transfund”, and substituting the words “the Authority”.

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- (2) Section 19 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

- “(3) Before adopting a national land transport programme, the Authority must be satisfied that—

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- “(a) the programme contributes to the purpose of this Act and contributes to the following:

- “(i) assisting economic development; and
 “(ii) assisting safety and personal security; and
 “(iii) improving access and mobility; and
 “(iv) protecting and promoting public health; and
 “(v) ensuring environmental sustainability; and

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- “(b) the Minister's approval has been given under **section 12A(6)**, if applicable.”

32 New section 20A inserted

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The principal Act is amended by inserting, after section 20, the following section:

- “**20A Authority may not withhold approval of activities and activity classes approved under section 12A without Minister's consent**

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Despite anything in section 20, the Authority may not withhold approval of an activity or activity class included in the Authority's land transport programme prepared under **section 12A** without the Minister's consent.”

33	New headings and sections 66 to 74 substituted	
	The principal Act is amended by repealing the Part 3 heading above section 66 and sections 66 to 74, and substituting the following headings and sections:	
	“Part 3	5
	“Administrative provisions relating to Land Transport New Zealand and Transit, and miscellaneous provisions	
	<i>“Land Transport New Zealand</i>	
“66	Establishment of Land Transport New Zealand	10
	This section establishes Land Transport New Zealand.	
“67	Crown entity status	
	The Authority is a Crown entity for the purposes of the Public Finance Act 1989.	
“68	Objective of Authority	15
“(1)	The objective of the Authority is to allocate resources and to undertake its functions in a way that contributes to an integrated, safe, responsive, and sustainable land transport system.	
“(2)	In meeting its objective, the Authority must exhibit a sense of social and environmental responsibility, which includes—	20
	“ (a) avoiding, to the extent reasonable in the circumstances, adverse effects on the environment; and	
	“ (b) ensuring, to the extent practicable, that persons or organisations preparing land transport programmes—	25
	“ (i) take into account the views of affected communities; and	
	“ (ii) give early and full consideration to land transport options and alternatives in a manner that contributes to the matters in paragraph (a) and subparagraph (i) ; and	30
	“ (iii) provide early and full opportunities for the persons and organisations listed in section 15 to contribute to the development of land transport programmes.	35

“69 **Functions of Authority**

“(1) The functions of the Authority are—

New (majority)

“(aa) to promote land transport sustainability in New Zealand:

- “(a) to prepare and adopt a land transport programme under **section 12A** and a national land transport programme under section 19: 5
- “(b) to review and revise the national land transport programme in accordance with its most recent performance agreement: 10
- “(c) to approve activities and activity classes:
- “(d) to make payments from the national land transport account as authorised by this Act:
- “(e) to promote *⟨land transport safety⟩* ⟨safe transport on land⟩ in New Zealand: 15

Struck out (majority)

“(f) to promote land transport sustainability in New Zealand:

- “(g) to provide safety information and advice, and to foster appropriate information education programmes that promote its *⟨objectives⟩* ⟨objective⟩: 20
- “(h) to investigate and review *⟨land transport⟩* accidents and incidents ⟨involving transport on land⟩ in its capacity as the responsible safety authority, subject to any limitations set out in the Transport Accident Investigation Commission Act 1990: 25
- “(i) to approve procurement procedures under section 25:
- “(j) to maintain and preserve records and documents concerning activities within the land transport system, and in particular to maintain the Land Transport Register under the Land Transport Act 1998: 30
- “(k) to audit the performance of approved organisations in relation to activities approved by the Authority and the operation of the organisation’s land transport disbursement account:

- “(l) to assist and advise approved organisations in relation to the Authority’s functions, duties, and powers under this Act and the Land Transport Act 1998:
- “(m) to fund research, education, and training activities and activity classes: 5
- “(n) to provide the Minister with any information and advice relating to the Authority’s functions that the Minister may request:
- “(o) to co-operate with, or to provide advice and assistance to, any government agency or local government agency when requested to do so by the Minister, but only if the Minister and the Authority are satisfied that the performance of the Authority’s functions and duties will not be compromised: 10
- “(p) to carry out any other functions relating to land transport that the Minister requests or directs. 15
- “(2) The Authority’s statutorily independent functions are—
- “(a) to determine whether particular activities should be included in a national land transport programme; and
- “(b) approving activities; and 20
- “(c) approving procurement procedures.
- “(3) Subsection (2) does not apply in relation to—
- “(a) activities that are included in a land transport programme prepared by the Authority:
- “(b) activities relating to the police. 25
- “70 **Separate legal personality**
- The Authority is a legal entity in its own right separate from its board members and the Crown, and continues in existence until dissolved by an Act.
- “71 **Capacity and powers** 30
- “(1) The Authority has—
- “(a) the capacity, rights, powers, and privileges of a natural person; and
- “(b) any additional powers conferred by this Act or any other enactment. 35
- “(2) The Authority may exercise its powers only for the purpose of carrying out its functions.

“72 Authority’s board

- “(1) The Authority’s board must have at least 6, but no more than 8, board members.
- “(2) The board members are appointed by the responsible Minister.

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“73 Further provisions about Authority

Schedule 4 applies to the Authority.

“74 Use of words Land Transport New Zealand

- “(1) No company or other body may be incorporated or registered under a name that contains the words Land Transport New Zealand or under any name that, in the opinion of the Registrar of Companies, or the appropriate registering authority within the meaning of section 2 of the Flags, Emblems, and Names Protection Act 1981, so resembles a name containing those words that it is likely to deceive.
- “(2) On or from the commencement of this Act until the close of 31 December 2006, no company or other body may be incorporated or registered under a name that contains the words Land Transport Safety Authority of New Zealand or the word Transfund or under any name that, in the opinion of the Registrar of Companies, or the appropriate registering authority within the meaning of section 2 of the Flags, Emblems, and Names Protection Act 1981, so resembles a name containing those words that it is likely to deceive.
- “(3) Nothing in **subsection (1) or subsection (2)** applies to the Authority or to any person who is appropriately authorised by the Authority.”

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34 Functions

Section 78 of the principal Act is amended by inserting, after paragraph (g), the following paragraph:

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- “(ga) to co-operate with, or to provide advice and assistance to, any government agency or local government agency when requested to do so by the Minister, but only if the Minister and Transit are satisfied that the performance of Transit’s functions and duties will not be compromised:”.

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35 Schedule 1 of principal Act amended

(1) Clause 2 of Schedule 1 of the principal Act is amended by repealing subclause (4), and substituting the following *<sub-clause>* *<subclauses>*:

“(4) In the case of the Authority, include any activity or activity class to be delivered by the Commissioner. 5

New (majority)

“(5) In the case of an approved organisation, include any activity or activity classes that the approved organisation recommends for inclusion in the Authority’s land transport programme for the next financial year.” 10

(2) Clause 12 of Schedule 1 of the principal Act is amended by inserting, after subclause (1), the following subclause:

“(1A) Include any activity or activity class to be delivered by the Commissioner.”

36 Schedule 5 of principal Act amended

15

The principal Act is amended by repealing clause 3 of Schedule 5, and substituting the following clauses:

“3 Any directions under clause 8 of Schedule 4.

“3A The following matters:

“(a) the particular activity classes for which funds are to be provided by the Authority: 20

“(b) the level of funding for each of those activity classes:

“(c) the criteria for setting the proportion of funding *<to approved organisations>* for approved activities.” 25

37 Technical amendments to principal Act

The principal Act is amended in the manner indicated in **Schedule 2.**

38 Repeals

The following provisions of the principal Act are repealed: 30

(a) section 28 and the heading above that section:

(b) sections 29 to 33:

New

(ba) section 100(3) and (4):

(c) Schedule 3.

Struck out

Part 2
Miscellaneous provisions

5

51 Dissolution of Land Transport Safety Authority and Transfund

- (1) The Land Transport Safety Authority and Transfund New Zealand are dissolved.
- (2) **Schedule 4** applies to the dissolution of the Land Transport Safety Authority and Transfund New Zealand. 10

52 Amendments to enactments

- (1) The Acts specified in **Part 1 of Schedule 5** are amended in the manner indicated in that Part.
- (2) The regulations specified in **Part 2 of Schedule 5** are amended in the manner indicated in that Part. 15

New (majority)

53 General savings provision

Except as otherwise expressly provided in this Act, nothing in this Act affects the completion of a matter or thing, or the bringing or completion of proceedings, that relates to an existing right, interest, title, immunity, or duty. 20

54 Transitional regulations

The Governor-General may, by Order in Council, make regulations—

(a) prescribing transitional and savings provisions concerning the coming into force of this Act that may be in 25

New (majority)

addition to, or in place of, the transitional and savings provisions in this Act:

- (b) providing that, subject to such conditions as may be specified in the regulations, during a specified transitional period,—
 - (i) specified provisions of this Act (including definitions) do not apply: 5
 - (ii) specified terms have the meaning given to them by the regulations:
 - (iii) specified provisions repealed or amended or revoked by this Act are to continue to apply. 10

Compare: 2003 No 118 s 112

55 Expiry of section 54

Section 54 expires on the close of 1 July 2006.

Compare: 2003 No 118 s 113 15

Schedule 2

s 37

Technical amendments to principal Act**Section 5**

Omit from the definition of **administration** the word “Transfund” and substitute the words “the Authority”. 5

Repeal paragraph (a) of the definition of **entity** and substitute:

“(a) the Authority:”.

Omit from the definition of **financial year** the word “Transfund” and substitute the words “the Authority”.

Omit from the definition of **minor and ancillary works** the word “Transfund” and substitute the words “the Authority”. 10

Omit from the definition of **national land transport account** the word “Transfund” and substitute the words “the Authority”.

Omit from paragraph (a) of the definition of **statutorily independent function** the word “Transfund” and substitute the words “the Authority”. 15

Section 10

Omit from subsections (1) and (6) the word “Transfund” and substitute in each case the words “The Authority”.

Omit from subsections (3)(a) and (b), (4)(b) and (c), (5), and (6)(d) the word “Transfund” and substitute in each case the words “the Authority”. 20

Section 11

Omit the word “Transfund” and substitute the words “The Authority”. 25

Section 13

Omit from paragraph (b) the words “Transfund and the Authority are” and substitute the words “the Authority is”.

Section 18

Omit from subsection (5) the word “Transfund” and substitute the words “The Authority”. 30

Omit from subsection (6) the word “Transfund” and substitute the words “the Authority”.

Section 20

Omit from subsections (1), (5), and (6) in the first place where it occurs the word “Transfund” and substitute in each case the words “The Authority”. 35

Omit the word “Transfund” wherever else it occurs and substitute in each case the words “the Authority”.

Section 21

Omit from subsection (1) the word “Transfund” and substitute the words “The Authority”.

Omit from subsection (2) the word “Transfund” wherever it occurs and substitute in each case the words “the Authority”.

5

Insert in subsection (3)(a), after the words “section 12 or”, the words “**section 12A** or”.

Section 22

Omit from subsections (1) and (2) the word “Transfund” and substitute in each case the words “The Authority”.

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Section 24

Omit from subsection (4) the word “Transfund” and substitute the words “the Authority”.

Section 25

Omit from subsections (1) to (3) and (5) the word “Transfund” and substitute in each case the words “the Authority”.

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Section 26

Omit from paragraphs (a), (b), and (c)(i) the word “Transfund” and substitute in each case the words “the Authority”.

Section 34

Omit the words “safety administration outputs” wherever they occur and substitute in each case the words “activities or activity classes”.

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Section 35

Omit the word “Transfund,”.

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Heading to section 36

Omit the word “**Transfund**” and substitute the word “**Authority**”.

Section 36

Omit from subsections (1), (2), and (4) the word “Transfund” wherever it occurs and substitute in each case the words “the Authority”.

30

Omit from subsection (3) the word “Transfund” and substitute the words “The Authority”.

Section 37

Omit from subsections (1), (3), and (4) the word “Transfund” wherever it occurs and substitute in each case the words “the Authority”.

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Section 38

Omit from subsection (1) the word “Transfund” in the first place where it occurs and substitute the words “The Authority”.

Omit from subsection (1) the word “Transfund” in the second place where it occurs and substitute the words “the Authority”.

5

Section 39

Omit from subsection (4) the word “Transfund” and substitute the words “the Authority”.

Section 48

Omit from subsection (3) the word “Transfund” and substitute the words “the Authority”.

10

Section 49

Omit from subsection (1) the word “Transfund” and substitute the words “the Authority”.

Section 58

Omit from subsection (4) the word “Transfund” and substitute the words “the Authority”.

15

Section 59

Omit from subsection (1) the word “Transfund” and substitute the words “the Authority”.

20

Heading before section 84

Omit the words “*both Transfund*” and substitute the word “*Authority*”.

Heading to section 84

Omit the word “**Transfund**” and substitute the word “**Authority**”.

25

Section 84

Omit from subsection (1)(a) the word “Transfund” and substitute the words “the Authority”.

Heading to section 87

Omit the word “**Transfund**” and substitute the word “**Authority**”.

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Schedule 1

Omit from clauses 1(1) and 2(1) the words “Transfund or”.

Omit from clause 1(1) the words “, and approved safety administration outputs in any earlier safety administration programme,”.

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Omit from the heading to clause 2 the words “**and safety administration outputs**”.

Schedule 1—continued**Struck out (majority)**

Repeal clause 2(4).

Omit from clause 3(2) the word “Transfund” and substitute the words “the Authority”.

Omit from clause 5 the words “Transfund or”.

Insert in clause 9, after the word “Transit”, the words “and the Authority”.

Omit from clause 10 the words “Transfund and”.

Omit from clause 10 the words “jointly or separately”.

Omit from clause 11 the word “Transfund” and substitute the words “the Authority”.

Omit from clause 12(2) the word “Transfund” and substitute the words “the Authority”.

Omit from clause 13 the word “Transfund’s” and substitute the words “the Authority’s”.

Heading to Schedule 4

Omit the word “**Transfund**” and substitute the word “**Authority**”.

New (majority)**Schedule 4**

Repeal clause 27(3) and substitute:

“(3) To avoid doubt,—

“(a) a person who is a member of the board of one entity may also be a member of the board of the other entity:

“(b) a person is not an interested person under clause 16(1) merely because that person is a member of the board of the other entity.”

Schedule 5

Omit from the Part 1 heading the word “Transfund” and substitute the word “Authority”.

Omit from clauses 1, 4 to 10, and 13 to 15 the word “Transfund” wherever it occurs and substitute in each case the words “the Authority”.

Omit from clauses 11 to 13 the word “Transfund’s” and substitute the words “the Authority’s”.

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s 51(2)

Schedule 4**Dissolution of Land Transport Safety Authority
and Transfund****1 Interpretation**

- (1) In this Schedule, unless the context otherwise requires,— 5
- dissolution date** means 1 December 2004
- former agency** means—
- (a) the Land Transport Safety Authority:
- (b) Transfund New Zealand
- Ministry** means the department of State that, with the author- 10
ity of the Prime Minister, is for the time being responsible for
the administration of this Act
- new Authority** means Land Transport New Zealand estab-
lished by **section 66** of the Land Transport Management Act
2003 15
- new employer** means (as the case may require)—
- (a) the new Authority:
- (b) the <chief executive of the> Ministry
- property**—
- (a) means every type of property; and 20
- (b) includes—
- (i) every type of estate and interest in property; and
- (ii) money
- suitable alternative position**, in relation to an employee,
means a position— 25
- (a) for which the employee has the appropriate skills and
experience; and
- (b) the pay and conditions of which are, in their overall
effect, no less favourable to the employee than those 30
applying to the employee immediately before the date
of the employee's transfer to that position
- transferred employee** means a person who,—
- (a) immediately before the dissolution date, is employed by
a former agency; and
- (b) is transferred to the new Authority or the Ministry under 35
clause 2(e) or clause 5.
- (2) In this Schedule, unless the context otherwise requires, **activ-
ity, activity class, land transport programme, national
land transport programme, and responsible Minister** have

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

2 Consequences of dissolution

- (1) On the dissolution date,—
- (a) all property belonging to the former agencies vests in the new Authority; and 5
 - (b) all money payable to or by the former agencies becomes payable to or by the new Authority; and
 - (c) all rights, liabilities, contracts, and engagements of the former agencies become the rights, liabilities, contracts, and engagements of the new Authority; and 10

Struck out (majority)

- (d) subject to **clause 4**, all members of the former agencies become members of the new Authority; and
- (e) subject to **clause <5> <4>**, every employee of the former agencies becomes an employee of the new Authority on the same terms and conditions as applied immediately before becoming an employee of the new Authority; and 15

Struck out

- (f) all proceedings by or against the former agencies, or *<the Directors of the former agencies>* <the Director of the former Land Transport Safety Authority>, may be continued, completed, or enforced by or against the new Authority <or the Director of the new Authority, as the case may require>. 20

New

- (f) all proceedings by or against the former agencies or the Director of Land Transport Safety may be continued, completed, or enforced by or against the new Authority or the Director of Land Transport, as the case may require. 25

New (majority)

- (2) Despite anything in **subclause (1)**, the Board of Land Transport New Zealand may appoint a new chief executive after the dissolution date.

Struck out**3 References to former agency**

Unless the context otherwise requires, in any enactment, agreement, deed, instrument, application, or notice, or in any other document in force immediately before the dissolution date,—

- (a) every reference to a former agency is, on and after that dissolution date, to be read as a reference to the new Authority:
- (b) every reference to the Director of the Land Transport Safety Authority is, on and after the dissolution date, to be read as a reference to the Director of the new Authority.

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New**3 References to former agency**

- (1) This clause applies to—

- (a) any enactment, agreement, deed, instrument, application, or other document in force immediately before the dissolution date; and
- (b) any notice or other document issued after the dissolution date.

20

- (2) If this clause applies, every reference in a document specified in **subclause (1)** to—

- (a) a former agency is, on or after that dissolution date, to be read as a reference to the new Authority:
- (b) the Director of Land Transport Safety is, on or after the dissolution date, to be read as a reference to the Director of Land Transport.

25

New (majority)

3A First members of new Authority

In appointing the first members of the new Authority, the Minister may, but need not, consult in accordance with clause 26(1) of Schedule 4 of the Land Transport Management Act 2003.

5

4 Transfer of employees to Ministry

Despite **clause 2(e)**, if (before the dissolution date and after consulting the employee concerned) a former agency and the Ministry have agreed to the transfer of an employee from the former agency to a suitable alternative position with the Ministry, then the employee (if employed by the former agency immediately before the dissolution date) is transferred to that position and becomes an employee of the Ministry on the dissolution date.

10

5 Terms and conditions of employment for transferred employees

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The terms and conditions of employment of a transferred employee immediately before the dissolution date continue to apply in relation to that employee until—

- (a) those terms and conditions are varied by agreement between the transferred employee and the new employer; or
- (b) the transferred employee accepts a subsequent appointment with the new employer.

20

6 Continuity of employment

25

For the purposes of every enactment, law, determination, contract, and agreement relating to the employment of a transferred employee,—

- (a) the contract of employment of that employee is to be treated as unbroken; and
- (b) the employee's period of service with a former agency, and every other period of service of that employee that is recognised by a former agency as continuous service, is to be treated as a period of service with the new employer.

30

35

- 7 No compensation for technical redundancy**
 A transferred employee is not entitled to receive any payment or any other benefit because—
- (a) the position held by the employee in a former agency has ceased to exist; or 5
 - (b) the employee has ceased (as a result of the transfer to the new employer) to be an employee of a former agency; or
 - (c) the employee has been transferred to a suitable alternative position under **clause 4**. 10
- 8 Government Superannuation Fund**
- (1) This section applies to every person who, immediately before the dissolution date, was an employee of a former agency.
 - (2) Nothing in this Act affects any entitlement under the Government Superannuation Fund Act 1956 of a person to whom this section applies. 15
 - (3) This clause is for the avoidance of doubt.
- 9 Final reports and accounts**
- (1) As soon as practicable after the commencement of this Act, the new Authority must arrange for the final report of each former agency to be delivered to the Minister. 20
 - (2) The report must—
 - (a) describe the former agency’s operations for the period beginning on 1 July 2004 and ending with the dissolution date; and 25
 - (b) include—
 - (i) financial statements of that agency prepared, in accordance with Part 5 of the Public Finance Act 1989, for that period; and
 - (ii) an audit report prepared by the Auditor-General and a statement of responsibility relating to those financial statements. 30
 - (3) The Minister must present a copy of every report under this section to the House of Representatives under section 44A of the Public Finance Act 1989. 35

10 Performance agreements

The performance agreements for each former agency that were in effect immediately before the dissolution date continue to have effect as if they had been approved under section 84 of the Land Transport Management Act 2003.

5

New (majority)**10A Statements of intent**

The statements of intent for each former agency that were in effect immediately before the dissolution date continue to have effect, with any necessary modifications, until 30 June 2005.

10

11 Policy directions

Policy directions in effect immediately before the dissolution date under clause 8 of Schedule 4 of the Land Transport Management Act 2003 or section 191 of the Land Transport Act 1998 continue to have effect.

15

Struck out**12 Delegations**

Delegations in effect immediately before the dissolution date under clause 20 or clause 21 of Schedule 4 of the Land Transport Management Act 2003 or section 203 of the Land Transport Act 1998 continue to have effect.

20

New**12 Delegations**

Delegations granted by the Director of Land Transport Safety, or a former agency, under any enactment that are in effect immediately before the dissolution date continue to have effect.

25

New (majority)**12A Continuation of certain appointments**

- (1) The person who held office as the Director of Land Transport Safety immediately before the commencement of this Act is to continue in office as the Director of Land Transport and holds office until such time as the Board of Land Transport New Zealand appoints a successor under section 186 of the Land Transport Act 1998. 5
- (2) A person who holds office as an enforcement officer or a dangerous goods enforcement officer under section 208(3) of the Land Transport Act 1998 immediately before the commencement of this Act is to continue in office and holds office until his or her appointment would have expired under the Land Transport Act 1998 as if this Act had not been passed. 10

13 Approved activities and activity classes

Approvals in effect under section 20 of the Land Transport Management Act 2003 immediately before the dissolution date continue to have effect. 15

14 Existing programmes continued

The national land transport programme and the safety administration programme in effect under the Land Transport Management Act 2003 immediately before the dissolution date continue to have effect. 20

Struck out

- (2) The new Authority must use its best endeavours to comply with the provisions of the Land Transport Management Act 2003 in approving activities that were not approved before the dissolution date and that are in a programme to which this section applies. 25

Struck out**15 Completion of draft programmes**

- (1) A draft land transport programme, and draft national land transport programme, that was in existence (but not completed) immediately before the dissolution date must be completed in accordance with the provisions of the Land Transport Management Act 2003. 5
- (2) The new Authority must use its best endeavours to comply with the provisions of the Land Transport Management Act 2003 in approving activities and activity classes.
- (3) The completed land transport programmes have effect as if they had been continued by **clause 14**. 10

New**15 Completion of national land transport programmes and pending approvals**

The new Authority must, unless it is impracticable to do so, comply with the relevant provisions of the Land Transport Management Act 2003 when— 15

- (a) preparing its national land transport programme for the 2005/06 financial year; and
- (b) approving activities and activity classes in the 2004/05 financial year. 20

16 Safety ~~Administration Programme~~ administration programme or supplementary safety administration programme for 2005/06 financial year

- (1) Despite anything in this Act or any other enactment, the new Authority must complete a safety administration programme~~, or may complete a supplementary safety administration programme,~~ for the 2005/06 financial year in accordance with sections 28 to 33 of the Land Transport Management Act 2003 as those sections stood immediately before the commencement of **((the Land Transport Management Amendment Act 2004))** this Act. 25 30

New (majority)

- | | |
|--|--|
| <p>(1A) Despite subclause (1), a safety administration programme or a supplementary safety administration programme may include outputs related to land transport:</p> | |
| <p>(1B) When approving a safety administration programme or a supplementary safety administration programme, the Minister must have regard to whether that programme—</p> <p style="margin-left: 20px;">(a) assists economic development; and</p> <p style="margin-left: 20px;">(b) assists safety and personal security; and</p> <p style="margin-left: 20px;">(c) improves access and mobility; and</p> <p style="margin-left: 20px;">(d) protects and promotes public health; and</p> <p style="margin-left: 20px;">(e) ensures environmental sustainability.</p> | <p style="text-align: right;">5</p> <p style="text-align: right;">10</p> |
| <p>(2) Despite section 12A of the Land Transport Management Act 2003, the new Authority is not required to prepare a land transport programme for the 2005/06 financial year.</p> | |
| <p>17 Transitional regulations</p> | <p style="text-align: right;">15</p> |
| <p>(1) The Governor-General may, by Order in Council, make regulations prescribing transitional and savings provisions concerning the dissolution of the Land Transport Safety Authority and Transfund New Zealand, which may be in addition to or in place of the transitional provisions set out in this schedule.</p> | <p style="text-align: right;">20</p> |
| <p>(2) This clause expires on 1 July 2006.</p> | |
| <p>18 Approved procurement procedures</p> <p>Approved procurement procedures in effect under section 25 of the Land Transport Management Act 2003 immediately before the dissolution date continue to have effect according to their tenor.</p> | <p style="text-align: right;">25</p> |

Schedule 5 Amendments to other enactments

s 52

Part 1 Amendments to Acts

<p>Births, Deaths, and Marriages Registration Act 1995 (1995 No 16) Omit from column 1 of Schedule 1A the words “Land Transport Safety Authority of New Zealand” and substitute the words “Land Transport New Zealand”.</p>	5
<p>Children, Young Persons, and Their Families Act 1989 (1989 No 24) Omit from section 294(b) the word “Safety”.</p>	10
<p>Electoral Act 1993 (1993 No 87) Omit from section 263B(3)(c) the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”. Omit from section 263B(4)(c) the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”.</p>	15
<p>Goods and Services Tax Act 1985 (1985 No 141) Omit from section 5(6A) and (6B) the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”.</p>	20
<p>Hazardous Substances and New Organisms Act 1996 (1996 No 30) Omit from section 97(c) and (d) the word “Safety”. Omit from section 97(f) the word “Safety” and substitute the word “Transport”.</p>	25
<p>Health Act 1956 (1956 No 65) Omit from <u><section></u> 22C(2)(i) the words “the Land Transport Safety Authority of” and substitute the words “Land Transport”.</p>	30
<p>Health and Safety in Employment Act 1992 (1992 No 96) Omit from section 54(3) the words “the Land Transport Safety Authority({ <i>and the Maritime Safety Authority</i> })” and substitute the words “Land Transport New Zealand({ <i>and</i> }) <u><the Maritime Transport Authority></u>({ <u><Maritime New Zealand></u> })”.</p>	35

Part 1—*continued***Immigration Act 1987** (1987 No 74)

Omit from the First Schedule the words “Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”.

Local Government Act 1974 (1974 No 66)

5

Struck out (majority)

Repeal the definition of **Director of Maritime Safety** in section 2(1) and substitute:

“**Director of Maritime Transport** means the person for the time being holding the office of Director of Maritime Transport under **section 439** of the Maritime Transport Act 1994”.

10

Revoke the definition of **Maritime Safety Authority** in section 2(1) and substitute:

“Maritime Transport Authority means the Maritime Transport Authority of New Zealand continued by **section 429** of the Maritime Transport Act 1994”.

15

Omit from section 331(2) the word “Safety”.

Struck out (majority)

Omit from section 650H the word “Safety” in both places where it appears and substitute in each case the word “Transport”.

Omit from section 684F the word “Safety” and substitute the word “Transport”.

20

Repeal section 707ZZZA(1)(c)(iii) and substitute:

“(iii) are made having regard to Land Transport New Zealand’s funding policies; and”.

Motor Vehicle Sales Act 2003 (2003 No 12)

25

Omit from the definition of **motor cycle** in section 6(1) the word “Safety”.

Oaths and Declarations Act 1957 (1957 No 88)

Omit from section 9(1)(i) the words “the Land Safety Authority of” and substitute the words “Land Transport”.

30

Ombudsmen Act 1975 (1975 No 9)

Omit from Part 2 of Schedule 1 the following items:

Part 1—*continued***Ombudsmen Act 1975** (1975 No 9)—*continued*

The Land Transport Safety Authority of New Zealand

Struck out

The Maritime Safety Authority of New Zealand

Transfund New Zealand

Insert in Part 2 of Schedule 1, in their appropriate alphabetical order,
the following *<items>* *<item>*:

Land Transport New Zealand

5

Struck out

Maritime New Zealand

Privacy Act 1993 (1993 No 28)

Repeal paragraph (gb) of the definition of **specified agency** in
section 97 and substitute:

10

“(gb) Land Transport New Zealand:”.

Omit from column 3 of Schedule 5 the words “Safety Authority of”
wherever they appear.

Omit from column 3 of Schedule 5, under the heading *Police
Records* opposite the item relating to offender identity, the words
“or the Land Transport Safety Authority of New Zealand” in both
places where they appear.

15

Omit the words “*Safety Authority*” from the heading before the item
relating to the driver licence register in Schedule 5, and substitute
the words “*New Zealand*”.

20

Public Finance Act 1989 (1989 No 44)

Omit from the Fourth, Fifth, and Sixth Schedules the following
items:

Land Transport Safety Authority of New Zealand

Struck out

Maritime Safety Authority of New Zealand

25

Transfund New Zealand

Part 1—*continued***Public Finance Act 1989** (1989 No 44)—*continued*

Insert in the Fourth, Fifth, and Sixth Schedules, in their appropriate alphabetical order, the following *<items>* *<item>*:

Land Transport New Zealand

Struck out

Maritime Transport Authority of New Zealand

Struck out (majority)**Resource Management Act 1991** (1991 No 69)

5

To omit from the definition of **Director of Maritime Safety** or **Director** in section 2(1) the word “**Safety**” and substitute the word “**Transport**”.

To repeal the definition of **Maritime Safety Authority of New Zealand** in section 2(1) and substitute:

10

“**Maritime Transport Authority of New Zealand** means the Maritime Transport Authority of New Zealand continued by **section 429** of the Maritime Transport Act 1994”.

Omit from section 38(1)(b) the word “**Safety**” and substitute the word “**Transport**”.

15

Omit from section 138A(6) the word “**Safety**” and substitute the word “**Transport**”.

Omit from section 325B(1)(a) and (2) the word “**Safety**” and substitute in each case the word “**Transport**”.

Omit from section 360(1)(he) the word “**Safety**” and substitute the word “**Transport**”.

20

Road User Charges Act 1977 (1977 No 124)

Omit from section 23B(2)(a) the words “the Land Transport Safety Authority of” and substitute the words “**Land Transport**”.

Sentencing Act 2002 (2002 No 9)

25

Omit from section 126(f) the word “**Safety**”.

Part 1—*continued***Struck out (majority)**

- Ship Registration Act 1992** (1992 No 89)
Omit from the definition of **Director** in section 2(1) the word “Safety” and substitute the word “Transport”.
- Submarine Cables and Pipelines Protection Act 1996** 5
(1996 No 22)
Omit from the definition of **Director** in section 2 the word “Safety” and substitute the word “Transport”.
- Transit New Zealand Act 1989** (1989 No 75)
Repeal the definitions of **Director of Land Transport Safety** and **Land Transport Safety Authority** in section 2(1) and substitute in their appropriate alphabetical order: 10
 “**Director of Land Transport** means the person appointed under section 186 of the Land Transport Act 1998
 “**Land Transport Authority** means Land Transport New Zealand established by **section 66** of the Land Transport Management Act 2003”. 15
- Omit from section 48(5) the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”. 20
- Omit from section 50(4) the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”.
- Omit from section 53(2)(a) the word “Safety”.
- Transport Accident Investigation Commission Act 1990** 25
(1990 No 99)
Repeal the *<definitions>* *<definition>* of **Land Transport Authority** *<and Maritime Safety Authority>* in section 2 and substitute in *<their>* *<its>* appropriate alphabetical order:
 “**Land Transport Authority** means Land Transport New Zealand established by **section 66** of the Land Transport Management Act 2003”. 30

Part 1—*continued***Transport Accident Investigation Commission Act 1990**(1990 No 99)—*continued***Struck out (majority)**

“Maritime Transport Authority means the Maritime Transport Authority of New Zealand continued by section 429 of the Maritime Transport Act 1994”.

5

Omit from ~~(section 8(f))~~ section 8(2)(f) the words “the Land Transport Authority~~⟨, or the Maritime Safety Authority⟩~~” and substitute the words “Land Transport New Zealand~~⟨, or the Maritime Transport Authority⟩~~”.

Omit from section 9(1)(b) the words “The Land Transport Authority” and substitute the words “Land Transport New Zealand”.

10

Omit from section 9(1)(c) the word “Safety” and substitute the word “Transport”.

Omit from section 10 the words “the Land Transport Authority~~⟨, or the Maritime Safety Authority⟩~~” and substitute the words “Land Transport New Zealand~~⟨, or the Maritime Transport Authority⟩~~”.

15

Omit from section 13(7) the words “the Land Transport Safety Authority~~⟨, or the Maritime Safety Authority⟩~~” and substitute the words “Land Transport New Zealand~~⟨, or the Maritime Transport Authority⟩~~”.

20

Omit from section 14(3) the words “the Land Transport Authority~~⟨, and the Maritime Safety Authority⟩~~” and substitute the words “Land Transport New Zealand~~⟨, and the Maritime Transport Authority⟩~~”.

Transport Act 1962 (1962 No 135)

25

Repeal the definition of **Authority** in section 2(1) and substitute:

“**Authority** means Land Transport New Zealand established by **section 66** of the Land Transport Management Act 2003”.

Omit from the definition of **Director** in section 2(1) the word “Safety”.

30

Transport Services Licensing Act 1989 (1989 No 74)

Repeal the definition of **Authority** in section 2(1) and substitute:

“**Authority** means Land Transport New Zealand established by **section 66** of the Land Transport Management Act 2003”.

Omit from the definition of **Director** in section 2(1) the word “Safety”.

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Part 1—*continued***Transport (Vehicle and Driver Registration and Licensing)****Act 1986** (1986 No 6)

Repeal the definition of **Authority** in section 2(1) and substitute:

“**Authority** means Land Transport New Zealand established by **section 66** of the Land Transport Management Act 2003”.

5

Omit from the definition of **Director** in section 2(1) the word “Safety”.

Part 2

Amendments to regulations

Explosives Regulations 1959 (SR 1959/126)

10

Omit from regulation 56(3) the words “the Land Transport Safety Authority of” and substitute the words “Land Transport”.

Struck out (majority)**Fisheries (Commercial Fishing) Regulations 2001**

(SR 2001/253)

Omit from the definition of **New Zealand authorities** in regulation 3 the word “Safety” and substitute the word “Transport”.

15

Goods Service Vehicle (Constructional) Regulations 1936

(SR 1936/80 & SR 1961/94)

Revoke the definition of **Authority** in regulation 1(4) and substitute:

“**Authority** means the Land Transport Authority of New Zealand established by **section 66** of the Land Transport Management Act 2003”.

20

Omit from the definition of **Director** in regulation 1(4) the word “Safety”.

Hazardous Substances (Classes 1 to 5 Controls) Regulations**2001** (SR 2001/116)

25

Omit from regulation 51(1) the word “Safety”.

Struck out (majority)**Health and Safety in Employment (Prescribed Matters)****Regulations 2003** (SR 2003/90)

Part 2—*continued***Struck out (majority)****Health and Safety in Employment (Prescribed Matters) Regulations 2003** (SR 2003/90)—*continued*

Omit from regulation 5(2)(b)(i) the word “Safety” and substitute the word “Transport”.

Omit from regulation 8(4)(a) the word “Safety” and substitute the word “Transport”. 5

Heavy Motor Vehicle Regulations 1974 (SR 1974/218)

Revoke the definition of **Authority** in regulation 2(1) and substitute:

“**Authority** means Land Transport New Zealand established by **section 66** of the Land Transport Management Act 2003”. 10

Omit from the definition of **Director** in regulation 2(1) the word “Safety”.

Injury Prevention, Rehabilitation, and Compensation (Refund of Fuel Levy) Regulations 2003 (SR 2003/213)

Omit from the definition of **Corporation’s agent** in regulation 3 the words “the Land Transport Safety Authority of” and substitute the words “Land Transport”. 15

Land Transport (Driver Licensing) Rule 1999 (SR 1999/100)

Revoke the definition of **Authority** in rule 2(1) and substitute:

“**Authority** means Land Transport New Zealand established by **section 66** of the Land Transport Management Act 2003”. 20

Omit from the definition of **Director** in rule 2(1) the word “Safety”.

Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)

Omit from clause 2 of Part 1 of Schedule 3 the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”. 25

Omit from clause 1 of Part 2 of Schedule 3 the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”. 30

Omit from clauses 1, 3, 4, 5, 6, 8, and 10 of Part 2 of Schedule 3 the word “LTSA” wherever it appears and substitute in each case the word “LTNZ”.

Omit from clause 10 of Part 2 of Schedule 3 the word “Safety”.

Part 2—*continued***Land Transport (Ordering a Vehicle off the Road) Notice 1999** (SR 1999/33)

Omit from the definitions of **authorised vehicle inspection agent** and **vehicle inspector** in clause 2 the word “Safety”.

Omit from clause 8 of the Notice for Defective Vehicle in Schedule 1 the word “Safety”. 5

Omit from clause 5 of the Notice to be Affixed to Unsafe Vehicle in Schedule 2 the word “Safety”.

Omit from clause 5 of the Notice to Driver or Owner of Vehicle in Schedule 3 the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”. 10

Struck out (majority)**Marine Protection (Offences) Regulations 1998** (SR 1998/205)

Omit from the Marine Protection Infringement Offence Notice in Schedule 2 the word “Safety” wherever it appears and substitute in each case the word “Transport”. 15

Marine Safety Charges Regulations 2000 (SR 2000/268)

Omit from the definition of **Director** in regulation 3 the word “Safety” and substitute the word “Transport”.

Maritime (Offences) Regulations 1998 (1998 No 444)

Omit from the Maritime Infringement Offence Notice in Schedule 2 the word “Safety” wherever it appears and substitute in each case the word “Transport”. 20

Maritime Transport (Fund Convention) Levies Order 1996 (SR 1996/337)

Omit from regulation 7(1) and (2) the word “Safety” and substitute in each case the word “Transport”. 25

Maritime Transport (Infringement Fees for Offences Relating to Major Maritime Events) Regulations 1999 (SR 1999/243)

Omit from the Maritime Transport Infringement Offence Notice in the Schedule the word “Safety” and substitute the word “Transport”. 30

Oil Pollution Levies Order 1998 (SR 1998/356)

Omit from the definition of **Director** in clause 2(1) the word “Safety” and substitute the word “Transport”.

Part 2—*continued***Passenger Service Vehicle Construction Regulations 1978**

(SR 1978/15)

Revoke the definition of **Authority** in regulation 2(1) and substitute:

“**Authority** means Land Transport New Zealand established
by **section 66** of the Land Transport Management Act 2003”.

5

Omit from the definition of **Director** in regulation 2(1) the word
“Safety”.

Struck out (majority)**Resource Management (Marine Pollution) Regulations 1998**

(SR 1998/208)

Omit from regulation 7(2) the word “Safety” and substitute the
word “Transport”.

10

Road User Charges Regulations 1978 (SR 1978/30)

Omit from the definition of **Director** in regulation 2 the word
“Safety”.

Struck out**Ship Registration (Fees) Regulations 1992** (SR 1992/298)

Omit from the definition of **Director** in regulation 2 the word
“Safety” and substitute the word “Transport”.

15

Struck out (majority)**Shipping (Charges) Regulations 2000** (SR 2000/269)

Omit from the definition of **Authority** in regulation 3 the word
“Safety” and substitute the word “Transport”.

20

Omit from the definition of **Director** in regulation 3 the word
“Safety” and substitute the word “Transport”.

Omit from the heading to Schedule 1 the word “**Safety**” and
substitute the word “**Transport**”.

Traffic Regulations 1976 (SR 1976/227)

Revoke the definition of **Authority** in regulation 2 and substitute:

25

Part 2—continued

Traffic Regulations 1976 (SR 1976/227)—continued

“**Authority** means Land Transport New Zealand established by **section 66** of the Land Transport Management Act 2003”.
Omit from the definitions of **Director** and **traffic officer** in regulation 2 the word “Safety”.

5

Transport (Vehicle Standards) Regulations 1990

(SR 1990/247)

Omit from the definition of **Director** in regulation 2 the word “Safety”.

Legislative history

16 November 2004

Divided from Transport Legislation Bill (Bill 172–2)
as Bill 172–3C