

[AS REPORTED FROM THE GOVERNMENT ADMINISTRATION
COMMITTEE]

House of Representatives, 23 June 1992.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. W. Rob Storey

TRANSPORT AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act—

- (a) To provide for the transfer to the New Zealand Police of traffic officers and certain other persons employed in the Ministry of Transport; and**
- (b) To provide for the transfer of functions from the Secretary for Transport to the Commissioner of Police; and**

- (c) To reform provisions relating to regional transport; and
- (d) To empower the levying of a regional petrol tax; and
- 5 (e) To amend the Transport Act 1962, the Police Act 1958, and certain other enactments

BE IT ENACTED by the Parliament of New Zealand as follows:

10 **1. Short Title and commencement**—(1) This Act may be cited as the Transport Amendment Act 1992, and shall be read together with and deemed part of the Transport Act 1962* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of July 1992.

*R.S. Vol. 16, p. 459

Amendments: 1985, No. 126; 1985, No. 129; 1986, No. 49; 1987, No. 96; 1988, No. 139; 1988, No. 170; 1989, No. 77; 1989, No. 158; 1990; No. 135

PART I

AMENDMENTS TO PRINCIPAL ACT

15 **2. Interpretation**—Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “enforcement authority” (as substituted by section 2 (2) of the Transport Amendment Act 1980), and substituting, in their appropriate alphabetical order, the following definitions:

20 “‘Commissioner’ means the Commissioner of Police:

“‘Enforcement authority’, in relation to an infringement offence or an overloading infringement, means—

25 “(a) The New Zealand Police, in the case of an alleged infringement offence or overloading infringement offence detected by a sworn or non-sworn member of the Police:

“(b) The Ministry of Transport, in the case of an alleged infringement offence detected by an officer of the Ministry:

30 “(c) The local authority, in the case of an alleged infringement offence detected by an officer of a local authority:

35 “(d) The airport authority, in the case of an alleged infringement offence detected by an officer of an airport authority:

“‘Enforcement officer’ means a traffic officer or a constable.”

3. Appointment of traffic officers—The principal Act is hereby amended by repealing section 6 (as inserted by section 3

of the Transport Amendment Act 1987), and substituting the following section:

“6. (1) Subject to **subsection (2)** of this section, the Minister of Police may appoint any person to hold the office of traffic officer, and, in making such an appointment, the Minister may specify such of the powers of a traffic officer that the person may or may not exercise. 5

“(2) No person shall be appointed under **subsection (1)** of this section unless the Minister of Police is satisfied that the person has been trained to a standard that will enable the person to carry out satisfactorily the duties of a traffic officer. 10

“(3) Every non-sworn member of the Police who held the office of traffic officer immediately before the 1st day of July 1992 is hereby deemed to have been appointed under **subsection (1)** of this section. 15

“(4) Every person, other than a person referred to in **subsection (3)** of this section, who held the office of traffic officer immediately before the 1st day of July 1992 is hereby deemed to have been appointed under **subsection (1)** of this section until the close of the 30th day of June 1993. 20

“(5) The Minister may, on an application made before the close of the 31st day of December 1992 by or on behalf of any person to whom **subsection (4)** of this section applies, extend that person’s appointment under that subsection; and that appointment shall be extended for the period specified by the Minister.” 25

4. Infringement offences—

New

(1) Section 42A of the principal Act (as substituted by section 17 of the Summary Proceedings Amendment Act 1987) is hereby amended— 30

(a) By omitting from subsection (2) the words “expressions ‘traffic officer’ and ‘officer’ include traffic officers respectively”, and substituting the words “expression ‘officer’ includes officers”: 35

(b) By inserting in subsection (3), before the words “traffic officer” in both places where they occur, the words “constable or”:

New

- (c) By inserting in subsection (5), before the word “officer” where it first occurs, the words “sworn or non-sworn member of the Police or any”:
- 5 (d) By inserting in subsection (5), before the words “traffic officer”, the word “constable,”.

(2) Section 42A (9) of the principal Act (as *substituted by section 17 of the Summary Proceedings Amendment Act 1987*) so substituted) is hereby amended—

- 10 (a) By omitting the words “other than the Department”, and substituting the words “that is a local authority or an airport authority”:
- (b) By omitting the word “Secretary” in both places where it occurs, and substituting in each case the word
- 15 “Commissioner”.

5. Entitlement to infringement fees—Section 43 (4) of the principal Act (as substituted by section 6 of the Transport Amendment Act 1987) is hereby amended by omitting the word “Department” in both places where it occurs, and

20 substituting in each case the word “Commissioner”.

6. Interpretation—Section 57A of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by repealing the definition of the term “enforcement officer”.

25 **7. Procedure for dealing with blood specimens**—Section 58F of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by omitting the words “Secretary for Transport” and “Secretary” wherever they occur, and substituting, in each

30 case, the word “Commissioner”.

8. Certificates and presumptions in blood-alcohol proceedings—Section 58G (1) (c) (iii) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by omitting the words

35 “Secretary for Transport”, and substituting the word “Commissioner”.

9. Traffic officer may arrest for assault on traffic officer—Section 62A of the principal Act (as inserted by section 15 of the Transport Amendment Act 1987) is hereby amended by omitting the words “an officer of the Department”, and substituting the words “a non-sworn member of the Police”. 5

10. Constable or traffic officer may prohibit or prevent driving—Section 63 (2) of the principal Act (as substituted by section 16 (1) of the Transport Amendment Act 1987) is hereby amended by omitting the words “an officer of the Department”, and substituting the words “a non-sworn member of the Police”. 10

11. Duties of motor drivers in cases of accidents—
 (1) Section 65 (3) of the principal is hereby amended—
 (a) By omitting the words “or to the nearest office of the Road Transport Division of the Department” (as inserted by section 18 (2) of the Transport Amendment Act 1974); 15
 (b) By inserting, after the words “traffic officer” (as so inserted), the words “who is a non-sworn member of the Police”. 20
 (2) Section 65 of the principal Act is hereby amended by repealing subsection (3A) (as inserted by section 18 (3) of the Transport Amendment Act 1974), and substituting the following subsection: 25

Struck Out

“(3A) Where an accident report is made pursuant to subsection (3) of this section, the Commissioner shall cause a copy of the report to be forwarded as soon as practicable to the Secretary.”

New

“(3A) Where an accident to which subsection (3) of this section applies is reported to or attended by the Police, the Commissioner shall—
 “(a) Prepare in a form approved by the Secretary a report of the accident; and
 “(b) Cause a copy of the report to be forwarded to the Secretary as soon as practicable.”

12. User of vehicle to stop when required and give name and address, etc.—(1) Section 66 (1) (a) of the principal Act (as substituted by section 10 of the Transport Amendment (No. 2) Act 1988) is hereby amended by omitting the words “cap, hat, or helmet identifying the officer as a traffic officer”, and substituting the words “distinctive cap, hat, or helmet with a badge of authority affixed thereto”.

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(2) Section 66 (5) of the principal Act (as so substituted) is hereby amended by omitting the words “an officer of the Department”, and substituting the words “a non-sworn member of the Police”.

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13. Entry on premises for purposes of exercising powers in relation to breath-alcohol offences—(1) Section 66A (1) of the principal Act (as inserted by section 2 of the Transport Amendment (No. 2) Act 1989) is hereby amended by omitting the words “an officer of the Department”, and substituting the words “a non-sworn member of the Police”.

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(2) Section 66A (2) (a) of the principal Act (as so inserted) is hereby amended by inserting, after the word “herself”, the words “as a constable or a traffic officer”.

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(3) Section 66A of the principal Act (as so inserted) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Where any constable or traffic officer exercises any power conferred by subsection (1) of this section, the constable or traffic officer shall, within 5 days after the day on which the power is exercised, furnish to the Commissioner a written report on the exercise of the power and the circumstances in which it came to be exercised.”

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14. Power of constables and traffic officers—(1) Section 68B (1) of the principal Act (as inserted by section 8 (1) of the Transport Amendment Act (No. 2) 1967 and amended by section 53 (3) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986) is hereby amended by inserting, after the words “and any regulations or notices in force under that Act”, the words “, and the Transport Services Licensing Act 1989 and any regulations in force under that Act,”.

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New

(2) Section 68B (1c) of the principal Act (as inserted by section 20 (2) of the Transport Amendment Act 1987) is hereby

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New

amended by omitting the words “an officer of the Department”, and substituting the words “a non-sworn member of the Police”.

15. Jurisdiction of traffic officers—(1) Section 68D (1) of the principal Act (as substituted by section 19 (1) of the Transport Amendment Act (No. 3) 1983) is hereby amended by omitting the words “an officer of the Department, or a traffic officer who is appointed as such by a territorial authority,” and substituting the words “a non-sworn member of the Police”.

New

(2) Section 68D (2) of the principal Act (as so substituted) is hereby amended by omitting from paragraphs (a) and (b) (i) the words “has been appointed”, and substituting in each case the words “is employed”.

16. Search warrants relating to road user charges offences—Section 68E of the principal Act (as inserted by section 11 of the Transport Amendment Act 1989) is hereby amended by omitting the word “Secretary” in both places where it occurs, and substituting in each case the word “Commissioner”.

17. Powers of traffic officers in respect of heavy motor vehicles—(1) Section 69A of the principal Act (as inserted by section 22 of the Transport Amendment Act 1968) is hereby amended—

- (a) By inserting in subsection (1) (as amended by section 22 (1) of the Transport Amendment Act 1987), before the words “traffic officer” wherever they occur, the words “constable or”;
- (b) By inserting in subsection (1A) (as inserted by section 22 (2) of the Transport Amendment Act 1987), before the words “traffic officer” in both places where they occur, the words “constable or”;
- (c) By inserting in subsection (2) and also in subsection (2A) (as substituted by section 21 (1) of the Transport Amendment Act 1974), before the words “traffic

officer” wherever they occur, the words “constable or”:

5 (d) By inserting in subsection (4), before the words “traffic officer” in both places where they occur, the words “constable or”.

(2) Section 69A of the principal Act (as so inserted) is hereby amended by repealing subsection (5), and substituting the following subsection:

10 “(5) Where the load or any part of the load is removed from a motor vehicle for the purpose of complying with any direction given under subsection (2) or subsection (2A) of this section, none of the following persons, namely,—

- 15 “(a) The Crown; or
- “(b) Any constable; or
- “(c) Any traffic officer; or
- “(d) Any employer of a traffic officer who is not a non-sworn member of the Police,—

20 shall be liable for any loss of or any damage to any part of the load so removed arising directly or indirectly from that removal.”

18. Overloading of Crown vehicles—(1) Section 69c of the principal Act (as substituted by section 23 (1) of the Transport Amendment Act 1987 and amended by section 12 of the Transport Amendment Act 1989) is hereby amended—

- 25 (a) By omitting the words “Permanent Head” wherever they occur, and substituting in each case the words “chief executive”;
- (b) By omitting the word “Secretary” wherever it occurs, and substituting in each case the word “Commissioner”;
- 30 (c) By inserting in subsection (2), before the words “traffic officer” in both places where they occur, the words “constable or”.

35 (2) Section 69c (2) of the principal Act (as so substituted) is hereby amended by inserting in subsection (2), before the words “traffic officer” in both places where they occur, the words “constable or”.

19. Removal and retention of hubodometers by authorised officers—Section 69D (1) of the principal Act (as inserted by section 13 of the Transport Amendment Act 1989) is hereby amended by omitting the words “an officer of the Department”, and substituting the words “a non-sworn member of the Police”.

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20. Traffic officer to order stopping of heavy motor vehicle until load is secured—Section 70A of the principal Act (as inserted by section 5 (1) of the Transport Amendment (No. 3) Act 1985) is hereby amended by inserting, before the words “traffic officer” wherever they occur, the words “constable or”.

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21. Driving hours—Section 70B (6) of the principal Act (as so substituted) is hereby amended by inserting, before the words “an officer of the Department”, the words “a constable or a traffic officer who is a non-sworn member of the Police or by”.

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22. Driver logbooks—Section 70c (7) of the principal Act (as so substituted) is hereby amended by inserting, before the words “the Secretary”, the words “a constable or a traffic officer who is a non-sworn member of the Police or by”.

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23. Repeal—(1) Section 75 of the principal Act (as substituted by section 6 of the Transport Amendment Act 1965 and amended by section 17 (1) of the Transport Amendment Act (No. 2) 1985) is hereby repealed.

(2) The following enactments are hereby consequentially repealed:

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(a) Section 6 of the Transport Amendment Act 1965:

(b) Section 17 of the Transport Amendment Act (No. 2) 1985.

24. Notification of road hazards—Section 76B of the principal Act (as inserted by section 17 of the Transport Amendment Act 1966) is hereby amended by inserting, before the words “traffic officer”, the words “constable or”.

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25. Regulations—(1) Section 77 (1) of the principal Act is hereby amended by repealing paragraph (x) (as added by section 17 of the Transport Amendment Act 1968).

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(2) Section 17 of the Transport Amendment Act 1968 is hereby consequentially repealed.

26. Piloting fees—(1) Section 78A (1) of the principal Act (as inserted by section 18 of the Transport Amendment Act 1968) is hereby amended—

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(a) By omitting the words “traffic officers of the Department”, and substituting the words “constables or traffic officers who are non-sworn members of the Police”:

(b) By omitting the word "Secretary" where it secondly and thirdly occurs, and substituting in each case the word "Commissioner":

5 (c) By omitting the word "Department", and substituting the word "Police".

(2) Section 78A (2) of the principal Act (as so inserted) is hereby amended by omitting the word "Secretary", and substituting the word "Commissioner".

27. Certificates of fitness—

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New

(1) Section 79 (1) of the principal Act (as substituted by section 20 (1) of the Transport Amendment Act 1989) is hereby amended by inserting, after the word "issued", the words "by the Secretary".

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(2) Section 79 (2) of the principal Act (as *substituted by section 20 (1) of the Transport Amendment Act 1989* so substituted) is hereby amended—

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(a) By omitting the words "In addition to the powers conferred by section 9 of the Ministry of Transport Act 1968, the", and substituting the word "The":

20

(b) By omitting the words "officer of a local authority", and substituting the word "person".

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28. Revocation of certificate of fitness—Section 79A (4) of the principal Act (as substituted by section 20 (1) of the Transport Amendment Act 1989) is hereby amended by inserting, before the words "may remove", the words ", or any constable or traffic officer who is a non-sworn member of the Police,".

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29. Inspection of vehicles required to have certificates of fitness or permits—(1) Section 80 (1) of the principal Act (as inserted by section 2 of the Transport Amendment Act (No. 2) 1983) is hereby amended by inserting, after the word "Secretary", the words ", or any constable or any traffic officer (being a traffic officer who is a non-sworn member of the Police) authorised by the Commissioner,".

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(2) Section 80 (2) (a) of the principal Act (as so inserted) is hereby amended by inserting after the word "Department", the words "or any constable or any traffic officer who is a non-sworn member of the Police".

30. Road Traffic Safety Research Council—(1) Section 91 (2) of the principal Act (as enacted by section 3 of the Ministry of Transport Act Repeal Act 1990) is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) The Commissioner of Police:”.

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Struck Out

(2) Section 91 (5) of the principal Act (as so enacted) is hereby amended—

(a) By inserting, after the words “Secretary for Transport”, the words “or the Commissioner”:

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(b) By inserting, before the words “as his or her deputy”, the words “or any sworn or non-sworn member of the Police nominated by the Commissioner, as the case may be,”.

New

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(2) Section 91 of the principal Act (as so enacted) is hereby amended by repealing subsection (5), and substituting the following subsections:

“(5) In the absence from any meeting of the Council of the Secretary or the Commissioner,—

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“(a) Any other officer of the Ministry of Transport nominated by the Secretary as his or her deputy may attend the meeting in his or her stead:

“(b) Any sworn or non-sworn member of the Police nominated by the Commissioner as his or her deputy may attend the meeting in his or her stead.

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“(5A) While any person is attending any meeting under subsection (5) of this section as the Secretary’s deputy, he or she shall be deemed for all purposes to be both a member of the Council and the Chairperson.”

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31. Admissibility of certain statements—Section 196A of the principal Act (as inserted by section 35 of the Transport Amendment Act 1987) is hereby amended by inserting, before the words “traffic officer” in both places where they occur, the words “constable or”.

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New

31A. Evidence of testing and accuracy of weighing devices and sites, and speed-measuring devices—

5 (1) Section 197 of the principal Act is hereby amended by omitting from subsection (1) (as substituted by section 3 (1) of the Transport Amendment Act 1992), and also from subsection (3) (as substituted by section 36 of the Transport Amendment Act 1987), the words “an officer of the Department authorised by the Secretary”, and substituting in each case the words “a
10 sworn or non-sworn member of the Police authorised by the Commissioner”.

(2) Section 197 (1) (b) of the principal Act (as so substituted) is hereby amended by inserting, after subparagraph (i), the following subparagraph:

15 “(ia) A sworn or non-sworn member of the Police;
or”.

(3) Section 197 (5) of the principal Act (as substituted by section 36 of the Transport Amendment Act 1987) is hereby amended—

20 (a) By omitting the words “an officer”, and substituting the words “a person”:

(b) By omitting the words “the officer”, and substituting the words “the person”.

32. Fees for traffic officer accident reports—(1) Section
25 199A of the principal Act (as inserted by section 3 of the Transport Amendment 1988) is hereby amended by omitting the word “Secretary” wherever it occurs, and substituting in each case the word “Commissioner”.

Struck Out

30 (2) Section 199A (4) of the principal Act (as so inserted) is hereby amended by omitting the words “an officer of the “Department”, and substituting the words “a non-sworn member of the Police”.

New

(2) Section 199A of the principal Act (as so inserted) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) In this section, the term ‘traffic officer accident report’ means a written report relating to an investigation of a traffic accident, being a report by a constable or a traffic officer who is a non-sworn member of the Police.”

Struck Out

33. Delegations—The principal Act is hereby amended by inserting, after section 199A (as inserted by section 3 of the Transport Amendment Act 1988), the following section: 10

“199B. (1) Notwithstanding anything in the Police Act 1958 or any other Act, but subject to this section, the Secretary may from time to time, either generally or particularly, delegate to the Commissioner or any sworn or non-sworn member of the Police all or any of the functions or powers of the Secretary under this Act or the Transport (Vehicle and Driver Registration and Licensing) Act 1986, or under any regulations made under either of those Acts. 15 20

“(2) The Secretary shall not delegate any such functions or powers to a sworn or non-sworn member of the Police (other than the Commissioner) without the written consent of the Commissioner.

“(3) Every person purporting to act pursuant to a delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation. 25

“(4) Any delegation under this section may be made to a specified person or a specified class of persons or to the holder or holders for the time being of a specified office or specified class of offices. 30

“(5) No such delegation shall affect or prevent the exercise of any function or power by the Secretary, nor shall any such delegation affect the responsibility of the Secretary for the actions of any person acting under the delegation. 35

“(6) Every delegation under this section shall be revocable in writing at will.

Struck Out

5 “(7) Any such delegation, until it is revoked, shall continue in force according to its tenor, notwithstanding that the Secretary by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Secretary.”

New

10 **33. Transfer of functions and powers of Secretary**—The principal Act is hereby amended by inserting, after section 199A (as inserted by section 3 of the Transport Amendment Act 1988), the following section:

15 “199B. (1) Notwithstanding anything in this Act or any other Act, but subject to this section, the Secretary may from time to time, either generally or particularly, after consultation with the Commissioner transfer to the Commissioner all or any of the functions or powers of the Secretary under this Act or the Transport (Vehicle and Driver Registration and Licensing) Act 1986, or under any regulations made under either of those Acts.

20 “(2) Every transfer under **subsection (1)** of this section shall be effected by an instrument in writing signed by the Secretary.

25 “(3) Where a function or power has been transferred under **subsection (1)** of this section, the Commissioner or any sworn or non-sworn member of the Police authorised by the Commissioner for the purpose may carry out the function or exercise the power as if the function or power had been conferred or imposed on him or her directly by this Act and not by transfer.

30 “(4) After consultation with the Commissioner, the Secretary may at any time, by an instrument in writing, resume on a date specified by the Secretary all or any of the functions or powers transferred under **subsection (1)** of this section; and, in that case, neither the Commissioner nor any sworn or non-sworn member of the Police may carry out functions or exercise powers resumed under this subsection.

35 “(5) Except as otherwise provided in an instrument under **subsection (1)** of this section, the Secretary shall not carry out any function or exercise any power that has been transferred under that subsection.

New

“(6) Any such transfer, until it is revoked, shall have effect according to its tenor, notwithstanding that the Secretary by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of the Secretary. 5

“(7) Nothing in this section limits or affects the functions, duties, or powers that may be carried out or are exercisable by any person appointed as an agent under section 42 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986.” 10

34. Amendments to Wanganui Computer Centre Act 1976—(1) The Schedule to the Wanganui Computer Centre Act 1976 is hereby amended by inserting in the part headed *Ministry of Transport Records*, in the third column opposite the item “Demerit points”, the word “Police”. 15

(2) The Schedule to the Wanganui Computer Centre Act 1976 (as amended by section 20 of the Wanganui Computer Centre Amendment Act 1989) is hereby amended by inserting, in its appropriate alphabetical order in the part headed *Ministry of Transport Records*, the following item: 20

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| “Transport licensing register | National register of all transport licences | Transport Police”. |
|-------------------------------------|--|-----------------------|

(3) The Schedule to the Wanganui Computer Centre Act 1976 is hereby amended by repealing the item “Traffic offence and infringement enforcement and document processing” in the part headed *Ministry of Transport Records*. 25

(4) The Schedule to the Wanganui Computer Centre Act 1976 (as so amended) is hereby amended by inserting, in its appropriate alphabetical order in the part headed *Police Records*, the following item: 30

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|----|---|---|--------------------|
| 5 | “Traffic offence and infringement enforcement and document processing | Traffic offence and infringement enforcement processing, including infringement fees enforcement and preparation of documents in relation to offences not otherwise provided for by the Department of Justice (All names and addresses shall be deleted from the record after the determination of the proceedings unless the Policy Committee determines otherwise) | Police Transport”. |
| 10 | | | |

15 **35. Amendments to other enactments**—The enactments specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

New

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| 20 | 35A. Repeal —The Transport Amendment Act 1986 is hereby repealed. |
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PART II

AMENDMENTS TO POLICE ACT 1958

25 **36. Part to be read with Police Act 1958**—This Part of this Act shall be read together with and deemed part of the Police Act 1958* (hereafter in this Part referred to as the principal Act).

*R.S. Vol. 26, p. 669
Amendment: 1991, No. 29

New

| | |
|----|--|
| 30 | 36A. Members of the Police —(1) Section 5 (1) of the principal Act (as substituted by section 3 of the Police Amendment Act 1989) is hereby amended by omitting the words “(including acting or temporary or casual appointees)”. |
| 35 | (2) Section 5 of the principal Act (as so substituted) is hereby amended by inserting, after subsection (1), the following subsection: “(1A) The power conferred by subsection (1) of this section includes power— |

New

- “(a) To engage an appointee for such period as the Commissioner and the appointee may agree:
 “(b) To appoint acting or temporary or casual appointees.”

37. Suspension pending hearing of charge—Section 32 of the principal Act is hereby amended— 5

- (a) By omitting from subsection (3A) (as inserted by section 4 of the Police Amendment Act 1976) the expression “section 35”, and substituting the expression “section 5”: 10
- (b) By omitting from subsection (6) and also from subsection (7) (as substituted by section 4 (2) of the Police Amendment Act 1973) the expression “section 33”, and substituting in each case the expression “section 12”. 15

38. Delegation of powers by Commissioner—Section 55A of the principal Act (as inserted by section 9 of the Police Amendment Act 1976) is hereby amended by repealing subsection (1), and substituting the following subsection:

- “(1) The Commissioner may from time to time, by writing under his or her hand, either generally or particularly,— 20
- “(a) Delegate to any Assistant Commissioner of Police any of the powers, authorities, duties, and functions of the Commissioner:
- “(b) Delegate to such other member or members of the Police as he or she thinks fit all or any of the Commissioner’s powers, authorities, duties, and functions under this Act or any regulations made under this Act.” 25

39. Committees of inquiry—(1) The principal Act is hereby amended by repealing section 56, and substituting the following section: 30

- “56. (1) The Minister may from time to time appoint a Committee of Inquiry, consisting of a District Court Judge and one or more members of the Police, for the purpose of investigating and reporting to the Commissioner on any matter connected with the Police, but any such Committee shall not investigate any matter that may be determined by a Court under Part IV of this Act. 35

“(2) Subsections (4) to (8) of section 12 of this Act shall, with the necessary modifications, apply to any such Committee of Inquiry as if its members were appointed to hold an inquiry under that section.

5 “(3) Subject to this section, such a Committee of Inquiry may regulate its procedure in such manner as it sees fit.”

(2) The Police Amendment Act 1965 is hereby consequentially repealed.

10 **40. Particulars for identification of persons in custody**—(1) Section 57 of the principal Act is hereby amended by repealing subsection (4) (as added by section 11 of the Police Amendment Act 1988).

(2) Section 11 of the Police Amendment Act 1988 is hereby consequentially repealed.

15 **41. General search of person in custody**—(1) Section 57A of the principal Act (as inserted by section 2 of the Police Amendment Act 1979) is hereby amended by repealing subsection (6) (as added by section 12 of the Police Amendment Act 1988).

20 (2) Section 12 of the Police Amendment Act 1988 is hereby consequentially repealed.

42. Regulations—(1) Section 64 (2) of the principal Act is hereby amended by repealing paragraphs (b) and (c), and substituting the following paragraph:

25 “(b) Prescribing the ranks of sworn or non-sworn members of the Police:”.

(2) Section 64 (2) (h) of the principal Act is hereby amended by omitting the words “of appeals and”.

30 **43. Employment Contracts Act 1991 and State Sector Act 1988 not to apply**—Section 96 (2) (b) of the principal Act (as substituted by section 15 of the Police Amendment Act 1991) is hereby amended by inserting, after the words “any person or body”, the words “of any power”.

35 **44. Transfer of traffic officers and other Ministry of Transport employees to Police**—(1) Subject to this section, every person who, immediately before the commencement of this Act,—

(a) Was a traffic officer in the Ministry of Transport; or

(b) Was employed in some other capacity in that Ministry,—

being a person whom the Secretary for Transport and the Commissioner have determined should transfer to the Police on the 1st day of July 1992, is hereby deemed to be appointed as a non-sworn member of the Police and shall have a rank or grade, or both, assigned by the Commissioner. 5

(2) No person who is appointed as a non-sworn member of the Police by **subsection (1) (a)** of this section shall be appointed under section 5 of the principal Act as a sworn member of the Police if he or she—

- (a) Has failed to complete the training determined by the Commissioner to be required in the case of persons to whom this subsection applies; or 10
- (b) Does not satisfy the criteria agreed between the Commissioner and the Secretary for appointment of such persons as sworn members of the Police, whether such criteria relate to age, fitness, previous convictions for offences against any enactment, or other matters. 15

(3) When assigning a rank or grade, or both, to any person under **subsection (1)** of this section, the Commissioner shall have regard to the rank and grade (if any) held by the person immediately before the commencement of this Act. 20

(4) Nothing in this section shall affect the powers of the Commissioner to assign to a person a different rank on the completion of the person's training referred to in **subsection (2) (a)** of this section. 25

(5) The office of traffic officer in the Ministry of Transport is hereby abolished.

45. Traffic officers to retain powers—Every traffic officer appointed as a non-sworn member of the Police by **section 44 (1)** of this Act shall have and may exercise all the powers of a traffic officer under the Transport Act 1962 or any other enactment. 30

46. Application of principal Act to traffic officers—
 (1) Notwithstanding anything in section 27 of the principal Act, where a person appointed as a non-sworn member of the Police by **section 44 (1)** of this Act is subsequently appointed as a sworn member of the Police, the said section 27 shall apply to the person with the following modifications: 35

- (a) The 1st day of July 1992 is hereby deemed to be the operative date for that person: 40

(b) The table set out in subsection (3) of that section shall apply to that person as if he or she were a member of the Police immediately before the operative date:

5 (c) No member to whom this subsection applies shall be regarded as a specialist member of the Police.

(2) The following provisions of the principal Act shall apply to every traffic officer who is a non-sworn member of the Police by virtue of **section 44 (1)** of this Act, as if he or she were a sworn member of the Police, namely,—

10 (a) Section 38 (which relates to the execution of processes):

(b) Section 50 (which relates to the failure to return Police property):

(c) Section 51A (which relates to the unauthorised use of Police uniforms).

15 (3) For the purposes of **paragraphs (b) and (c)** of **subsection (2)** of this section, all uniforms and equipment that were, before the 1st day of July 1992, supplied by the Secretary for Transport to a person who was a traffic officer in the Ministry of Transport, being uniforms and equipment held by that person at the close
20 of the 30th day of June 1992, shall be deemed to have been supplied to that person for the execution of his or her office as a non-sworn member of the Police.

47. Conditions of employment of traffic officers who become sworn members of Police—Every person referred to in **section 44 (1)** of this Act who is appointed as a sworn member of the Police shall be deemed to be continuing in the employ of the Commissioner for the purposes of **section 69 (3)** of the principal Act.
25

48. Conditions of employment of non-sworn section 44 (1) appointees—Every person who is appointed by **section 44 (1)** of this Act as a non-sworn member of the Police shall receive terms and conditions of employment that are based on the terms and conditions of employment applicable to the person immediately before the commencement of this Act.
30

49. No compensation payable for cessation of employment in Ministry of Transport—No person appointed as a non-sworn member of the Police by **section 44 (1)** of this Act shall be entitled to receive any payment or other benefit by reason only of that person ceasing by virtue of that
40 section to be employed in the Ministry of Transport.

50. Provisions relating to fitness tests—Notwithstanding anything in the principal Act, *(traffic officers who become sworn members of the Police shall be required to)* the appointment of a traffic officer as a sworn member of the Police shall be subject to the condition that he or she shall meet the standards of medical and physical health prescribed by the Commissioner under section 28A of the principal Act in accordance with the following timetable: 5

- (a) A person under 40 years of age on the 1st day of July 1992 is required to meet the prescribed standards before *(the close of that date)* he or she is appointed as a sworn member of the Police: 10
- (b) A person of 40 years of age and under 53 years of age on the 1st day of July 1992 is required to meet the prescribed standards within 3 years after that date: 15
- (c) A person of 53 years of age and under 55 years of age on the 1st day of July 1992 is required to meet the prescribed standards within 5 years after that date.

51. Savings—(1) Where, before the 1st day of July 1992, any traffic officer in the Ministry of Transport has become a party to any proceedings, the proceedings may be continued, completed, and enforced by any sworn or non-sworn member of the Police. 20

(2) Where, before the 1st day of July 1992, any traffic officer in the Ministry of Transport has commenced an action under any Act, the action may be continued, completed, and enforced by any sworn or non-sworn member of the Police. 25

(3) Notwithstanding anything in section 42A(10) of the Transport Act 1962, an infringement fee shall be deemed to have been paid to the enforcement authority if it is or has been paid to the Police at the address endorsed for the purpose on the infringement notice. 30

(4) Where—

(a) Before the 1st day of July 1992 any person was required by any enactment to serve the Secretary with any document or to notify the Secretary of any matter, and that document or matter has not been so served or notified before that date; and 35

(b) On the 1st day of July 1992 that enactment requires that document to be served on the Commissioner or requires that matter to be notified to the Commissioner,— 40

it shall be sufficient compliance with the new service or notification requirement if the document is served on the

Secretary or the matter is notified to the Secretary, as the case may require.

5 **52. References in other enactments to traffic officers—**
 Every reference (however expressed) in any other enactment to
 a person appointed under section 6 of the Transport Act 1962
 as a traffic officer in the Ministry of Transport shall, unless the
 context otherwise requires, hereafter be read as a reference to
 a non-sworn member of the Police who has the powers of a
 traffic officer by virtue of **section 45** of this Act.

10

New

52A. Ombudsmen’s jurisdiction in relation to traffic officers—(1) Notwithstanding anything in this Act, an Ombudsman may—

15 (a) Complete any investigation commenced under the
 Ombudsmen Act 1975 before the 1st day of July
 1992, being an investigation in respect of any decision
 or recommendation made, or any act done or
 omitted, before that 1st day of July by any traffic
 officer in the Ministry of Transport:

20 (b) On or after the 1st day of July 1992, commence and
 complete an investigation under that Act in respect of
 any such decision or recommendation made, or any
 such act done or omitted.

25 (2) The Ombudsmen Act 1975 shall apply to every such
 investigation as if the traffic officer to whom the investigation
 relates were a traffic officer in the Ministry of Transport.

PART III

AMENDMENTS TO TRANSPORT SERVICES LICENSING ACT 1989

30 **53. Part to be read with Transport Services Licensing
 Act 1989—**This Part of this Act shall be read together with and
 deemed part of the Transport Services Licensing Act 1989*
 (hereafter in this Part of this Act referred to as the principal
 Act).

*1989, No. 74
 Amendment: 1990, No. 123

35 **54. Interpretation—**(1) Section 2 (1) of the principal Act is
 hereby amended by omitting from the definition of the term
 “enforcement officer” the words “member of the Police”, and
 substituting the word “constable”.

(2) Section 2 (1) of the principal Act is hereby amended by adding to the definition of the term “regional council” the words “; and includes any territorial authority within the meaning of that Act that has the functions, duties, and powers of a regional council under this Act.”

5

55. Interpretation—(1) Section 47 (1) of the principal Act is hereby amended by repealing the definition of the term “regional passenger transport plan” (as substituted by section 4 (1) of the Transport Services Licensing Amendment Act 1990), and substituting the following definition:

10

“‘Regional passenger transport plan’ means a plan (identified as a regional passenger transport plan)—

“(a) Prepared by a regional council or a territorial authority that has the functions, powers, and duties of a regional council under this Act; and

15

“(b) Prepared in consultation with the constituent authorities (if any) in the region concerned; and

“(c) Made available to the public; and

“(d) Specifying the passenger services the regional council or territorial authority proposes to be provided in its region or district, both generally and in respect of the transport disadvantaged.”

20

Struck Out

(2) Section 47 (2) of the principal Act (as added by section 4 (2) of the Transport Services Licensing Amendment Act 1990) is hereby amended by inserting in paragraph (a) and also in paragraph (c), after the words “regional council”, the words “or territorial authority”.

25

New

(2) Section 47 (2) of the principal Act (as added by section 4 (2) of the Transport Services Licensing Amendment Act 1990) is hereby amended—

30

(a) By omitting the expression “paragraph (b)”, and substituting the expression “paragraph (d)”:

(b) By inserting in paragraph (a), and also in paragraph (c), after the words “regional council”, the words “or territorial authority”.

35

56. Regional councils to consider contracting out functions under Act—The principal Act is hereby amended by inserting, after section 53, the following section:

5 “53A. (1) Every regional council and every territorial authority that has the functions, powers, and duties of a regional council under this Act shall, in the course of performing its functions, powers, and duties under this Act, consider whether it could most efficiently and effectively perform those functions, powers, and duties by means of its own operations or by contracting out those operations to appropriate persons selected after an appropriate competitive process.

10
15 “(2) Where a regional council or such a territorial authority considers that other persons can more efficiently and effectively perform any of its functions, powers, and duties under this Act, the council or authority—

“(a) Shall invite tenders for the performance of such functions; and

20 “(b) If a tender is successful, shall enter into an agreement setting out the terms on which those functions, powers, and duties are to be performed by the other person.

25 “(3) Every regional council and every such territorial authority shall have and may exercise all such powers as are necessary or reasonably expedient to enable it to perform its duties under this section, and such powers and duties are in addition to, and not in substitution for, powers and duties conferred on regional councils and such territorial authorities by any other Act.

30 *New*

“(4) Where a regional council or territorial authority invites tenders under **subsection (2)** of this section, any other regional council or territorial authority may submit a tender and, if successful, enter into an agreement under that subsection.”

35 **57. Repeals**—Sections 54 to 58 of the principal Act, and the headings above sections 54 and 56 of that Act, are hereby repealed.

PART IV

AMENDMENTS TO TRANSIT NEW ZEALAND ACT 1989

58. Part to be read with Transit New Zealand Act 1989—This Part of this Act shall be read together with and deemed part of the Transit New Zealand Act 1989* (hereafter in this Part of this Act referred to as the principal Act). 5

*1989, No. 75

Amendments: 1990, No. 122; 1991, No. 57; 1991, No. 86

59. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “Authority”, the following definition:

“‘Commissioner’ means the Commissioner of Police.” 10

(2) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “district land transport programme”, and substituting the following definition:

“‘District land transport programme’ means a district land transport programme prepared under **section 26** of this Act.” 15

(3) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “regional land transport programme”, and substituting the following definitions:

“‘Regional land transport programme’ means a regional land transport programme prepared under **section 25** of this Act in respect of a region or a district: 20

“‘Regional land transport strategy’ means a regional land transport strategy prepared under **section 23** of this Act.”. 25

60. Payments from Fund—Section 10 of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraphs:

“(b) To the Ministry of Transport, in such instalments and on such conditions as are agreed between the Minister of Transport and the Minister of Finance from time to time, an amount equal to the total budgeted cost of the safety (administration) outputs contained in the approved safety (administration) programme for that year, net of— 30

“(i) The amount paid to the Commissioner under paragraph (c) of this section; and 35

“(ii) The estimated revenue to be received by the Ministry from other sources applicable to projects in the programme; and 40

“(iii) The estimated revenue to be received by the Commissioner from sources applicable to projects to be delivered by the Police:

5 “(c) To the Police, in such instalments and on such conditions as are agreed between the Minister of Finance and the Minister of Police from time to time, an amount equal to the total budgeted cost of that part of the safety (administration) outputs contained in the approved safety (administration) programme for 10 that year that is to be delivered by the Police net of the estimated revenue to be received by the Police from other sources applicable to projects in the programme.”

Struck Out

15 **61. Authority may approve projects**—Section 14 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

20 “(2) Where the Authority determines not to approve pursuant to this section a project contained in a regional land transport programme or a district land transport programme, it shall so advise in writing the regional council or territorial authority submitting that programme.”

New

25 **61. Authority may approve projects**—Section 14 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) In considering whether or not to approve any project, the Authority shall have regard to the relevant regional land transport strategies.

30 “(2A) Where the Authority decides not to approve pursuant to this section a project contained in a regional land transport programme or a district land transport programme, the Authority shall—

35 “(a) So advise in writing the regional council or territorial authority submitting that programme; and

“(b) Give reasons for its decision.”

62. Special provisions relating to minor and ancillary road works, and in-house professional services—

(1) Section 20A of the principal Act (as inserted by section 3 of the Transit New Zealand Amendment Act 1991) is hereby amended by repealing *(subsection (2))* subsections (2) and (3), and substituting the following *(subsection)* subsections: 5

Struck Out

“(2) The provisions of sections 223D, 223E, and 223F of the Local Government Act 1974 are hereby deemed to apply with any necessary modifications to those works and services to which this section applies that are provided or funded from a local authority’s own resources in any financial year, as if such works and services were significant activities within the meaning of those provisions.” 10

New

“(2) To the extent that a local authority uses its own staff or assets in performing works or providing services to which this section applies, the local authority shall report on those works or services as part of the local authority’s annual report pursuant to section 223D of the Local Government Act 1974 and as part of the authority’s audited financial statements prepared pursuant to section 223E of that Act, in the manner and in the form to be determined from time to time by the Minister in consultation with the Authority. 20

“(3) No payment in respect of any works or services shall be made under subsection (1) (a) of this section unless subsection (2) of this section has been complied with in the case of those works or services.” 25

(2) Notwithstanding that a local authority’s annual report to the public concerning plans for the period ending with the 30th day of June 1992 adopted pursuant to section 223D of the Local Government Act 1974 may not comply with section 20A (2) of the principal Act (as it read immediately before the 1st day of July 1992), that report is hereby deemed to comply with that provision subject to the condition that the authority’s annual report to the public concerning performance for the period ending with the close of the 30th day of June 1992 prepared pursuant to section 223E of the Local Government Act 1974 complies with the requirements determined by the Minister in 30 35

New

consultation with the Authority pursuant to section 20A (2) of the principal Act (as substituted by **subsection (1)** of this section).

5 (3) Notwithstanding that local authorities may not have complied with section 20A (2) of the principal Act (as it read immediately before the 1st day of July 1992) and payments have been made or have been agreed to be made from the Account or the Land Transport Disbursement Account of a local authority—

10 (a) The payments made before the 1st day of July 1992 shall not be invalid by reason only that they did not comply with section 20A (2) of the principal Act (as it read immediately before the 1st day of July 1992);

15 (b) Where payments were agreed to be made but have not been made before the 1st day of July 1992, such payments may be made and shall not be invalid by reason only that they do not comply with section 20A (2) of the principal Act (as it read immediately before the 1st day of July 1992);

20 (c) The receipt or making of such payments by local authorities shall not be invalid by reason only that such actions do not comply with section 20A (2) of the principal Act (as it read immediately before the 1st day of July 1992),—

25 so long as the condition referred to in **subsection (2)** of this section is satisfied.

63. New sections substituted—(1) The principal Act is hereby amended by repealing sections 23 to 26, and substituting the following sections:

30 “**23. Regional land transport strategies**—(1) Except as provided in subsection (2) of this section, every regional council shall prepare a land transport strategy for its region.

35 “(2) Where the functions, duties, and powers of a regional council under this Act have been transferred to a territorial authority, that territorial authority shall prepare a land transport strategy for its district.

“(3) Every land transport strategy prepared under this section shall—

40 “(a) Identify the future land transport needs of the region or district concerned; and

Struck Out

- “(b) Identify the most desirable means of meeting such needs in the safest and most cost effective manner, having regard to the impact the transport system is likely to have on the environment of the region or district; and 5
- “(c) Identify the most desirable share of the total demand for transport in the region or district to be met by each transport mode, including public passenger transport, cycling, and pedestrian traffic; and 10

New

- “(b) Identify the most desirable means of responding to such needs in a safe and cost effective manner, having regard to the effect the transport system is likely to have on the environment; and 15
- “(c) Identify an appropriate role for each land transport mode in the region or district, including freight traffic, public passenger transport, cycling, and pedestrian traffic; and
- “(d) State the best means of achieving the objectives referred to in paragraphs (b) and (c) of this subsection. 20
- “(4) ~~(A regional land transport strategy prepared under this section shall have effect for 5 years)~~ A regional land transport strategy prepared under this section shall at all times be kept current for a period of not less than 3 years in advance but not more than 5 years, and may be renewed from time to time. The regional council or territorial authority that prepared the strategy may amend it at any time ~~(while it has effect)~~ during its currency to reflect any significant change in the circumstances which existed when the strategy was prepared. 25 30
- “(5) Once a regional land transport strategy or any amendment thereto has been approved by the relevant regional council or territorial authority, that regional council or territorial authority shall forthwith forward a copy of the strategy to the Authority and to the Secretary. 35
- “(6) Nothing in a regional land transport strategy shall be inconsistent with the provisions of any regional policy statement or plan for the time being in force under the Resource Management Act 1991.

“(7) The first regional land transport strategies required by this section shall be prepared and completed not later than the 1st day of *(July)* October 1993.

5 “24. **Effect of regional land transport strategy**—(1) All persons preparing a regional or district land transport programme shall implement in that programme any regional land transport strategy having effect in respect of the region or district to which the programme will relate, unless the implementation of that strategy is clearly impracticable.

10 *New*

“(2) In preparing a national land transport programme, the Authority shall have regard to all regional land transport strategies.

15 “25. **Regional land transport programmes**—(1) Any regional council or any territorial authority that has the functions, duties, and powers of a regional council under this Act may prepare a regional land transport programme for its region or district.

20 “(2) Every regional land transport programme shall comprise the following parts:

“(a) Passenger transport:

“(b) Projects of administration reasonably required by the regional council or territorial authority in meeting its obligations under this Act or any other Act.

25 *Struck Out*

“(3) Once a regional land transport programme has been approved by the relevant council or authority, that council or authority shall forthwith forward a copy of the programme to the Authority.

30 *New*

“(3) Every regional land transport programme shall include, with the necessary modifications, the matters specified in **section 26 (3)** of this Act.

New

“(3A) The council or authority shall, by a date fixed by the Authority, forward to the Authority a copy of the regional land transport programme approved by the council or authority.

- “26. **District land transport programmes**—(1) Each year, 5
every territorial authority shall prepare a district land transport programme for the next year.
- “(2) Every district land transport programme shall comprise the following parts:
- “(a) Local roading: 10
- “(b) Safety (construction and maintenance):
- “(c) State highways:
- “(d) Safety (administration).
- “(3) Every programme shall—
- “(a) List each approved project included in any earlier 15
approved national land transport programme for which financial assistance is still to be paid by the Authority and the amount of that financial assistance, and, if it is proposed that the approved project be suspended or abandoned, give an 20
explanation of the proposed suspension or abandonment:
- “(b) Include a single list of all projects—
- “(i) That the Authority or the Secretary or the 25
Commissioner is recommended to undertake; or
- “(ii) For which financial assistance is sought from the Authority,—
- in order of the priority that the territorial authority thinks should be given to those projects and, for each project, indicate its total cost, its proposed 30
starting date, and its duration:
- “(c) State the object or objects to be achieved by each project, the options considered as being available to achieve that object or those objects, and such 35
evaluation of each project and each option as may be required by the Authority or Secretary, as the case may require, from time to time:
- “(d) Where appropriate, indicate, for each project, the status of any land acquisition programme in relation 40
thereto, the extent to which consent under any

enactment is required in relation thereto, and whether or not such consent has been granted:

5 “(e) Include a statement of intent, which shall be in such form and contain such details as may be prescribed by the Authority or the Secretary from time to time:

New

“(ea) State how each project complies with the applicable regional land transport strategy:

10 “(f) Be in such form and contain such other details as may be prescribed by the Authority and the Secretary from time to time.

15 “(4) A district land transport programme may include a request for financial assistance with regard to any project of administration reasonably required by a *(local)* territorial authority in meeting its obligations under this or any other Act.

Struck Out

20 “(5) Once a district land transport programme has been completed by the relevant authority, that authority shall forward a copy of the programme to the Authority, the Secretary, and the Commissioner.”

New

25 “(5) Every territorial authority shall, by a date fixed by the Authority after consultation with the Secretary and the Commissioner, forward a copy of the district land transport programme completed by the territorial authority to—

“(a) The Authority, the Secretary, and the Commissioner; and

“(b) The regional council for the region within which the territorial authority’s district is situated.”

30 (2) All regional land transport committees established under section 23 of the principal Act before the 1st day of July 1992 are hereby abolished.

35 **63A. Regional land transport committees**—(1) The principal Act is hereby amended by inserting, after section 27, the following section:

New

“27A. (1) Every regional council shall, as soon as practicable after the commencement of this section, establish a land transport committee under this section for its region.

“(2) Each regional land transport committee shall consist of such persons as may from time to time be appointed by the regional council, and in making such appointments the council may appoint any persons whom it considers to be suitable, including (but not limited to) representatives of all or any of the following:

“(a) The regional council:

“(b) The territorial authorities in the council’s region:

“(c) The Authority:

“(d) The Commissioner:

“(e) The Secretary:

“(f) Commercial road users:

“(g) Private road users:

“(h) Railway operators:

“(i) Public transport users.

“(3) The functions of each regional land transport committee shall be to prepare for approval by the relevant regional council the regional land transport strategy and the regional land transport programme for its region.

“(4) The provisions of the Local Government Act 1974 and the Local Government Official Information and Meetings Act 1987 relating to the meetings of committees of regional councils, so far as they are applicable and with the necessary modifications, shall apply in respect of meetings of the regional land transport committees.

“(5) Where a territorial authority has the functions, duties, and powers of a regional council under this Act, the foregoing provisions of this section shall apply as if the territorial authority were a regional council.

“(6) This section shall not apply to the Chatham Islands County Council.”

64. Safety (administration) programme—(1) Section 28 (1) of the principal Act is hereby amended—

(a) By inserting, after the word “Authority” where it first occurs, the words “and the Commissioner”:

(b) By inserting, before the words “, a safety (administration) programme”, the words “and the Commissioner”.

(2) Section 28 (2) (a) of the principal Act is hereby amended by inserting, after the word “Ministry”, the words “and the Police, respectively,”.

5 (3) Section 28 (2) of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

“(ba) State the measures by which the performance of each project should be judged:”.

(4) Section 28 of the principal Act is hereby amended by adding the following subsection:

10 “(3) The Secretary—

“(a) Shall consult the Commissioner before including in a safety (administration) programme any matter under subsection (2) of this section; and

15 “(b) Shall have regard to any relevant regional land transport strategy when recommending any project under that subsection, *and shall not recommend any project under that subsection if it is inconsistent with any relevant regional land transport strategy.*”) ; and

New

20 “(c) Shall, where the Secretary decides not to recommend any project,—

“(i) So advise in writing the regional council or territorial authority concerned; and

“(ii) Give reasons for his or her decision.”

25 **65. National land transport programme**—(1) Section 29 (5) of the principal Act is hereby amended by omitting the words “for the year submitted pursuant to section 25 of this Act”, and substituting the words “and district land transport programmes”.

30 (2) Section 29 of the principal Act is hereby amended by adding the following subsection:

“(6) The Authority shall forward to the Secretary and the Commissioner a copy of each national land transport programme submitted to the Minister.”

35 **66. Duty to consult**—The principal Act is hereby amended by repealing section 31, and substituting the following section:

“31. (1) Before finalising a regional land transport strategy, the relevant regional council or territorial authority shall consult—

40 “(a) The constituent authorities in the region (if any); and

- “(b) The adjoining regional councils and territorial authorities; and
 “(c) The Authority; and
 “(d) The Secretary; and
 “(e) The Commissioner; and

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| “(ea) Commercial road users; and “(eb) Private road users; and “(ec) Railway operators; and “(ed) Public transport users; and | 10 |
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“(f) The public in the region or district.

“(2) Before finalising any regional land transport programme, the relevant regional council or territorial authority shall consult—

- “(a) The constituent authorities in the region (if any); and
 “(b) The adjoining regional councils and territorial authorities; and
 “(c) The Authority(.); and

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| “(d) The public in the region or district. | 20 |
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“(3) Before finalising any district land transport programme, the relevant territorial authority shall consult—

- “(a) The regional council in the region; and
 “(b) The Authority(.); and

New

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| “(c) The public in the district. | 30 |
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“(4) Before finalising any safety (administration) part of any district land transport programme, the relevant territorial authority shall consult the Secretary (*and the Commissioner*), the Commissioner, and the public in the district.

“(5) Before making any recommendation pursuant to section 28 of this Act, the Secretary shall consult the Commissioner.

“(6) Every—

- “(a) Constituent authority, in the case of a regional land transport strategy or a regional land transport programme; and

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“(b) Regional council, in the case of a district land transport programme,—
 shall provide to the regional council or territorial authority, as
 the case may be, sufficient information as the council or
 5 authority considers it requires in order to properly perform its
 functions in relation to such strategies and programmes under
 this Act.”

67. Needs of transport disadvantaged to be considered—Section 32 of the principal Act is hereby
 10 amended by inserting, after the words “the Secretary,” the
 words “the Commissioner,”.

68. Approval of safety (administration) programme—
 Section 34 of the principal Act is hereby amended by inserting,
 after subsection (3), the following subsection:
 15 “(3A) The Secretary shall forward to the Commissioner a
 copy of every safety (administration) programme approved
 under this section.”

69. Secretary may submit supplementary programme—Section 37 of the principal Act is hereby
 20 amended by adding the following subsection:
 “(3) The Secretary shall forward to the Authority and the
 Commissioner a copy of every supplementary safety
 (administration) programme before submitting it to the
 Minister.”

70. Authority, local authorities, Secretary, and Commissioner to adhere to approved national land transport programme—Section 39 (1) of the principal Act is
 25 hereby amended by inserting, after the words “local
 authority,” the words “the Commissioner,”.

30 *Struck Out*

71. Land transport annual report—Section 41 of the
 principal Act is hereby amended by repealing subsection (2),
 and substituting the following subsections:
 35 “(2) Each year by a date set by the Minister, the Secretary,
 after consultation with the Authority and the Commissioner,
 shall submit to the Minister a land transport annual report
 comprising—

Struck Out

- “(a) A report from the Commissioner comparing the performance of the Police, in relation to the safety (administration) projects delivered by the Police in that year, with the performance measures agreed for that year; and 5
- “(b) A report from the Secretary comparing the performance of the Ministry in relation to the safety (administration) projects in that year other than those referred to in **paragraph (a)** of this subsection with the performance measures agreed for that year.” 10
- “(3) The Secretary shall forward to the Authority and the Commissioner a copy of every land transport annual report submitted to the Minister.” 15

New

71. Land transport annual report—Section 41 of the principal Act is hereby amended by repealing subsection (2).

72. New sections substituted—The principal Act is hereby amended by repealing section 42, and substituting the following sections: 20

Struck Out

- “**42. Reporting requirement**—(1) The Secretary shall report to the Minister on the safety (administration) programme in such manner and at such times as the Minister directs. 25
- “(2) The Commissioner shall report to the Minister on the safety (administration) projects delivered by the Police in such manner and at such times as the Minister directs.
- “(3) The Authority shall report to the Minister on the national land transport programme in such manner and at such times as the Minister directs. 30

New

“42. Reports to be given by Secretary and Authority—

(1) The Secretary shall include in every annual report to be given by him or her to the Minister under section 30 of the State Sector Act 1988—

5 “(a) A statement comparing the performance of the Ministry in relation to the safety (administration) projects in that year (other than those delivered by the Police) with the relevant performance measures agreed under **section 28 (2) (ba)** of this Act for that year; and

10 “(b) A statement comparing the performance of the Police in relation to the safety (administration) projects delivered by the Police in that year with the relevant performance measures agreed under the said **section 28 (2) (ba)** for that year, which statement shall be prepared by the Commissioner in such form as may be agreed in writing by the Minister and the Minister of Police.

15 “(2) The Minister may require the Commissioner to provide information relating to the safety (administration) projects delivered by the Police, and the Commissioner shall provide such information in such manner as may be agreed in writing by the Minister and the Minister of Police.

20 “(3) Every agreement entered into by the Minister and the Minister of Police under **subsection (2)** of this section shall be published or made available to the public in such manner as those Ministers jointly consider appropriate.

25 “(4) The Authority shall report to the Minister on the national land transport programme in such manner and at such times as the Minister directs.

30 **“42A. Regional authorities to prepare annual report on regional land transport strategy—**(1) Every regional council, and every territorial authority, that is required to prepare a regional land transport strategy, shall prepare an annual report as to the progress in implementing its regional land transport strategy.

35 “(2) Every such report shall be forwarded to the Secretary and the Authority within **(2) 3** months after the close of the financial year to which it relates, and shall be made available to the public.

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“(3) The Secretary and the Authority shall supply to the regional council such information within the possession or under the control of the Secretary or the Authority as may be requested by the regional council or territorial authority for the purposes of complying with its obligations under this section. 5

“42B. **Regional councils to consider contracting out functions under Act**—(1) Every regional council and every territorial authority, that is required to prepare a regional land transport strategy, shall consider whether it could most efficiently and effectively prepare its regional land transport strategy by means of its own operations or by contracting out those operations to appropriate persons selected after an appropriate competitive process. 10

“(2) Where a regional council or a territorial authority considers that other persons can more efficiently and effectively prepare its regional land transport strategy, the council or authority— 15

“(a) Shall invite tenders for the preparation of the strategy; and

“(b) If a tender is successful, shall enter into an agreement setting out the terms on which the strategy is to be prepared by the other person. 20

“(3) Every regional council and every such territorial authority shall have and may exercise all such powers as are necessary or reasonably expedient to enable it to perform its duties under this section, and such powers and duties are in addition to, and not in substitution for, powers and duties conferred on regional councils and such territorial authorities by any other Act. 25

New

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“(4) Where a regional council or territorial authority invites tenders under **subsection (2)** of this section, any other regional council or territorial authority may submit a tender and, if successful, enter into an agreement under that subsection.”

Struck Out

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73. Savings provisions relating to Auckland and Wellington regional land transport committees—
(1) Notwithstanding the repeal of section 23 of the principal Act

Struck Out

by **section 63** of this Act or anything in **section 25** of the principal Act (as substituted by the said **section 63**),—

5 (a) The regional land transport committees established by the Auckland Regional Council and the Wellington Regional Council shall continue as if **section 63** of this Act had not been enacted; and

10 (b) Section 23 of the principal Act (as enacted immediately before the commencement of this Act) shall be deemed to be in force in respect of those regional land transport committees.

15 (2) The functions of each regional land transport committee referred to in **subsection (1)** of this section shall be to prepare for approval by the relevant regional council or territorial authority the regional land transport strategy and the regional land transport programme for its region.

PART V

AMENDMENTS TO LOCAL GOVERNMENT ACT 1974

20 **74. This Part to be read with Local Government Act 1974**—This Part of this Act shall be read together with and deemed part of the Local Government Act 1974* (hereafter in this Part of this Act referred to as the principal Act).

*R.S. Vol. 25, p. 1

Amendments: 1991, No. 49; 1991, No. 58, No. 115

25 **75. New Part XI^A inserted**—The principal Act is hereby amended by inserting, after Part XI (as substituted by section 2 of the Local Government Amendment Act (No. 3) 1977), the following Part:

“PART XI^A

“REGIONAL PETROL TAX

30 *Struck Out*

35 “200A. **Power of regional councils to levy regional petrol tax**—(1) For the purpose of funding passenger transport in their respective regions (and only for that purpose) the Auckland Regional Council, the Waikato Regional Council, the Wellington Regional Council, the Canterbury Regional Council,

Struck Out

and the Otago Regional Council are, subject to this section, each hereby authorised to levy a tax, to be called the regional petrol tax, on leaded and unleaded petrol sold or otherwise disposed of in their respective regions by or on behalf of any wholesale distributor. 5

“(2) Any regional petrol tax levied under **subsection (1)** of this section shall be at a single rate fixed by the regional council for the region in which the tax is to apply, but shall not exceed 2 cents a litre of petrol sold or otherwise disposed of. 10

“(3) A regional petrol tax—

“(a) May be levied for such period not exceeding 3 years as the regional council concerned may determine:

“(b) May be levied from time to time, but shall not be levied for periods that exceed, in the aggregate, the period of 3 years. 15

“(4) No regional petrol tax shall be levied unless the Minister of Transport has approved the rate at which the tax is to be levied and the area in which the tax is to apply.

“(5) A regional petrol tax may be levied in respect of any urban area or urban areas in a region, but shall not be levied in respect of any other area or areas in a region without the prior written approval of the Minister of Transport. 20

“(6) The Minister of Transport may issue guidelines for the purposes of **subsections (4) and (5)** of this section. 25

“(7) All revenue raised by a regional council under this section shall be credited to the Land Transport Disbursement Account established under section 18 (1) of the Transit New Zealand Act 1989, and the provisions of Part II of that Act shall apply to that revenue accordingly. 30

“(8) A regional petrol tax shall be collected in the same manner as a local authorities petroleum tax levied under Part XI of this Act, and the provisions of sections 189 to 194 of this Act shall apply with any necessary modifications and as if references in those sections to the distribution authority were references to the regional council for the region in which the tax applies. 35

“(9) Section 199 of this Act shall apply to the regional petrol tax as if references in that section to petroleum and the local authorities petroleum tax were references to petrol and the regional petrol tax, respectively. 40

“(10) In this section,—

Struck Out

5 “ ‘Wholesale distributor’ has the meaning given to that term by section 181 of this Act:
“ ‘Petrol’ means motor spirit of a kind specified in the Third Schedule to the Customs Act 1966.”

New

10 “200A. **Interpretation**—In this Part of this Act, unless the context otherwise requires,—
“ ‘Accounting month’ means the monthly accounting period declared under section 200N of this Act by a wholesale distributor:
“ ‘Passenger service’ has the same meaning as it has in section 2 (1) of the Transit New Zealand Act 1989:
15 “ ‘Petrol’—
“ (a) Means a refined petroleum distillate, normally boiling within the limits of 30 degrees Celsius to 220 degrees Celsius, whether or not it contains additives, intended for use as a fuel in spark-ignition internal combustion engines; but
20 “ (b) Does not include—
“ (i) Petrol supplied for use in the generation of electricity, or the manufacture of gas, for public use at any electric-power station or gas works; or
25 “ (ii) Aviation fuel, being petrol supplied for use in aircraft; or
“ (iii) Petrol used in the manufacture of petroleum at any refinery; or
“ (iv) Diesel fuel; or
30 “ (v) Kerosene:
“ ‘Tax area’ means the area or areas in respect of which a regional petrol tax is levied under this Part of this Act:
35 “ ‘Wholesale distributor’ means a person who, whether exclusively or not, engages in the sale of motor spirits by wholesale or who, whether exclusively or not, sells motor spirits to a retailer, or who, whether exclusively or not, manufactures or produces motor spirits within New Zealand; and also includes a

New

wholesale distributor of any petroleum other than motor spirits.

“200B. **Application of this Part**—(1) Nothing in this Part of this Act applies in the Chatham Islands or Stewart Island, or to petrol sold, or agreed to be sold, or disposed of, for delivery within either of those areas or used in either of those areas by any wholesale distributor. 5

“(2) No regional petrol tax shall be levied or payable in respect of any transaction whereby— 10

“(a) Any petrol is sold or agreed to be sold or disposed of by a wholesale distributor to another wholesale distributor; or

“(b) Any petrol is exported by a wholesale distributor, or is sold or agreed to be sold or disposed of by the distributor for exportation, and is loaded upon the exporting ship or aircraft. 15

“200c. **Power of regional councils to levy regional petrol tax**—(1) For the purpose of funding any passenger service in their respective regions (and only for that purpose) the Auckland Regional Council, the Waikato Regional Council, the Wellington Regional Council, the Canterbury Regional Council, and the Otago Regional Council are, subject to this section, each hereby authorised to levy a tax, to be called the regional petrol tax, on all leaded and unleaded petrol that, on or after the date on which the tax becomes effective, is— 20 25

“(a) Delivered within the tax area by or on behalf of any wholesale distributor pursuant to any sale, agreement to sell, or disposition made by the wholesale distributor before or after the commencement of this Part of this Act, irrespective of where the sale, agreement to sell, or disposition was made; or 30

“(b) Used by any wholesale distributor within the tax area.

“(2) A regional council may levy a regional petrol tax— 35

“(a) At a single rate applying in respect of the whole of its region; or

“(b) At different rates applying in respect of different tax areas within its region.

New

“(3) Where different rates of regional petrol tax are levied within a region, the rate applying in respect of any tax area shall be a single rate.

5 “(4) A regional petrol tax shall not be levied at a rate exceeding 2 cents a litre of petrol delivered or used, which rate is exclusive of any goods and services tax under the Goods and Services Tax Act 1985.

10 “(5) A regional petrol tax may be levied from time to time in respect of any period or periods expiring not later than the close of the 30th day of June 1995.

“(6) No regional petrol tax shall be levied unless the Minister of Transport has approved in writing—

15 “(a) The rate or rates at which the tax is to be levied; and

“(b) The tax area.

“(7) The Minister of Transport may from time to time, by notice in the *Gazette*, issue guidelines for the purposes of this Part of this Act.

20 “200D. **Regional petrol tax to be notified**—(1) A regional council may levy a regional petrol tax for the first time on or after the 1st day of July 1992.

“(2) Where a regional council levies a regional petrol tax for the first time, the council shall, as soon as practicable after the tax has been levied, notify the tax by notice in the *Gazette*.

25 “(3) A regional council shall notify any alteration of the rate of a regional petrol tax, or of the tax area, by notice in the *Gazette* published not less than 28 days before the date on which the alteration becomes effective.

30 “200E. **Restriction on collection of tax**—(1) A wholesale distributor shall not collect from outside the tax area the whole or any part of a regional petrol tax payable in respect of that tax area under this Part of this Act.

35 “(2) Every wholesale distributor commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 who acts in contravention of subsection (1) of this section.

40 “200F. **Application of proceeds of tax**—All revenue raised by a regional council under this Part of this Act shall be credited to the Land Transport Disbursement Account established under section 18 (1) of the Transit New Zealand Act 1989 and applied only for passenger transport; and the

New

provisions of Part II of that Act shall apply to that revenue accordingly.

“200G. **Returns by wholesale distributors**—(1) Within 28 days after the end of each accounting month, every wholesale distributor shall send to the principal administrative officer of the regional council of every region in which a regional petrol tax is for the time being in force a return (hereafter referred to as the monthly return) in a form approved by the regional council setting forth—

“(a) The quantity of each class of petrol delivered within the tax area by or on behalf of the wholesale distributor pursuant to any sale, agreement to sell, or disposition to which this Part of this Act applies, or used by the wholesale distributor within the tax area, during that accounting month; and

“(b) The amount of regional petrol tax payable on each such quantity; and

“(c) Such other particulars (if any) as may be required by the regional council.

“(2) Every wholesale distributor who fails to send to any such principal administrative officer as aforesaid any monthly return required by this section commits an offence against this Act.

“200H. **Assessment of tax**—(1) The monthly returns under section 200G of this Act may be accepted by the principal administrative officer as sufficient proof of the matters set forth in them, and the regional petrol tax may be assessed by the principal administrative officer accordingly.

“(2) For the purposes of this Part of this Act, the Audit Office shall have, in respect of the records of wholesale distributors relating to petrol sold, agreed to be sold, disposed of, delivered, or used by them, the same powers to inspect and examine relevant books, accounts, receipts, documents, and papers, and to require their production, as it has in respect of the accounts of local authorities under the Public Finance Act 1977.

“(3) After any such inspection or examination as aforesaid, the Audit Office may require the principal administrative officer of the regional council of any region in which a regional petrol tax is in force to make any assessment or amended assessment for the purpose of this Part of this Act, and it shall

New

be the duty of the principal administrative officer to comply with that requirement.

5 “200i. **Assessment presumed to be correct**—Every assessment made by the principal administrative officer under this Part of this Act shall be taken to be correct, and the tax shall be payable accordingly, unless, on an appeal under **section 200j** of this Act or in proceedings taken under this Act in a Court of competent jurisdiction, a different amount is proved to be the tax payable on the petrol, or it is proved that no tax is payable, as the case may be.

10 “200j. **Appeal against assessment**—(1) Within 14 days after a demand for the tax is made by the principal administrative officer in accordance with his or her assessment, the wholesale distributor may appeal to a District Court against the assessment.

15 “(2) On the hearing of the appeal, the Court, whose decision shall be final, may confirm or amend the assessment made by the principal administrative officer.

20 “200k. **Tax recoverable as a debt**—(1) Any regional petrol tax payable on any petrol shall, immediately on the delivery of the petrol within the tax area, or on its use in the tax area by the wholesale distributor, constitute a debt owing by the wholesale distributor to the regional council that levied the tax, and be recoverable accordingly.

25 “(2) Subject to this Part of this Act, any such debt in respect of any regional petrol tax for any accounting month shall become payable by the wholesale distributor on the 20th day of the calendar month following that in which the monthly return for the accounting month is required by **section 200g** of this Act to be sent to the principal administrative officer, whether or not the return is so sent.

30 “(3) The right to recover any tax as a debt under this section shall not be affected by the fact that no proper assessment of the tax has been made in due course under this Part of this Act, or that a deficient assessment of the tax has been made.

35 “200l. **Penalty for late payment of tax**—Notwithstanding the provisions of this Part of this Act, if any regional petrol tax that has become payable remains unpaid after the date on which it became payable under **section 200k** of this Act, 10

New

percent of the amount of the tax unpaid shall be added to it by way of additional tax, and shall be payable accordingly.

“200M. **Effect on agreements of imposition or alteration of tax**—For the purposes of this Act, section 159 of the Customs Act 1966, so far as it is applicable and with all necessary modifications, shall apply to agreements for the sale of petrol as if the regional petrol tax were duty within the meaning of that Act, and as if the imposition or alteration of the tax were an alteration to which that section applies.

“200N. **Accounting month**—Every wholesale distributor shall forward to the relevant regional councils a declaration declaring, for the purposes of this Part of this Act, the monthly day with which the distributor’s accounting month ends.”

76. Local authority not to conduct passenger transport operations—(1) Section 594ZR (1) of the principal Act (as inserted by section 2 of the Local Government Amendment Act (No. 4) 1989) is hereby amended by inserting, after the word “Act,” the words “but subject to **(subsection (3)) subsections (3) and (4)** of this section,”.

(2) Section 594ZR of the principal Act (as so inserted) is hereby amended by adding the following **(subsection) subsections**:

“(3) Regional councils *(and territorial authorities)* may own such assets as may be necessary to enable them to carry out their functions under the Transport Services Licensing Act 1989 and the Transit New Zealand Act 1989.

New

“(4) A territorial authority shall not be in breach of subsection (1) of this section by reason only of its owning or constructing any—

“(a) Passenger transport stop; or

“(b) Passenger transport sign; or

“(c) Section of roadway used exclusively by passenger transport operators; or

“(d) Passenger transport shelter,—

so long as section 594ZZI of this Act is complied with in each case.

New

5 “(5) A territorial authority may, in respect of any asset referred to in **subsection (4)** of this section, apply for and be paid amounts from the Land Transport Fund established under the Transit New Zealand Act 1989.”

77. Unitary authority not to have interest in passenger transport undertaking or operation after 30 June 1992—
 The principal Act is hereby amended by inserting, after section 594zU (as substituted by section 2 of the Local Government
 10 Amendment Act (No. 2) 1991), the following section:

15 “594zUA. Notwithstanding section 594H of this Act, no territorial authority that has the functions, duties, and powers of both a regional council and a territorial authority under this Act shall, after the 30th day of June 1992, hold any equity securities or debt securities in any passenger transport company or passenger transport operation or passenger transport undertaking.”

78. Repeal—Section 594zv of the principal Act (as so inserted) is hereby repealed.

20 **79. Repayment of financial assistance—**Section 594zzH of the principal Act (as so inserted) is hereby amended by adding the following subsection:

25 “(3) In this section, “regional council” includes a territorial authority that has the functions, duties, and powers of both a regional council and a territorial authority under this Act.”

SCHEDULE

Section 35

ENACTMENTS AMENDED

| Enactment | Amendment |
|--|--|
| 1977, No. 124—The Road User Charges Act 1977 (R.S. Vol. 21, p. 759) | By inserting in section 19 (2) (as added by section 10 (2) of the Road User Charges Amendment Act 1989), before the words “traffic officer”, the words “constable or”. |
| 1983, No. 46—The Civil Defence Act 1983 | By omitting from section 18 (1) the words “Secretary for Transport” and “Minister of Transport”, and substituting in each case, the words “Commissioner of Police”. By omitting from section 18 (4) the words “Secretary for Transport”, and substituting the words “Commissioner of Police”. |
| 1986, No. 6—The Transport (Vehicle and Driver Registration and Licensing) Act 1986 | By omitting from section 48A (2) (d) (as inserted by section 9 of the Transport (Vehicle and Driver Registration and Licensing) Amendment Act 1987) the words “power on Chief Traffic Officers who are officers of the Department”, and substituting the words “on members of the Police holding any specified rank power”. |
| 1989, No. 24—The Children, Young Persons, and Their Families Act 1989 | <p style="text-align: center;"><i>Struck Out</i></p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;">By repealing section 214 (3) (b).</div> <p style="text-align: center;"><i>New</i></p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;">By repealing paragraph (b) of section 214 (3), and substituting the following paragraph: “(b) Where that enforcement officer is a traffic officer who is a non-sworn member of the Police, to the Commissioner of Police:”.</div> |