

Transport Legislation Bill

Government Bill

As reported from the Transport and Industrial Relations
Committee

Commentary

Recommendation

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

Introduction

The Transport Legislation Bill is the enabling legislation which implements the key recommendations of the Government's Transport Sector Review. The review sought to ensure the Crown transport sector was well placed to deliver the New Zealand Transport Strategy's vision of an affordable, integrated, safe, responsive and sustainable transport system by 2010.

This bill amends the Civil Aviation Act 1990, the Land Transport Act 1998, the Maritime Transport Act 1994 and the Land Transport Management Act 2003. The amendments to these Acts will affect the Crown transport entities: the Civil Aviation Authority, the Maritime Safety Authority, the Land Transport Safety Authority and Transfund New Zealand.

The Transport Legislation Bill enables the establishment of Land Transport New Zealand, which will assume the operational responsibilities of the Land Transport Safety Authority and Transfund New Zealand. This bill proposes both entities should be disestablished on 1 December 2004.

We received 28 submissions, a sizeable majority of which either supported or conditionally supported the Transport Legislation Bill. Two submitters were opposed to the bill and six expressed no clear opinion.

This commentary details the substantive changes the majority is recommending to this bill.

Objectives, functions and powers of the Minister

Objectives of the Minister

Some submitters suggested that the bill should not insert the New Zealand Transport Strategy objectives into the Acts amended by this bill. It was asserted that there is no legislative precedent for stating the objectives of a Minister in an Act and that it is inappropriate to bind future Ministers to the objectives of a strategy, as enshrining it in legislation may render it difficult to change. It is, however, usual for Government legislation to reflect the policy intent of the proposing Government and to include constraints on decision-makers. Furthermore, the majority considers that all involved in the transport sector should work towards the same objectives.

The majority recommends an amendment to clauses 5, 18 and 41. These clauses repeal and substitute sections 14 to 14C of the Civil Aviation Act 1990; sections 169 and 169A of the Land Transport Act 1998 and sections 5 and 5A of the Maritime Transport Act 1994, respectively. The majority considers it necessary to expressly link the Minister's objectives with his or her functions. This will make it clear that the Minister is required to undertake his or her functions in a way that contributes to the objectives.

Functions of Minister: promoting safety in aviation, land transport and maritime transport

Clause 5 repeals and substitutes section 14A of the Civil Aviation Act 1990 and provides for the functions of the Minister. Similarly, clause 18 repeals and substitutes section 169A of the Land Transport Act 1998 and clause 41 repeals and substitutes section 5A of the Maritime Transport Act 1994. These clauses provide for the functions of the Minister.

The majority has carefully considered submitters' views that the bill as introduced does not place adequate emphasis on the importance of safety in the transport sector.

The majority agrees and is concerned to ensure that the bill preserves the status quo regarding the status of “safety” in the Minister’s functions. Consequently, the majority recommends an amendment to the above clauses to ensure that the Minister promotes safety in civil aviation, land transport and maritime transport.

Importance of safety in rule-making

Clause 7 repeals and substitutes paragraphs (e) and (f) of section 33(2) of the Civil Aviation Act 1990 and provides for the matters to be taken into account when making rules. Similarly, clause 17 repeals and substitutes paragraphs (d) and (e) of section 164(2) of the Land Transport Act 1998. Clauses 43 and 44 repeal and substitute paragraphs (e) and (f) of section 39(2) and section 392(a) of the Maritime Transport Act 1994, respectively. Clauses 17, 43 and 44 also provide for the matters to be taken into account when making rules.

The majority recommends an amendment to these four clauses to further emphasise the importance of safety in the transport sector. The bill as introduced provided for the need to “assist” land transport, maritime and aviation safety and security. The majority considers that while the term “assist” can encompass the idea of continuous improvement, it requires reinforcement.

The majority, therefore, recommends an amendment to the above clauses dealing with matters to be taken into account when making rules for the Civil Aviation Act 1990, the Land Transport Act 1998 and the Maritime Transport Act 1994. The amendment is to ensure that the Minister takes into account the need to maintain and improve safety and security. The majority considers that this more clearly expresses the requirement that any rules should ensure that safety is not only maintained, but actively improved.

Weighting of consideration in rule-making

In addition to the above amendment to clauses 7, 17, 43 and 44, which repeal and substitute paragraphs (e) and (f) of section 33(2) of the Civil Aviation Act 1990, paragraphs (d) and (e) of section 164(2) of the Land Transport Act 1998 as well as paragraphs (e) and (f) of section 39(2) and section 392(a) of the Maritime Transport Act 1994, respectively, the majority recommends a further amendment.

The majority considers an amendment necessary to reinforce the principle that when making any rule, safety must be paramount in

the matters to be taken into consideration by the Minister or Director when considering the need for a rule in the civil aviation, land transport and maritime transport systems.

Consideration must, however, also be given to whether the proposed rule assists economic development, improves access and mobility, protects and promotes public health and ensures environmental sustainability.

Broader rule-making powers

Clause 6 amends section 28(1) of the Civil Aviation Act 1990; clause 16A substitutes a new section 152 into the Land Transport Act 1998; and clause 42 amends section 36(1) of the Maritime Transport Act 1994. These clauses provide for the rule-making powers of the Minister.

The majority recommends an amendment to the above clauses to provide for broader rule-making powers for the Minister. The majority considers it necessary to refer explicitly to the New Zealand Transport Strategy objectives in specifying the rule-making powers, to avoid any doubt when the Minister makes rules relating to civil aviation, land transport and maritime systems.

Director may monitor all regulatory requirements

The majority recommends an amendment to clause 10, which amends section 72I of the Civil Aviation Act 1990. A concern was expressed that the Director of the Civil Aviation Authority had lost the function of monitoring those aspects of the aviation system that fall outside the ambit of the rules, as many aspects of the aviation system run according to standards.

The amendment to this clause will ensure that the Director of the Civil Aviation Authority is required to monitor, within the aviation system, adherence to regulatory requirements relating to safety, security, public health, environmental matters and any other matters. The majority considers that the Director must be enabled to monitor regulatory requirements relating to non-safety matters, to account for the diversity of issues arising in the transport sector.

Similarly, the majority recommends an amendment to clause 20, which amends section 197(2) of the Land Transport Act 1998, and clause 47, which amends section 439 of the Maritime Transport Act 1994, to provide the Directors of these two Crown transport entities with broadened functions and powers that encompass more of the

New Zealand Transport Strategy objectives regarding monitoring of adherence to regulatory requirements in the land and maritime transport systems respectively.

Consultation on Land Transport New Zealand's Land Transport Programme

The majority recommends an amendment to clause 30, which amends section 15 of the Land Transport Management Act 2003, to exempt Land Transport New Zealand from being required to consult on proposed activities that have been included in another approved organisation's land transport programme.

The majority considers this amendment necessary to ensure that local authorities are not consulted twice in the development of Land Transport New Zealand's land transport programme. A local authority would consult with its community in the development of its own programme, which would in turn be incorporated into Land Transport New Zealand's programme, rendering further consultation unnecessary.

The majority recommends an amendment to clause 35 of the bill, which amends Schedule 1 of the Land Transport Management Act 2003, to make it clear that an approved organisation may continue to recommend activities for inclusion in Land Transport New Zealand's land transport programme.

Renaming of the Maritime Safety Authority and the Director of Maritime Safety

Some submitters raised concerns about the name change from the Maritime Safety Authority to the Maritime Transport Authority proposed in the bill. It was submitted that the acronym MTA could cause confusion, as the Motor Trade Association (Inc.) New Zealand has long used the same acronym. At least one other transport group also uses the acronym. In addition, some groups within the fishing industry submitted that its relationship with the Maritime Safety Authority could be jeopardised by a name change, as this could be perceived as "starting afresh" with an associated dissolution of partnership, which could affect the established safety rules. Some submitters were also concerned that the removal of the word "safety" from the name might suggest that safety will be less important in the maritime industry.

The majority understands these concerns and accordingly recommends an amendment to clause 48, which amends Schedule 3 of the Maritime Transport Act 1994, to provide for a name change from the Maritime Safety Authority, to Maritime New Zealand, rather than the Maritime Transport Authority, in clause 49 of the bill. The majority considers that the name “Maritime New Zealand” is sufficiently broad to indicate that the safety focus is being maintained, while also encompassing broader maritime objectives.

Easing transition concerns and costs

The majority wishes to ensure that the concerns of industry and the compliance costs associated with changing the name of the Maritime Safety Authority are minimised, and so recommends an amendment to clause 2, which provides for the commencement date of the bill, to allow for a commencement date of 1 July 2005 for Schedule 3 of the bill (which changes the names of the Maritime Safety Authority and the Director). This will allow the Maritime Safety Authority a managed transition. The postponed commencement date for Schedule 3 will allow additional time for the Maritime Safety Authority to work through implementation processes with its industry partners.

Clause 49 is a transitional provision relating to references to “Maritime Safety Authority” and “Director of Maritime Safety”. It allows for an earlier name change where it is considered appropriate by the parties involved.

Other matters considered

Port companies

The majority notes the concerns raised by submitters in the shipping industry to the effect that the bill should have made amendments to the Port Companies Act 1988 as there is no guidance on the way port companies fit into the New Zealand Transport Strategy and the measures they must take, particularly with regard to safety. It was suggested that port companies are not obliged to consider these issues.

While the majority understands the concerns raised, the Transport Legislation Bill implements the Government Transport Sector Review and not the findings of any other review. In addition, the bill amends the Acts that specifically concern the Crown transport agencies, so no amendment to the Port Companies Act 1988 is possible through this legislative process. The majority would recommend

that the Government gives serious consideration to reviewing the relevant legislation affecting port companies.

New Zealand National minority view

This legislation removes the wording “a cost is a reasonable cost where the value of the cost to the nation is exceeded by the value of the resulting benefit to the nation” from all civil aviation, maritime and land transport legislation.

New Zealand National has serious concerns that the safety at reasonable cost concept has been significantly diluted. The new and undefined concept of “sustainability” does not provide the longstanding economic discipline that was in force through the “safety at reasonable cost” provisions.

New Zealand National does not agree with the separate identification of Māori in preparing a land transport programme. New Zealand National considers this is preferential treatment. New Zealand National believes preferential consultation provisions on matters of general interest will ultimately damage the health of our democracy.

New Zealand First minority view

New Zealand First is of the view that the concept, if not the words, “safety at reasonable cost” need to be embraced by this legislation. If the actual words have to be removed they should (or some such words) be incorporated into the definition of “sustainability”.

It is our view that unless safety expenditure is subjected to “reasonableness”, there is the potential for unreasonableness becoming the yardstick. This could well result in differing and distorted attitudes to safety emerging at considerable and unnecessary expense.

It is New Zealand First’s view that a competitive safety regime might then eventuate, with some participants avoiding safety unless subjected to a strict policing regime.

In terms of consultation on Land Transport New Zealand’s consultation on the land transport programme, New Zealand First is of the view that Land Transport New Zealand has the responsibility to ensure any local consultation on a project has been conducted in a fair, genuine and proper manner before it is relieved of the responsibility of conducting its own consultation.

In terms of the renaming of the Maritime Safety Authority, New Zealand First emphasises that it is their view this is simply a change of name of the organisation and nothing relieves the organisation of any responsibilities it has accrued over its total existence.

Appendix

Committee process

The Transport Legislation Bill was referred to the committee on 12 August 2004. The closing date for submissions was 15 September 2004. We received and considered 28 submissions from interested groups and individuals. We heard 17 submissions, which included holding hearings in Auckland and Wellington. Hearing of evidence took 4 hours and 11 minutes and consideration took 4 hours and 23 minutes.

We received advice from Ministry of Transport. The Ministry gave consideration to comment from the Regulations Review committee regarding clause 4.

Committee membership

Hon Mark Gosche (Chairperson)

Peter Brown

Deborah Coddington

Lianne Dalziel

Helen Duncan

Dr Wayne Mapp (Deputy Chairperson)

Lynne Pillay

Mike Ward

Hon Maurice Williamson

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (majority)

▬ Subject to this Act.

Text struck out by a majority

New (majority)

▭ Subject to this Act.

Text inserted by a majority

<Subject to this Act.>

Words struck out by a majority

<Subject to this Act.>

Words inserted by a majority

Hon Pete Hodgson

Transport Legislation Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Transport Legislation Act **2004**.

Struck out (majority)

2 Commencement

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

New (majority)

2 Commencement

- (1) **Section 49** comes into force on—
 (a) **1 July 2005**; or

New (majority)

- (b) any earlier date specified by the Governor-General by Order in Council.
- (2) The rest of this Act comes into force on **1 December 2004**.

Part 1

Amendments to Transport legislation

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Subpart 1—Civil Aviation Act 1990

3 Civil Aviation Act 1990 called principal Act in this subpart

In this subpart, the Civil Aviation Act 1990¹ is called “the principal Act”.

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¹ 1990 No 98

4 Interpretation

Section 2 of the principal Act is amended by repealing the definitions of **Minister**, **Ministry**, and **Secretary**, and substituting, in their appropriate alphabetical order, the following definitions:

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

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

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“**Secretary** means the chief executive of the Ministry”.

5 New sections 14 to 14C substituted

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

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“14 **Objectives of Minister**

The objectives of the Minister under this Act are—

“(a) to <contribute> <undertake the Minister’s functions in a way that contributes> to the aim of achieving an integrated, safe, responsive, and sustainable transport system; and

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“(b) to ensure that New Zealand’s obligations under international civil aviation agreements are implemented.

“14A Functions of Minister

The functions of the Minister under this Act are—

New (majority)

“(aa) to promote safety in civil aviation:	5
“(a) to administer New Zealand’s participation in the Convention and any other international aviation convention, agreement, or understanding to which the Government of New Zealand is a party:	
“(b) to administer the Crown’s interest in the aerodromes referred to in Part X:	10
“(c) to make rules under this Act.	
“14B Search and rescue operations	
“(1) The Minister—	
“(a) must establish, maintain, and operate a search and rescue co-ordination centre to co-ordinate and conduct—	15
“(i) an aviation search and rescue operation; and	
“(ii) a maritime search and rescue operation; and	
“(iii) any other search and rescue operation that the Minister considers appropriate; and	20
“(b) may exercise any powers that may be necessary or desirable—	
“(i) for the effective co-ordination and performance of a search and rescue operation specified in paragraph (a) ; and	25
“(ii) to implement any international convention or agreement relating to search and rescue to which New Zealand is a party; and	
“(c) may appoint persons to, either generally or in any particular case, participate in or co-ordinate a search and rescue operation specified in paragraph (a) .	30
“(2) The Minister may authorise the payment, out of money appropriated for the purpose by Parliament, of an amount that the Minister considers appropriate to—	

- “(a) any person who assisted in a search and rescue operation specified in **subsection (1)(a)** at the request of a person appointed under **subsection (1)(c)**; or
- “(b) the owner of any vehicle, ship, or aircraft used in a search and rescue operation specified in **subsection (1)(a)** in response to a request by a person appointed under **subsection (1)(c)**. 5

“14C Minister may direct agencies with respect to search and rescue operations

The Minister may direct the Civil Aviation Authority or the Maritime Transport Authority, or any other Crown entity or government agency for which the Minister is responsible and whose functions are consistent with search and rescue operations, to do any or all of the following: 10

- “(a) operate and maintain the search and rescue co-ordination centre established under **section 14B(1)(a)**: 15
- “(b) co-ordinate, or participate in the co-ordination of, any search and rescue operation specified in **section 14B(1)(a)**:
- “(c) perform, or participate in the performance of, any search and rescue operation specified in **section 14B(1)(a)**: 20
- “(d) exercise any or all of the powers of the Minister under **section 14B(1)(b) and (c) and section 14B(2)**.”

6 Power of Minister to make ordinary rules

Section 28(1) of the principal Act is amended by repealing paragraph (c), and substituting the following *<paragraph>* *<paragraphs>*: 25

New (majority)

- “(caa) assisting aviation safety and security, including (but not limited to) personal security:
- “(cab) assisting economic development:
- “(cac) improving access and mobility: 30
- “(cad) protecting and promoting public health:
- “(cae) ensuring environmental sustainability:

- “(c) any matter related or reasonably incidental to any of the following:
 - “(i) the Minister’s objectives under **section 14**: 35
 - “(ii) the Minister’s functions under **section 14A**:

- “(iii) the Authority’s objectives under **section 72AA**:
“(iv) the Authority’s functions and duties under section 72B:
“(v) the Director’s functions and powers under section 72I:”.
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- 7 Matters to be taken into account in making rules**
Section 33(2) of the principal Act is amended by repealing paragraphs (e) and (f), and substituting the following paragraphs:
- “(e) the need to *<assist>* *<maintain and improve>* aviation safety and security, including (but not limited to) personal security: 10
- “(f) *<how>* *<whether>* the proposed rule—
- “(i) assists economic development:
“(ii) improves access and mobility: 15
“(iii) protects and promotes public health:
“(iv) ensures environmental sustainability:
- “(fa) the costs of implementing measures for which the rule is being proposed:”.
- 8 New section 72AA inserted** 20
The principal Act is amended by inserting, after section 72A, the following section:
- “72AA Objective of Authority**
The objective of the Authority is to undertake its safety, security, and other functions in a way that contributes to the aim of achieving an integrated, safe, responsive, and sustainable transport system.” 25
- 9 Functions of Authority**
- (1) Section 72B of the principal Act is amended by repealing subsections (1) and (4). 30
- (2) Section 72B(2) of the principal Act is amended by omitting the words “In furtherance of its principal function, the Authority shall also have the following functions:”, and substituting the words “The Authority has the following functions:”.
- (3) Section 72B(2) of the principal Act is amended by repealing paragraphs (a) to (c), and substituting the following paragraphs: 35

- “(a) to promote civil aviation safety and security in New Zealand:
- “(b) to promote civil aviation safety and security beyond New Zealand in accordance with New Zealand’s international obligations:” 5
- (4) Section 72B(2) of the principal Act is amended by repealing paragraph (i), and substituting the following paragraphs:
- “(i) to co-operate with, or to provide advice and assistance to, any government agency or local government agency when requested to do so by the Minister, but only if the Minister and the Authority are satisfied that the performance of the functions and duties of the Authority will not be compromised: 10
- “(ia) to provide information and advice with respect to civil aviation, and to foster appropriate information education programmes with respect to civil aviation, that promote its objective:” 15
- (5) Section 72B of the principal Act is amended by repealing subsection (2A), and substituting the following subsection:
- “(2A) The Authority must, if directed to do so by the Minister under **section 14C**, do any or all of the following: 20
- “(a) operate and maintain the search and rescue co-ordination centre established under **section 14B(1)(a)**:
- “(b) co-ordinate, or participate in the co-ordination of, any search and rescue operation specified in **section 14B(1)(a)**: 25
- “(c) perform, or participate in the performance of, any search and rescue operation specified in **section 14B(1)(a)**:
- “(d) exercise any or all of the powers of the Minister under **section 14B(1)(b) and (c) and section 14B(2)**.”
- (6) Section 72B of the principal Act is amended by repealing subsection (3), and substituting the following subsection: 30
- “(3) The Authority must carry out any other civil aviation functions and duties that—
- “(a) are conferred on it by this Act or any other Act; and
- “(b) the Minister may prescribe by notice in the *Gazette*.” 35

10 Director of Civil Aviation

Section 72I of the principal Act is amended by inserting, after subsection (3)(b), the word “; and” and the following paragraphs:

Struck out (majority)

- “(c) monitor adherence, within the civil aviation system, to any rules relating to—
- “(a) safety:
 - “(b) security:
 - “(c) any other matter; and

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New (majority)

- “(c) monitor adherence, within the civil aviation system, to any regulatory requirements relating to—
- “(i) safety and security, including (but not limited to) personal security:
 - “(ii) access and mobility:
 - “(iii) public health:
 - “(iv) environmental sustainability:
 - “(v) any other matter; and

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- “(d) ensure regular reviews of the civil aviation system to promote the improvement and development of its safety and security.”

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11 Functions and duties of Aviation Security Service

Section 80 of the principal Act is amended by inserting, after paragraph (ea), the following paragraph:

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

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12 Limitation of liability

- (1) Section 91G(2) of the principal Act is amended by omitting the words “Articles 21 and 22” in both places where they occur, and substituting in each case the words “Article 21 or Article 22”.
- (2) Section 91G of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

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- “(3) A court before which proceedings are brought to enforce a liability that is limited by Article 21 or Article 22 of the Montreal Convention or Article 22 of the amended Convention has jurisdiction, where the liability is, or may be, partly enforceable in other proceedings in New Zealand or elsewhere, to— 5
- “(a) award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court; or
- “(b) make any part of its award conditional on the result of any other proceedings.” 10
- 13 Repeals**
- (1) Schedule 2 of the Civil Aviation Amendment Act 2004 is amended by repealing the item relating to the Civil Aviation Amendment Act 2002. 15
- (2) Section 29(5) of the Civil Aviation Amendment Act 2002 is repealed.
- (3) Section 199 of the Maritime Transport Act 1994 is repealed.
- 14 Transitional provisions relating to rules**
- (1) Nothing in this Act affects the validity of a rule that— 20
- (a) was in force immediately before the commencement of this Act; or
- (b) has been made but is to come into force after the commencement of this Act.
- (2) If a *<proposed rule has been notified in accordance with the law>* <notice of intention to make a rule has been published under section 34(1)(a) of the principal Act as> in force immediately before the commencement of this Act, but has not been made before that commencement,— 25
- (a) the proposed rule may be made in accordance with the law in force immediately before that commencement; 30
- or
- (b) if the Minister so directs, a new rule may be prepared, notified, and made in accordance with the law in force on the commencement of this Act. 35

Subpart 2—Land Transport Act 1998

15 Land Transport Act 1998 called principal Act in this subpart

In this subpart, the Land Transport Act 1998² is called “the principal Act”. 5

² 1998 No 110

16 Interpretation

(1) Section 2(1) of the principal Act is amended by repealing the definitions of **Authority**, **Board**, **Minister**, and **Transfund**, **performance agreement**, and **service charter**.

(2) Section 2(1) of the principal Act is amended by inserting, in *<its>* *<their>* appropriate alphabetical order, the following *<definition>* *<definitions>*: 10

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

New (majority)

“**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act or the relevant Part or provision of this Act”. 15

(3) Section 2(1) of the principal Act is amended by omitting from the definition of **Director** the word “Safety”. 20

New (majority)**16A New section 152 substituted**

The principal Act is amended by repealing section 152, and substituting the following section:

“152 Power of Minister to make ordinary rules

The Minister may make rules (**ordinary rules**) for all or any of the following purposes: 25

“(a) safety and licensing for any form of transport within the land transport system, including (but not limited to) technical requirements and standards:

“(b) assisting land transport safety and security, including (but not limited to) personal security: 30

New (majority)

“(c) assisting economic development:	
“(d) improving access and mobility:	
“(e) protecting and promoting public health:	
“(f) ensuring environmental sustainability:	
“(g) any matter related, or reasonably incidental, to any of the following:	5
“(i) the Minister’s objectives under section 169 :	
“(ii) the Minister’s functions under section 169A :	
“(iii) the Director’s functions and powers referred to in section 197:	10
“(iv) the Authority’s objectives under section 68 of the Land Transport Management Act 2003:	
“(v) the Authority’s functions under section 69 of the Land Transport Management Act 2003:	
“(h) any other matter contemplated by a provision of this Act.”	15

17 Matters to be taken into account in making rules

Section 164(2) of the principal Act is amended by repealing paragraphs (d) and (e), and substituting the following paragraphs: 20

“(d) the need to assist <u>maintain and improve</u> land transport safety and security, including (but not limited to) personal security:	
“(e) how whether the proposed rule—	
“(i) assists economic development:	25
“(ii) improves access and mobility:	
“(iii) protects and promotes public health:	
“(iv) ensures environmental sustainability:	
“(ea) the costs of implementing measures for which the rule is being proposed:”.	30

18 New sections 169 and 169A substituted

The principal Act is amended by repealing section 169, and substituting the following sections:

“169 Objectives of Minister

The objectives of the Minister under this Act are—

- “(a) to ~~contribute to the aim of achieving~~ undertake the Minister’s functions in a way that contributes to an integrated, safe, responsive, and sustainable transport system; and
- “(b) to ensure that New Zealand’s obligations under international agreements relating to land transport are implemented.

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“169A Functions of Minister

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The functions of the Minister under this Act are—

New (majority)

“(aa) to promote safety in land transport:

- “(a) to administer New Zealand’s participation in any international convention, agreement, or understanding relating to land transport to which the Government of New Zealand is a party:
- “(b) to make ordinary rules under this Act.”

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19 New section 186 substituted

The principal Act is amended by repealing section 186, and substituting the following section:

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“186 Director of Land Transport

- “(1) The Authority must from time to time appoint a Director of Land Transport.
- “(2) The Director may, but need not, be the chief executive of the Authority.

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New (majority)

- “(3) The terms and conditions of employment of the Director are determined by the Authority.
- “(4) The Authority may not, in determining terms and conditions under **subsection (3)**, agree to any conditions of employment for the Director without—
- “(a) consulting the State Services Commissioner; and

30

New (majority)

“(b) having regard to all recommendations the State Services Commissioner makes to the Authority about them within a reasonable time of being consulted.

“(5) A failure to comply with this section does not invalidate the acts of the Director.”

20 Functions and powers of Director

Section 197(2) of the principal Act is amended by adding the following paragraph:

Struck out (majority)

“(c) the Director must ensure regular reviews of the land transport system to promote the improvement and development of its safety.”

New (majority)

“(c) the Director must monitor adherence, within the transport system, to any regulatory requirements relating to—

- “(i) safety and security, including (but not limited to) personal security:
- “(ii) access and mobility:
- “(iii) public health:
- “(iv) environmental sustainability:
- “(v) any other matter.”

21 Technical amendments to principal Act

The principal Act is amended in the manner indicated in **Schedule 1**.

22 Repeals

(1) The following provisions of the principal Act are repealed:

- (a) section 171(2)(c)(ii):
- (b) section 177(1)(b):
- (c) section 179(1)(a):

- (d) sections 184 and 185:
- (e) section 188:
- (f) section 189 and the heading above that section:
- (g) sections 190 to 195:
- (h) section 196 and the heading above that section: 5
- (i) section 201 and the heading above that section:
- (j) sections 202 and 203: *<(k) all of the clauses and headings above those clauses in Schedule 1, except clauses 29 and 30 and the heading above those clauses>*.

New (majority)

- | | |
|--|----|
| (2) Schedule 1 of the principal Act is repealed. | 10 |
|--|----|

23 Transitional provisions relating to rules

- (1) Nothing in this Act affects the validity of a rule that—
 - (a) was in force immediately before the commencement of this Act; or
 - (b) has been made but is to come into force after the commencement of this Act. 15
- (2) If a *<proposed rule has been notified in accordance with the law>* <notice of intention to make a rule has been published under section 161(2)(a) of the principal Act as> in force immediately before the commencement of this Act, but has not been made before that commencement,— 20
 - (a) the proposed rule may be made in accordance with the law in force immediately before that commencement; or
 - (b) if the Minister so directs, a new rule may be prepared, notified, and made in accordance with the law in force on the commencement of this Act. 25

Subpart 3—Land Transport Management Act 2003

24 Land Transport Management Act 2003 called principal Act in this subpart 30

In this subpart, the Land Transport Management Act 2003³ is called “the principal Act”.

³ 2003 No 118

25 Interpretation

- (1) Section 5 of the principal Act is amended by repealing the definitions of **approved safety administration programme, Authority, land transport, <Minister,> safety administration, safety administration programme, and Transfund.** 5
- (2) Section 5 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:
 - “**Authority** means Land Transport New Zealand established by **section 66** 10
 - “**land transport**— 10
 - “(a) means—
 - “(i) transport on land by any means:
 - “(ii) the infrastructure, goods, and services facilitating that transport; and
 - “(b) includes— 15
 - “(i) coastal shipping (including transport by means of harbour ferries, or ferries or barges on rivers or lakes) and associated infrastructure:
 - “(ii) the infrastructure, goods, and services (including education and enforcement), the primary purpose of which is to improve public safety in relation to the kinds of transport described in **paragraph (a)(i)** 20

New (majority)

<p>“Minister or responsible Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act or the relevant Part or provision of this Act”.</p>	25
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- (3) Section 5 of the principal Act is amended by inserting in the definition of **land transport programme**, after the expression “section 12”, the words “or **section 12A**”. 30

26 Crown’s authority to incur certain land transport expenditure

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

- “(4) The Crown incurs a liability to pay to the Commissioner the amount determined by the responsible Minister for the activities or activity classes delivered by the Commissioner under the Authority’s approved land transport programme less any revenue received or receivable by the Commissioner from other sources applicable to activities or activity classes in the programme.” 5
- (2) Section 9(6) of the principal Act is amended by—
- (a) omitting the word “Transfund”, and substituting the words “the Authority”: 10
- (b) omitting the expression “(5)”, and substituting the expression “(4)”.

New (majority)

26A National land transport account

- (1) Section 10(2) of the principal Act is amended by inserting, after paragraph (a), the following paragraph: 15
- “(ab) to the Authority for approved activities:”.
- (2) Section 10 of the principal Act is amended by inserting, after subsection (2), the following subsection:
- “(2A) Funding under subsection (2)(ab) is subject to compliance with section 25 (procurement procedures) unless exempt by or under section 26.” 20
- (3) Section 10(4) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
- “(b) the costs and expenses of the Authority that— 25
- “(i) arise out of the performance of its functions and duties; and
- “(ii) have been approved by the responsible Minister; and”.

27 Land transport programmes

- (1) Section 12 of the principal Act is amended by repealing subsection (1), and substituting the following subsection: 30
- “(1) In each financial year, every approved organisation that recommends that any activities or activity classes be included in a national land transport programme must, by a date or dates appointed by the Authority,— 35

- “(a) prepare a land transport programme for the next financial year; and
 - “(b) forward copies to the Authority, Transit, the Commissioner, and the Secretary; and
 - “(c) make it available to the public in a written form.” 5
- (2) Section 12(4) of the principal Act is repealed.

28 New section 12A inserted

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

- “12A Authority’s land transport programme 10**
- “(1) In each financial year and if it recommends that any activities or activity classes *<to be>*~~<~~, including those delivered by *<the Authority or>* the Commissioner~~<~~, are to be included in a national land transport programme, the Authority must prepare a land transport programme for the next financial year. 15

New (majority)

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

- “(2) The Authority must—
- “(a) include in each of its land transport programmes—
 - “(i) the recommended funding for *<the Authority and>* the Commissioner; and 20
 - “(ii) an estimate of the revenue to be received by the Authority and the Commissioner from sources (other than the national land transport fund) applicable to the outputs for which funding is sought from the national land transport programme; and 25
 - “(b) forward copies of its land transport programme to local authorities, Transit, the Commissioner, and the Secretary; and 30
 - “(c) make its land transport programme available to the public in a written form.
- “(3) The provisions of Part 1 of Schedule 1 (which relate to the contents of land transport programmes) apply to the Authority’s land transport programmes and to the Authority. 35

- “(4) The Authority must, in preparing a land transport programme, take into account how each activity or activity class—
- “(a) assists economic development; and
 - “(b) assists safety and personal security; and
 - “(c) improves access and mobility; and 5
 - “(d) protects and promotes public health; and
 - “(e) ensures environmental sustainability.
- “(5) The Authority must, in preparing a land transport programme, take into account any current national land transport strategy, the National Energy Efficiency and Conservation Strategy, 10 and any relevant regional land transport strategies.
- “(6) If the Authority prepares a land transport programme *<that includes activities or activity classes that are to be delivered by the Authority or the Commissioner>* *<under subsection (1)>*, the Authority must *<first>* obtain the approval of the responsible Minister *<before including those activities or activity classes in the>* *<for that>* land transport programme.” 15

29 New section 14 substituted

The principal Act is amended by repealing section 14, and substituting the following section: 20

“14 Variation of land transport programmes

- “(1) The organisation responsible for preparing a land transport programme may vary the programme from time to time during the financial year to which it applies,—
- “(a) if the programme has been prepared by the Authority, 25 by agreement with the Minister;
 - “(b) in every other case, by agreement with the Authority.
- “(2) The provisions of this Act that apply to the preparation of a land transport programme apply with the necessary modifications to a variation of a land transport programme. 30
- “(3) The Minister or the Authority (as the case may require) may (without limitation) decline to agree to a variation of a land transport programme if the Minister or the Authority (as the case may require) is satisfied that the subject matter of the variation could reasonably have been included in the organisation’s land transport programme.” 35

30 Who must be consulted about land transport programme

- (1) Section 15 of the principal Act is amended by repealing subsections (1)(a), (2)(a), (3)(a), and (4)(a).
- (2) Section 15 of the principal Act is amended by inserting, after subsection (4), the following *<subsection>* *<subsections>*:
 - “(4A) When preparing a land transport programme under **section 12A**, the Authority must—
 - “(a) consult—
 - “(i) Transit; and
 - “(ii) every affected regional council; and
 - “(iii) every affected territorial authority; and
 - “(iv) every affected approved organisation; and
 - “(v) the Ministry of Health; and
 - “(vi) the Accident Compensation Corporation; and
 - “(vii) the Commissioner; and
 - “(viii) the Secretary; and
 - “(ix) the Ministry of Justice; and
 - “(x) land transport users and providers; and
 - “(xi) affected communities; and
 - “(xii) Māori; and
 - “(xiii) the public; and
 - “(b) carry out the consultation using the special consultative procedures set out in Part 2 of Schedule 2.

New (majority)

- “(4B) The Authority need not consult any organisation or person referred to in **subsection (4A)** about any activity or activity class to be included in the Authority’s land transport programme if—
 - “(a) an approved organisation has, under **clause 2(5) of Schedule 1**, recommended that the activity or activity class is to be included in the Authority’s land transport programme; and
 - “(b) the approved organisation has already consulted that organisation or person about the activity or activity class.”

31 National land transport programme

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

- (a) omitting from subsections (1) and (5) the word “Transfund”, and substituting the words “The Authority”;
- (b) omitting from subsections (2) and (4) the word “Transfund”, and substituting the words “the Authority”.
- (2) Section 19 of the principal Act is amended by repealing subsection (3), and substituting the following subsection: 5
- “(3) Before adopting a national land transport programme, the Authority must be satisfied that—
- “(a) the programme contributes to the purpose of this Act and contributes to the following: 10
- “(i) assisting economic development; and
- “(ii) assisting safety and personal security; and
- “(iii) improving access and mobility; and
- “(iv) protecting and promoting public health; and 15
- “(v) ensuring environmental sustainability; and
- “(b) the Minister’s approval has been given under **section 12A(6)**, if applicable.”
- 32 New section 20A inserted**
- The principal Act is amended by inserting, after section 20, the following section: 20
- “20A Authority may not withhold approval of activities and activity classes approved under section 12A without Minister’s consent**
- Despite anything in section 20, the Authority may not withhold approval of an activity or activity class included in the Authority’s land transport programme prepared under **section 12A** without the Minister’s consent.” 25
- 33 New headings and sections 66 to 74 substituted**
- The principal Act is amended by repealing the Part 3 heading above section 66 and sections 66 to 74, and substituting the following headings and sections: 30
- “Part 3**
- “Administrative provisions relating to Land Transport New Zealand and Transit, and miscellaneous provisions** 35

“Land Transport New Zealand

- “66 **Establishment of Land Transport New Zealand**
This section establishes Land Transport New Zealand.
- “67 **Crown entity status**
The Authority is a Crown entity for the purposes of the Public Finance Act 1989. 5
- “68 **Objective of Authority**
- “(1) The objective of the Authority is to allocate resources and to undertake its functions in a way that contributes to an integrated, safe, responsive, and sustainable land transport system. 10
- “(2) In meeting its objective, the Authority must exhibit a sense of social and environmental responsibility, which includes—
- “(a) avoiding, to the extent reasonable in the circumstances, adverse effects on the environment; and 15
- “(b) ensuring, to the extent practicable, that persons or organisations preparing land transport programmes—
- “(i) take into account the views of affected communities; and
- “(ii) give early and full consideration to land transport options and alternatives in a manner that contributes to the matters in **paragraph (a) and subparagraph (i)**; and 20
- “(iii) provide early and full opportunities for the persons and organisations listed in section 15 to contribute to the development of land transport programmes. 25
- “69 **Functions of Authority**
- “(1) The functions of the Authority are—
- New (majority)**
- “(aa) to promote land transport sustainability in New Zealand: 30
- “(a) to prepare and adopt a land transport programme under **section 12A** and a national land transport programme under section 19:

- “(b) to review and revise the national land transport programme in accordance with its most recent performance agreement:
- “(c) to approve activities and activity classes:
- “(d) to make payments from the national land transport account as authorised by this Act: 5
- “(e) to promote *<land transport safety>* <safe transport on land> in New Zealand:

Struck out (majority)

- | | |
|--|----|
| “(f) to promote land transport sustainability in New Zealand: | 10 |
| “(g) to provide safety information and advice, and to foster appropriate information education programmes that promote its <i><objectives></i> <u><objective></u> : | |
| “(h) to investigate and review <i><land transport></i> accidents and incidents <u><involving transport on land></u> in its capacity as the responsible safety authority, subject to any limitations set out in the Transport Accident Investigation Commission Act 1990: | 15 |
| “(i) to approve procurement procedures under section 25: | |
| “(j) to maintain and preserve records and documents concerning activities within the land transport system, and in particular to maintain the Land Transport Register under the Land Transport Act 1998: | 20 |
| “(k) to audit the performance of approved organisations in relation to activities approved by the Authority and the operation of the organisation’s land transport disbursement account: | 25 |
| “(l) to assist and advise approved organisations in relation to the Authority’s functions, duties, and powers under this Act and the Land Transport Act 1998: | 30 |
| “(m) to fund research, education, and training activities and activity classes: | |
| “(n) to provide the Minister with any information and advice relating to the Authority’s functions that the Minister may request: | 35 |
| “(o) to co-operate with, or to provide advice and assistance to, any government agency or local government agency when requested to do so by the Minister, but only if the | |

- Minister and the Authority are satisfied that the performance of the Authority's functions and duties will not be compromised:
- “(p) to carry out any other functions relating to land transport that the Minister requests or directs. 5
- “(2) The Authority's statutorily independent functions are—
- “(a) to determine whether particular activities should be included in a national land transport programme; and
- “(b) approving activities; and
- “(c) approving procurement procedures. 10
- “(3) Subsection (2) does not apply in relation to—
- “(a) activities that are included in a land transport programme prepared by the Authority;
- “(b) activities relating to the police.
- “70 **Separate legal personality** 15
- The Authority is a legal entity in its own right separate from its board members and the Crown, and continues in existence until dissolved by an Act.
- “71 **Capacity and powers**
- “(1) The Authority has— 20
- “(a) the capacity, rights, powers, and privileges of a natural person; and
- “(b) any additional powers conferred by this Act or any other enactment.
- “(2) The Authority may exercise its powers only for the purpose of carrying out its functions. 25
- “72 **Authority's board**
- “(1) The Authority's board must have at least 6, but no more than 8, board members.
- “(2) The board members are appointed by the responsible Minister. 30
- “73 **Further provisions about Authority**
- Schedule 4 applies to the Authority.

- “74 Use of words Land Transport New Zealand**
- “(1) No company or other body may be incorporated or registered under a name that contains the words Land Transport New Zealand or under any name that, in the opinion of the Registrar of Companies, or the appropriate registering authority within the meaning of section 2 of the Flags, Emblems, and Names Protection Act 1981, so resembles a name containing those words that it is likely to deceive. 5
- “(2) On or from the commencement of this Act until the close of 31 December 2006, no company or other body may be incorporated or registered under a name that contains the words Land Transport Safety Authority of New Zealand or the word Transfund or under any name that, in the opinion of the Registrar of Companies, or the appropriate registering authority within the meaning of section 2 of the Flags, Emblems, and Names Protection Act 1981, so resembles a name containing those words that it is likely to deceive. 10 15
- “(3) Nothing in **subsection (1) or subsection (2)** applies to the Authority or to any person who is appropriately authorised by the Authority.” 20
- 34 Functions**
- Section 78 of the principal Act is amended by inserting, after paragraph (g), the following paragraph:
- “(ga) to co-operate with, or to provide advice and assistance to, any government agency or local government agency when requested to do so by the Minister, but only if the Minister and Transit are satisfied that the performance of Transit’s functions and duties will not be compromised.”. 25
- 35 Schedule 1 of principal Act amended** 30
- (1) Clause 2 of Schedule 1 of the principal Act is amended by repealing subclause (4), and substituting the following *<sub-clause>* *<subclauses>*:
- “(4) In the case of the Authority, include any activity or activity class to be delivered by the Commissioner. 35

New (majority)

- “(5) In the case of an approved organisation, include any activity or activity classes that the approved organisation recommends for inclusion in the Authority’s land transport programme for the next financial year.”
- (2) Clause 12 of Schedule 1 of the principal Act is amended by inserting, after subclause (1), the following subclause: 5
- “(1A) Include any activity or activity class to be delivered by the Commissioner.”
- 36 Schedule 5 of principal Act amended** 10
- The principal Act is amended by repealing clause 3 of Schedule 5, and substituting the following clauses:
- “3 Any directions under clause 8 of Schedule 4.
- “3A The following matters:
- “(a) the particular activity classes for which funds are to be provided by the Authority: 15
- “(b) the level of funding for each of those activity classes:
- “(c) the criteria for setting the proportion of funding <to approved organisations> for approved activities.”
- 37 Technical amendments to principal Act** 20
- The principal Act is amended in the manner indicated in **Schedule 2**.
- 38 Repeals**
- The following provisions of the principal Act are repealed:
- (a) section 28 and the heading above that section: 25
- (b) sections 29 to 33:
- (c) Schedule 3.
- Subpart 4—Maritime Transport Act 1994
- 39 Maritime Transport Act 1994 called principal Act in this subpart** 30
- In this subpart, the Maritime Transport Act 1994⁴ is called “the principal Act”.

⁴ 1994 No 104

40 Interpretation

- (1) Section 2(1) of the principal Act is amended by repealing the definitions of **Minister** and **Ministry**.
- (2) Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions: 5
- “**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act <or the relevant Part or provision of this Act>
- “**Ministry** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act 10
- “**Secretary** means the chief executive of the Ministry”.

41 New sections 5 and 5A substituted

The principal Act is amended by repealing section 5, and substituting the following sections: 15

“5 Objectives of Minister

The objectives of the Minister under this Act are—

- “(a) to <contribute to the aim of achieving> <undertake the Minister’s functions in a way that contributes to> an integrated, safe, responsive, and sustainable transport system; and 20
- “(b) to ensure that New Zealand’s obligations under the conventions are implemented.

“5A Functions of Minister

The functions of the Minister under this Act are— 25

New (majority)

“(aa) to promote safety in maritime transport:

- “(a) to administer New Zealand’s participation in the Conventions and any other international maritime or marine protection convention, agreement, or understanding to which the Government of New Zealand is a party<; and><:;> 30
- “(b) to ensure New Zealand’s preparedness for, and ability to respond to, marine oil pollution spills<; and><:;>

“(c) to make maritime rules and marine protection rules under this Act.”

42 Maritime rules relating to other matters

Section 36(1) is amended by repealing paragraph (v), and substituting the following *<paragraph>* <paragraphs>:

5

Struck out (majority)

“(v) any matter related or reasonably incidental to any of the following:

“(i) the Minister’s objectives under section 5:

“(ii) the Minister’s functions under **section 5A**:

“(iii) the Authority’s objectives under **section 430**:

10

“(iv) the Authority’s functions under section 431:

“(v) the Director’s functions under section 439.”

New (majority)

“(v) assisting maritime safety and security, including (but not limited to) personal security:

“(w) assisting economic development:

15

“(x) improving access and mobility:

“(y) protecting and promoting public health:

“(z) ensuring environmental sustainability:

“(za) any matter related, or reasonably incidental, to any of the following:

20

“(i) the Minister’s objectives under **section 5**:

“(ii) the Minister’s functions under **section 5A**:

“(iii) the Authority’s objective under **section 430**:

“(iv) the Authority’s functions under section 431:

“(v) the Director’s functions under section 439:

25

“(zb) any other matter contemplated by a provision of this Act.”

43 Matters to be taken into account in making maritime rules

Section 39(2) of the principal Act is amended by repealing paragraphs (e) and (f), and substituting the following paragraphs:

30

- “(e) the need to *<assist>* *<maintain and improve>* maritime safety and security, including (but not limited to) personal security:
- “(f) *<how>* *<whether>* the proposed rule—
- “(i) assists economic development: 5
 - “(ii) improves access and mobility:
 - “(iii) promotes and protects public health:
 - “(iv) ensures environmental sustainability:
- “(fa) the costs of implementing measures for which the rule is being proposed:” 10

44 Matters to be taken into account in making marine protection rules

- (1) Section 392 of the principal Act is amended by repealing paragraph (a), and substituting the following paragraphs:
- “(a) the need to— 15
- “(i) protect the marine environment:
 - “(ii) *<assist>* *<maintain and improve>* maritime safety:
- “(ab) *<how>* *<whether>* the proposed rule— 20
- “(i) assists economic development:
 - “(ii) improves access and mobility:
 - “(iii) promotes and protects public health:
 - “(iv) ensures environmental sustainability:”.
- (2) Section 392 of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph: 25
- “(c) the costs of implementing measures for which the rule is being proposed:”.

45 New section 430 substituted

The principal Act is amended by repealing section 430, and substituting the following section: 30

“430 Objective of Authority

The objective of the Authority is to undertake its safety, security, marine protection, and other functions in a way that contributes to the aim of achieving an integrated, safe, responsive, and sustainable transport system.” 35

46 Functions of Authority

- (1) Section 431(1) of the principal Act is amended by omitting the words “In the furtherance of its principal objective, the Authority shall also have the following functions:”, and substituting the words “The Authority has the following functions:”. 5
- (2) Section 431(1) of the principal Act is amended by repealing paragraphs (a) to (d), and substituting the following paragraphs:
- “(a) to promote maritime safety and security, and protection of the marine environment in New Zealand: 10
- “(b) to promote maritime safety and security, and protection of the marine environment beyond New Zealand in accordance with New Zealand’s international obligations:”. 15
- (3) Section 431(1) of the principal Act is amended by repealing paragraph (i), and substituting the following paragraphs:
- “(i) to co-operate with, or to provide advice and assistance to, any government agency or local government agency when requested to do so by the Minister, but only if the Minister and the Authority are satisfied that the performance of the Authority’s functions and duties will not be compromised: 20
- “(ia) to provide information and advice with respect to maritime transport and marine protection, and to foster appropriate information education programmes with respect to maritime transport and marine protection, that promote its objective:”. 25
- (4) Section 431 of the Maritime Transport Act 1994 is amended by adding the following subsection: 30
- “(3) The Authority must, if directed by the Minister under **section 14C** of the Civil Aviation Act 1990, do any or all of the following:
- “(a) maintain and operate the search and rescue co-ordination centre established under **section 14B(1)(a)** of the Civil Aviation Act 1990: 35
- “(b) co-ordinate, or participate in the co-ordination of, any search and rescue operation specified in **section 14B(1)(a)** of the Civil Aviation Act 1990:

“(c) perform, or participate in the performance of, any search and rescue operation specified in **section 14B(1)(a)** of the Civil Aviation Act 1990:

“(d) exercise any or all of the powers of the Minister under **section 14B(1)(b) and (c) and section 14B(2)** of the Civil Aviation Act 1990.”

5

47 Director of Maritime Safety

Section 439 of the principal Act is amended by inserting, after subsection (3)(b), the word “; and” and the following paragraphs:

10

“(c) monitor adherence, within the maritime transport system, to any *<rules>* *<regulatory requirements>* relating to—

Struck out (majority)

“(i) safety:

“(ii) security:

“(iii) any other matter; and

15

New (majority)

“(i) safety and security, including (but not limited to) personal security:

“(ii) access and mobility:

“(iii) public health:

“(iv) environmental sustainability:

“(v) any other matter; and

20

“(d) ensure regular reviews of the maritime transport system to promote the improvement and development of its safety and security; and

25

“(e) promote compliance with safety and maritime pollution standards in the maritime transport system.”

Struck out (majority)

48 Technical amendments to principal Act

The principal Act is amended in the manner indicated in **Schedule 3**.

30

49 Transitional provisions relating to references to Maritime Safety Authority and Director of Maritime Safety

- (1) Unless the context otherwise requires, in any enactment, agreement, deed, instrument, application, or notice, or in any other document in force immediately before the commencement of this *<Act>* *<section>*,—
- (a) every reference to the Maritime Safety Authority is, on and after that commencement, to be read as a reference to *<the Maritime Transport Authority>* *<Maritime New Zealand>*: 5 10
- (b) every reference to the Director of Maritime Safety is, on and after that commencement, to be read as a reference to the Director of Maritime *<Transport>* *<New Zealand>*. 15

New (majority)

- (2) The principal Act is amended in the manner indicated in **Part 1 of Schedule 3**.
- (3) The Acts specified in **Part 2 of Schedule 3** are amended in the manner indicated in that Part.
- (4) The regulations specified in **Part 3 of Schedule 3** are amended in the manner indicated in that Part. 20

50 Transitional provisions relating to rules

- (1) Nothing in this Act affects the validity of a rule that—
- (a) was in force immediately before the commencement of this Act; or 25
- (b) has been made but is to come into force after the commencement of this Act.
- (2) If a *<proposed rule has been notified in accordance with the law>* *<notice to make a rule has been published under section 446(a) of the principal Act as>* in force immediately before the commencement of this Act, but has not been made before that commencement,— 30
- (a) the proposed rule may be made in accordance with the law in force immediately before that commencement; 35
- or

- (b) if the Minister so directs, a new rule may be prepared, notified, and made in accordance with the law in force on the commencement of this Act.

Part 2

Miscellaneous provisions

5

51 Dissolution of Land Transport Safety Authority and Transfund

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

52 Amendments to enactments

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

New (majority)

53 General savings provision

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

54 Transitional regulations

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

- (a) prescribing transitional and savings provisions concerning the coming into force of this Act that may be in addition to, or in place of, the transitional and savings provisions in this Act: 25
- (b) providing that, subject to such conditions as may be specified in the regulations, during a specified transitional period,— 30
- (i) specified provisions of this Act (including definitions) do not apply:

New (majority)

- (ii) specified terms have the meaning given to them by the regulations:
- (iii) specified provisions repealed or amended or revoked by this Act are to continue to apply.

Compare: 2003 No 118 s 112

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55 Expiry of section 54

Section 54 expires on the close of 1 July 2006.

Compare: 2003 No 118 s 113

s 21

Schedule 1**Technical amendments to principal Act****Section 19**

Omit the word “Safety” wherever it occurs.

Section 174

Omit from subsection (1) the word “, Transfund,”.

Section 178

Repeal subsection (2)(e) and (f) and substitute:

“(e) the Authority.”

Section 181

Omit from subsection (1) the word “, Transfund,”.

Section 182

Repeal subsection (2)(b).

Omit from subsection (3) the words “the Board,”.

Part 14 heading

Repeal the Part 14 heading and substitute:

“Part 14**“Director of Land Transport”.****Heading to section 187**

Omit and substitute “Acting Director”.

Section 197

Omit from subsection (1) the words “under section 203”.

Heading to section 205

Omit the words “Authority and”.

Section 205

Repeal subsection (1).

Section 206

Omit from subsection (1) the words “section 203 or”.

Omit from subsection (4) the words “the original power holder (the Authority or the Director, as the case may be)” and substitute the words “the Director”.

Schedule 2

s 37

Technical amendments to principal Act

Section 5

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

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

“(a) the Authority:”.

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

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

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

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

Section 10

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

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

Section 11

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

Section 13

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

Section 18

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

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

Section 20

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

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

Section 21

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

Omit from subsection (2) the word “Transfund” wherever it occurs and substitute in each case the words “the Authority”. 5

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

Section 22

Omit from subsections (1) and (2) the word “Transfund” and substitute in each case the words “The Authority”. 10

Section 24

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

Section 25

Omit from subsections (1) to (3) and (5) the word “Transfund” and substitute in each case the words “the Authority”. 15

Section 26

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

Section 34

Omit the words “safety administration outputs” wherever they occur and substitute in each case the words “activities or activity classes”. 20

Section 35

Omit the word “Transfund,”. 25

Heading to section 36

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

Section 36

Omit from subsections (1), (2), and (4) the word “Transfund” wherever it occurs and substitute in each case the words “the Authority”. 30

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

Section 37

Omit from subsections (1), (3), and (4) the word “Transfund” wherever it occurs and substitute in each case the words “the Authority”. 35

Section 38

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

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

5

Section 39

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

Section 48

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

10

Section 49

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

Section 58

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

15

Section 59

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

20

Heading before section 84

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

Heading to section 84

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

25

Section 84

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

Heading to section 87

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

30

Schedule 1

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

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

35

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

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

Repeal clause 2(4).

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

Omit from clause 5 the words “Transfund or”.

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

Omit from clause 10 the words “Transfund and”.

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

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

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

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

Heading to Schedule 4

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

New (majority)**Schedule 4**

Repeal clause 27(3) and substitute:

“(3) To avoid doubt,—

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

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

Schedule 5

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

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

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

Struck out (majority)

Schedule 3

s 48

Technical amendments to principal Act**Section 2(1)**

Omit from the definition of **Authority** the word “Safety” and substitute the word “Transport”. 5

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

Part V heading

Omit the word “**Safety**” and substitute the word “**Transport**”. 10

Section 282

Omit from subsection (3)(g) the word “Safety” and substitute the word “Transport”. 15

Section 319

Omit from subsection (3) the word “Safety” and substitute the word “Transport”. 20

Part XXIX heading

Omit the word “**Safety**” and substitute the word “**Transport**”. 25

Heading to section 429

Omit the word “**Safety**” and substitute the word “**Transport**”. 30

Section 429

Omit from subsection (1) the word “Safety” and substitute the word “Transport”. 35

Heading to section 438

Insert, after the word “**Authority**”, the words “**and Maritime Transport Authority**”. 40

Section 438

Omit from subsection (1) the words “words ‘Maritime Safety Authority’ or” and substitute the words “words ‘Maritime Safety Authority’ or ‘Maritime Transport Authority’ or”. 45

Heading to section 439

Omit the word “**Safety**” and substitute the word “**Transport**”. 50

Section 439

Omit from subsection (1) the word “Safety” and substitute the word “Transport”. 55

Struck out (majority)**Heading to section 440**

Omit the word “**Safety**” and substitute the word “**Transport**”.

Heading to First Schedule

Omit the word “**Safety**” and substitute the word “**Transport**”.

Second Schedule

Omit from clause 17 the word “**Safety**” and substitute the word “**Transport**”.

5

New (majority)

Schedule 3 Enactments amended

s 49

Part 1

Technical amendments to principal Act

Section 2(1)	5
Repeal the definition of Authority and substitute: “ Authority means the authority continued by section 429”.	
Omit from the definition of Director the words “Maritime Safety” and substitute the words “Maritime New Zealand”.	
Part V heading	10
Omit the words “ Maritime Safety ” and substitute the words “ Maritime New Zealand ”.	
Section 282	
Repeal subsection (3)(g) and substitute: “(g) Maritime New Zealand:”.	
Section 319	15
Omit from subsection (3) the words “Maritime Safety”.	
Part XXIX heading	
Omit the words “ Safety Authority of ”.	
Heading to section 429	20
Omit the words “ Safety Authority of ”.	
Section 429	
Omit from subsection (1) the words “Safety Authority of”.	
Heading to section 438	
Insert, after the words “‘ Maritime Safety Authority ’”, the words “ and ‘Maritime New Zealand’ ”.	
Section 438(1)	
Insert, after the words “‘ Maritime Safety Authority ’”, the words “or ‘ Maritime New Zealand ’”.	
Heading to section 439	30
Omit the words “ Maritime Safety ” and substitute the words “ Maritime New Zealand ”.	
Section 439(1)	
Omit the word “Safety” and substitute the words “New Zealand”.	

New (majority)

Part 1—*continued*

Heading to section 440

Omit the word “**Safety**” and substitute the words “**New Zealand**”.

Heading to First Schedule

Omit the words “**Safety Authority of**”.

Second Schedule

5

Omit from clause 17 the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Part 2

Amendments to Acts

Health and Safety in Employment Act 1992 (1992 No 96)

10

Omit from section 54(3) the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Local Government Act 1974 (1974 No 66)

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

15

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

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

20

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

Omit from section 650H the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

25

Omit from section 650H the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Omit from section 684F the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Ombudsmen Act 1975 (1975 No 9)

30

Omit from Part 2 of Schedule 1 the item “The Maritime Safety Authority of New Zealand”.

Insert in Part 2 of Schedule 1, in its appropriate alphabetical order, the item “Maritime New Zealand”.

New (majority)

Part 2—continued

Public Finance Act 1989 (1989 No 44)

Omit from the Fourth, Fifth, and Sixth Schedules the item “Maritime Safety Authority of New Zealand”.

Insert in the Fourth, Fifth, and Sixth Schedules, in its appropriate alphabetical order, the item “Maritime New Zealand”. 5

Resource Management Act 1991 (1991 No 69)

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

“**Director of Maritime New Zealand** or **Director** means the person for the time being holding the office of Director of Maritime New Zealand under section 439 of the Maritime Transport Act 1994”. 10

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

“**Maritime New Zealand** means the authority continued by section 429 of the Maritime Transport Act 1994”. 15

Omit from section 38(1)(b) the words “the Maritime Safety Authority of New Zealand” and substitute the words “Maritime New Zealand”.

Omit from section 138A(6) the words “Maritime Safety” and substitute the words “Maritime New Zealand”. 20

Omit from section 325B(1)(a) and (2) the words “Maritime Safety” and substitute in each case the words “Maritime New Zealand”.

Omit from section 360(1)(he) the words “Maritime Safety” and substitute the words “Maritime New Zealand”. 25

Ship Registration Act 1992 (1992 No 89)

Omit from the definition of **Director** in section 2(1) the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Submarine Cables and Pipelines Protection Act 1996 (1996 No 22) 30

Omit from the definition of **Director** in section 2 the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

New (majority)

Part 2—continued

Transport Accident Investigation Commission Act 1990

(1990 No 99)

Repeal the definition of **Maritime Safety Authority** in section 2 and substitute in its appropriate alphabetical order:

“**Maritime New Zealand** means the authority continued by section 429 of the Maritime Transport Act 1994”. 5

Omit from section 8(2)(f) the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Omit from section 9(1)(c) the words “The Maritime Safety Authority” and substitute the words “Maritime New Zealand”. 10

Omit from section 10 the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Omit from section 13(7) the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Omit from section 14(3) the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”. 15

Part 3

Amendments to regulations

Fisheries (Commercial Fishing) Regulations 2001

(SR 2001/253)

Omit from the definition of **New Zealand authorities** in regulation 3 the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”. 20

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

Omit from regulation 5(2)(b)(i) the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”. 25

Omit from regulation 8(4)(a) the words “the Maritime Safety Authority” and substitute the words “Maritime New Zealand”.

Marine Protection (Offences) Regulations 1998 (SR 1998/205) 30

Omit from the Marine Protection Infringement Offence Notice in Schedule 2 the words “Director of Maritime Safety” in both places where they appear and substitute in each case the words “Director of Maritime New Zealand”.

New (majority)

Part 3—continued

Marine Protection (Offences) Regulations 1998

(SR 1998/205)—continued

Omit from the Marine Protection Infringement Offence Notice in Schedule 2 the words “Maritime Safety Authority of New Zealand” and substitute the words “Maritime New Zealand”.

Omit from the Marine Protection Infringement Offence Notice in Schedule 2 the words “the Maritime Safety Authority of New Zealand” and substitute the words “Maritime New Zealand”. 5

Marine Safety Charges Regulations 2000 (SR 2000/268)

Omit from the definition of **Director** in regulation 3 the words “Maritime Safety” and substitute the words “Maritime New Zealand”. 10

Maritime (Offences) Regulations 1998 (1998 No 444)

Omit from the Maritime Infringement Offence Notice in Schedule 2 the words “Director of Maritime Safety” in both places where they appear and substitute in each case the words “Director of Maritime New Zealand”. 15

Omit from the Maritime Infringement Offence Notice in Schedule 2 the words “Maritime Safety Authority of New Zealand” and substitute the words “Maritime New Zealand”.

Omit from the Maritime Infringement Offence Notice in Schedule 2 the words “the Maritime Safety Authority of New Zealand” and substitute the words “Maritime New Zealand”. 20

Maritime Security (Designated Authority) Order 2004

(SR 2004/94)

Omit from clause 3 the words “The Maritime Safety Authority” and substitute the words “Maritime New Zealand”. 25

Maritime Transport (Fund Convention) Levies Order 1996

(SR 1996/337)

Omit from clause 7(1) and (2) the words “Maritime Safety” and substitute in each case the words “Maritime New Zealand”. 30

New (majority)**Part 3—continued****Maritime Transport (Infringement Fees for Offences Relating to Major Maritime Events) Regulations 1999** (SR 1999/243)

Omit from the Maritime Transport Infringement Offence Notice in the Schedule the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

5

Oil Pollution Levies Order 1998 (SR 1998/356)

Omit from the definition of **Director** in clause 2(1) the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Resource Management (Marine Pollution) Regulations 1998 (SR 1998/208)

10

Omit from regulation 7(2) the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Ship Registration (Fees) Regulations 1992 (SR 1992/298)

Omit from the definition of **Director** in regulation 2 the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

15

Shipping (Charges) Regulations 2000 (SR 2000/269)

Revoke the definition of **Authority** in regulation 3 and substitute:
 “**Authority** means Maritime New Zealand”.

20

Omit from the definition of **Director** in regulation 3 the words “Maritime Safety” and substitute the words “Maritime New Zealand”.

Omit from the heading to Schedule 1 the words “Safety Authority of”.

25

s 51(2)

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

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

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

2 Consequences of dissolution

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

Struck out (majority)

- (d) subject to **clause 4**, all members of the former agencies become members of the new Authority; and
- (e) subject to **clause <5> <4>**, every employee of the former agencies becomes an employee of the new Authority on the same terms and conditions as applied immediately before becoming an employee of the new Authority; and 15
- (f) all proceedings by or against the former agencies, or *<the Directors of the former agencies>* <the Director of the former Land Transport Safety Authority>, may be continued, completed, or enforced by or against the new Authority <or the Director of the new Authority, as the case may require>. 20

New (majority)

- (2) Despite anything in **subclause (1)**, the Board of Land Transport New Zealand may appoint a new chief executive after the dissolution date. 25

3 References to former agency

Unless the context otherwise requires, in any enactment, agreement, deed, instrument, application, or notice, or in any other document in force immediately before the dissolution date,— 30

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

New (majority)

3A First members of new Authority

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

4 Transfer of employees to Ministry

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

5 Terms and conditions of employment for transferred employees

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

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

- 6 Continuity of employment**
For the purposes of every enactment, law, determination, contract, and agreement relating to the employment of a transferred employee,—
- (a) the contract of employment of that employee is to be treated as unbroken; and 5
 - (b) the employee's period of service with a former agency, and every other period of service of that employee that is recognised by a former agency as continuous service, is to be treated as a period of service with the new employer. 10
- 7 No compensation for technical redundancy**
A transferred employee is not entitled to receive any payment or any other benefit because—
- (a) the position held by the employee in a former agency has ceased to exist; or 15
 - (b) the employee has ceased (as a result of the transfer to the new employer) to be an employee of a former agency; or
 - (c) the employee has been transferred to a suitable alternative position under **clause 4**. 20
- 8 Government Superannuation Fund**
- (1) This section applies to every person who, immediately before the dissolution date, was an employee of a former agency.
 - (2) Nothing in this Act affects any entitlement under the Government Superannuation Fund Act 1956 of a person to whom this section applies. 25
 - (3) This clause is for the avoidance of doubt.
- 9 Final reports and accounts**
- (1) As soon as practicable after the commencement of this Act, the new Authority must arrange for the final report of each former agency to be delivered to the Minister. 30
 - (2) The report must—
 - (a) describe the former agency's operations for the period beginning on 1 July 2004 and ending with the dissolution date; and 35
 - (b) include—

- (i) financial statements of that agency prepared, in accordance with Part 5 of the Public Finance Act 1989, for that period; and
- (ii) an audit report prepared by the Auditor-General and a statement of responsibility relating to those financial statements. 5
- (3) The Minister must present a copy of every report under this section to the House of Representatives under section 44A of the Public Finance Act 1989.
- 10 Performance agreements** 10
The performance agreements for each former agency that were in effect immediately before the dissolution date continue to have effect as if they had been approved under section 84 of the Land Transport Management Act 2003.
- New (majority)**
- 10A Statements of intent** 15
The statements of intent for each former agency that were in effect immediately before the dissolution date continue to have effect, with any necessary modifications, until 30 June 2005.
- 11 Policy directions** 20
Policy directions in effect immediately before the dissolution date under clause 8 of Schedule 4 of the Land Transport Management Act 2003 or section 191 of the Land Transport Act 1998 continue to have effect.
- 12 Delegations** 25
Delegations in effect immediately before the dissolution date under clause 20 or clause 21 of Schedule 4 of the Land Transport Management Act 2003 or section 203 of the Land Transport Act 1998 continue to have effect.

New (majority)

12A Continuation of certain appointments

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

13 Approved activities and activity classes

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

14 Existing programmes continued

- | | | |
|-----|--|----|
| (1) | The national land transport programme and the safety administration programme in effect under the Land Transport Management Act 2003 immediately before the dissolution date continue to have effect. | 20 |
| (2) | The new Authority must use its best endeavours to comply with the provisions of the Land Transport Management Act 2003 in approving activities that were not approved before the dissolution date and that are in a programme to which this section applies. | 25 |

15 Completion of draft programmes

- | | | |
|-----|---|----|
| (1) | A draft land transport programme, and draft national land transport programme, that was in existence (but not completed) immediately before the dissolution date must be completed in accordance with the provisions of the Land Transport Management Act 2003. | 30 |
| (2) | The new Authority must use its best endeavours to comply with the provisions of the Land Transport Management Act 2003 in approving activities and activity classes. | 35 |

- (3) The completed land transport programmes have effect as if they had been continued by **clause 14**.
- 16 Safety** ~~Administration Programme~~ administration programme or supplementary safety administration programme **for 2005/06 financial year** 5
- (1) Despite anything in this Act or any other enactment, the new Authority must complete a safety administration programme~~, or may complete a supplementary safety administration programme,~~ for the 2005/06 financial year in accordance with sections 28 to 33 of the Land Transport Management Act 2003 as those sections stood immediately before the commencement of the **Land Transport Management Amendment Act 2004**. 10
- New (majority)**
- (1A) Despite **subclause (1)**, a safety administration programme or a supplementary safety administration programme may include outputs related to land transport. 15
- (1B) When approving a safety administration programme or a supplementary safety administration programme, the Minister must have regard to whether that programme— 20
- (a) assists economic development; and
 - (b) assists safety and personal security; and
 - (c) improves access and mobility; and
 - (d) protects and promotes public health; and
 - (e) ensures environmental sustainability.
- (2) Despite **section 12A** of the Land Transport Management Act 2003, the new Authority is not required to prepare a land transport programme for the 2005/06 financial year. 25
- 17 Transitional regulations**
- (1) The Governor-General may, by Order in Council, make regulations prescribing transitional and savings provisions concerning the dissolution of the Land Transport Safety Authority and Transfund New Zealand, which may be in addition to or in place of the transitional provisions set out in this schedule. 30
- (2) This clause expires on 1 July 2006. 35

18 Approved procurement procedures

Approved procurement procedures in effect under section 25 of the Land Transport Management Act 2003 immediately before the dissolution date continue to have effect according to their tenor.

5

Schedule 5 Amendments to other enactments

s 52

Part 1 Amendments to Acts

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

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

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

Local Government Act 1974 (1974 No 66)

5

Struck out (majority)

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

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

10

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

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

15

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

Struck out (majority)

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

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

20

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

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

Motor Vehicle Sales Act 2003 (2003 No 12)

25

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

Oaths and Declarations Act 1957 (1957 No 88)

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

30

Ombudsmen Act 1975 (1975 No 9)

Omit from Part 2 of Schedule 1 the following items:

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

The Land Transport Safety Authority of New Zealand

The Maritime Safety Authority of New Zealand

Transfund New Zealand

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

5

Land Transport New Zealand

Maritime New Zealand

Privacy Act 1993 (1993 No 28)

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

10

“(gb) Land Transport New Zealand:”.

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

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

15

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

20

Public Finance Act 1989 (1989 No 44)

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

Land Transport Safety Authority of New Zealand

Maritime Safety Authority of New Zealand

Transfund New Zealand

25

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

Land Transport New Zealand

Maritime Transport Authority of New Zealand

30

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

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

Part 1—continued

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

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

“**Maritime Transport Authority of New Zealand** means the Maritime Transport Authority of New Zealand continued by **section 429** of the Maritime Transport Act 1994”. 5

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

Omit from section 138A(6) the word “Safety” and substitute the word “Transport”. 10

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

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

Road User Charges Act 1977 (1977 No 124) 15

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

Sentencing Act 2002 (2002 No 9)

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

Struck out (majority)**Ship Registration Act 1992** (1992 No 89) 20

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

Submarine Cables and Pipelines Protection Act 1996

(1996 No 22)

Omit from the definition of **Director** in section 2 the word “Safety” and substitute the word “Transport”. 25

Transit New Zealand Act 1989 (1989 No 75)

Repeal the definitions of **Director of Land Transport Safety** and **Land Transport Safety Authority** in section 2(1) and substitute in their appropriate alphabetical order: 30

Part 1—*continued***Transit New Zealand Act 1989** (1989 No 75)—*continued*

“**Director of Land Transport** means the person appointed under section 186 of the Land Transport Act 1998

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

5

Omit from section 48(5) the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”.

Omit from section 50(4) the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”.

10

Omit from section 53(2)(a) the word “Safety”.

Transport Accident Investigation Commission Act 1990

(1990 No 99)

Repeal the *<definitions>* *<definition>* of **Land Transport Authority** *<and Maritime Safety Authority>* in section 2 and substitute in *<their>* *<its>* appropriate alphabetical order:

15

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

20

Struck out (majority)

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

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

25

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

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

30

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

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

Omit from section 13(7) the words “the Land Transport Safety Authority~~, or the Maritime Safety Authority~~” and substitute the words “Land Transport New Zealand~~, or the Maritime Transport Authority~~”. 5

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

Transport Act 1962 (1962 No 135)

Repeal the definition of **Authority** in section 2(1) and substitute: 10

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

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

Transport Services Licensing Act 1989 (1989 No 74) 15

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

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

Omit from the definition of **Director** in section 2(1) the word “Safety”. 20

Transport (Vehicle and Driver Registration and Licensing) Act 1986 (1986 No 6)

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

“**Authority** means Land Transport New Zealand established by **section 66** of the Land Transport Management Act 2003”. 25

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

Part 2

Amendments to regulations

Explosives Regulations 1959 (SR 1959/126) 30

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

Part 2—*continued***Struck out (majority)****Fisheries (Commercial Fishing) Regulations 2001**

(SR 2001/253)

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

5

Goods Service Vehicle (Constructional) Regulations 1936

(SR 1936/80 & SR 1961/94)

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

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

10

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

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

15

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

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

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

20

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

Heavy Motor Vehicle Regulations 1974 (SR 1974/218)

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

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

25

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

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

30

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

Part 2—*continued*

Land Transport (Driver Licensing) Rule 1999 (SR 1999/100)	
Revoke the definition of Authority in rule 2(1) and substitute:	
“ Authority means Land Transport New Zealand established by section 66 of the Land Transport Management Act 2003”.	
Omit from the definition of Director in rule 2(1) the word “Safety”.	5
Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)	
Omit from clause 2 of Part 1 of Schedule 3 the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”.	10
Omit from clause 1 of Part 2 of Schedule 3 the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”.	
Omit from clauses 1, 3, 4, 5, 6, 8, and 10 of Part 2 of Schedule 3 the word “LTSA” wherever it appears and substitute in each case the word “LTNZ”.	15
Omit from clause 10 of Part 2 of Schedule 3 the word “Safety”.	
Land Transport (Ordering a Vehicle off the Road) Notice 1999 (SR 1999/33)	
Omit from the definitions of authorised vehicle inspection agent and vehicle inspector in clause 2 the word “Safety”.	20
Omit from clause 8 of the Notice for Defective Vehicle in Schedule 1 the word “Safety”.	
Omit from clause 5 of the Notice to be Affixed to Unsafe Vehicle in Schedule 2 the word “Safety”.	25
Omit from clause 5 of the Notice to Driver or Owner of Vehicle in Schedule 3 the words “the Land Transport Safety Authority” and substitute the words “Land Transport New Zealand”.	
Struck out (majority)	
Marine Protection (Offences) Regulations 1998 (SR 1998/205)	
Omit from the Marine Protection Infringement Offence Notice in Schedule 2 the word “Safety” wherever it appears and substitute in each case the word “Transport”.	30
Marine Safety Charges Regulations 2000 (SR 2000/268)	
Omit from the definition of Director in regulation 3 the word “Safety” and substitute the word “Transport”.	35

Part 2—continued

Struck out (majority)

- | | |
|---|----|
| <p>Maritime (Offences) Regulations 1998 (1998 No 444)
Omit from the Maritime Infringement Offence Notice in Schedule 2 the word “Safety” wherever it appears and substitute in each case the word “Transport”.</p> | 5 |
| <p>Maritime Transport (Fund Convention) Levies Order 1996 (SR 1996/337)
Omit from regulation 7(1) and (2) the word “Safety” and substitute in each case the word “Transport”.</p> | |
| <p>Maritime Transport (Infringement Fees for Offences Relating to Major Maritime Events) Regulations 1999 (SR 1999/243)
Omit from the Maritime Transport Infringement Offence Notice in the Schedule the word “Safety” and substitute the word “Transport”.</p> | 10 |
| <p>Oil Pollution Levies Order 1998 (SR 1998/356)
Omit from the definition of Director in clause 2(1) the word “Safety” and substitute the word “Transport”.</p> | 15 |
| <p>Passenger Service Vehicle Construction Regulations 1978 (SR 1978/15)
Revoke the definition of Authority in regulation 2(1) and substitute:
 “Authority means Land Transport New Zealand established by section 66 of the Land Transport Management Act 2003”.
Omit from the definition of Director in regulation 2(1) the word “Safety”.</p> | 20 |
| Struck out (majority) | |
| <p>Resource Management (Marine Pollution) Regulations 1998 (SR 1998/208)
Omit from regulation 7(2) the word “Safety” and substitute the word “Transport”.</p> | 25 |
| <p>Road User Charges Regulations 1978 (SR 1978/30)
Omit from the definition of Director in regulation 2 the word “Safety”.</p> | 30 |

Part 2—*continued***Ship Registration (Fees) Regulations 1992** (SR 1992/298)

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

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

5

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

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

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

Traffic Regulations 1976 (SR 1976/227)

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

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

15

Omit from the definitions of **Director** and **traffic officer** in regulation 2 the word “Safety”.

Transport (Vehicle Standards) Regulations 1990

(SR 1990/247)

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

20

Legislative history

9 August 2004

Introduction (Bill 172–1)

12 August 2004

First reading and referral to the Transport and Industrial Relations Committee