

[This Bill was formerly Part IV of the Transport Amendment Bill: 157-2.

[AS REPORTED FROM THE GOVERNMENT ADMINISTRATION COMMITTEE]

House of Representatives, 23 June 1992.

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

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 25 June 1992.

Hon. W. Rob Storey

TRANSIT NEW ZEALAND AMENDMENT (NO. 3)

ANALYSIS

Title	
1. Short Title and commencement	66. Duty to consult
59. Interpretation	67. Needs of transport disadvantaged to be considered
60. Payments from Fund	68. Approval of safety (administration) programme
61. Authority may approve projects	69. Secretary may submit supplementary programme
62. Special provisions relating to minor and ancillary road works, and in-house professional services	70. Authority, local authorities, Secretary, and Commissioner to adhere to approved national land transport programme
63. New sections substituted	71. Land transport annual report
23. Regional land transport strategies	72. New sections substituted
24. Effect of regional land transport strategy	42. Reporting requirement
25. Regional land transport programmes	42A. Regional authorities to prepare annual report on regional land transport strategy
26. District land transport programmes	42B. Regional councils to consider contracting out functions under Act
63A. Regional land transport committees	
64. Safety (administration) programme	
65. National land transport programme	

No. 157—3c

Price Code: J

A BILL INTITULED

An Act to amend the Transit New Zealand Act 1989

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

1. Short Title and commencement—(1) This Act may be cited as the Transit New Zealand Amendment Act (**No. 3**) 1992, and shall be read together with and deemed part of the Transit New Zealand Act 1989 (hereinafter referred to as the principal Act).

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

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[Parts I, II, III of the Transport Amendment Bill (157-2) are now the Transport Amendment Bill (157-3), the Police Amendment Bill (157-3A), and the Transport Services Licensing Amendment Bill (No. 2) (157-3B).]

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

“‘Commissioner’ means the Commissioner of Police.”

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

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

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

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

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

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

“(b) To the Ministry of Transport, in such instalments and on such conditions as are agreed between the Minister of Transport and the Minister of Finance from time

to time, an amount equal to the total budgeted cost of the safety (administration) outputs contained in the approved safety (administration) programme for that year, net of—

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

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

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

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

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

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

New

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

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

New

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

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

“(b) Give reasons for its decision.”

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

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

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

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New

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

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“(3) No payment in respect of any works or services shall be made under subsection (1) (a) of this section unless subsection (2)

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of this section has been complied with in the case of those works or services.”

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

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

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

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

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

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

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

“23. Regional land transport strategies—(1) Except as provided in subsection (2) of this section, every regional council shall prepare a land transport strategy for its region. 5

“(2) Where the functions, duties, and powers of a regional council under this Act have been transferred to a territorial authority, that territorial authority shall prepare a land transport strategy for its district. 10

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

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

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“(b) Identify the most desirable means of meeting such needs in the safest and most cost effective manner, having regard to the impact the transport system is likely to have on the environment of the region or district; and 20

“(c) Identify the most desirable share of the total demand for transport in the region or district to be met by each transport mode, including public passenger transport, cycling, and pedestrian traffic; and

New 25

“(b) Identify the most desirable means of responding to such needs in a safe and cost effective manner, having regard to the effect the transport system is likely to have on the environment; and

“(c) Identify an appropriate role for each land transport mode in the region or district, including freight traffic, public passenger transport, cycling, and pedestrian traffic; and 30

“(d) State the best means of achieving the objectives referred to in paragraphs (b) and (c) of this subsection. 35

“(4) *(A regional land transport strategy prepared under this section shall have effect for 5 years)* A regional land transport strategy prepared under this section shall at all times be kept current for

a period of not less than 3 years in advance but not more than 5 years, and may be renewed from time to time. The regional council or territorial authority that prepared the strategy may amend it at any time (*while it has effect*) during its currency to reflect any significant change in the circumstances which existed when the strategy was prepared.

“(5) Once a regional land transport strategy or any amendment thereto has been approved by the relevant regional council or territorial authority, that regional council or territorial authority shall forthwith forward a copy of the strategy to the Authority and to the Secretary.

“(6) Nothing in a regional land transport strategy shall be inconsistent with the provisions of any regional policy statement or plan for the time being in force under the Resource Management Act 1991.

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

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

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

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

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

“(a) Passenger transport:

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

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

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

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

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“**26. District land transport programmes**—(1) Each year, every territorial authority shall prepare a district land transport programme for the next year.

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

“(a) Local roading:

“(b) Safety (construction and maintenance):

“(c) State highways:

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“(d) Safety (administration).

“(3) Every programme shall—

“(a) List each approved project included in any earlier approved national land transport programme for which financial assistance is still to be paid by the Authority and the amount of that financial assistance, and, if it is proposed that the approved project be suspended or abandoned, give an explanation of the proposed suspension or abandonment:

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“(b) Include a single list of all projects—

“(i) That the Authority or the Secretary or the Commissioner is recommended to undertake; or

“(ii) For which financial assistance is sought from the Authority,—

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in order of the priority that the territorial authority thinks should be given to those projects and, for

each project, indicate its total cost, its proposed starting date, and its duration:

5 “(c) State the object or objects to be achieved by each project, the options considered as being available to achieve that object or those objects, and such evaluation of each project and each option as may be required by the Authority or the Secretary, as the case may require, from time to time:

10 “(d) Where appropriate, indicate, for each project, the status of any land acquisition programme in relation thereto, the extent to which consent under any enactment is required in relation thereto, and whether or not such consent has been granted:

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

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

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

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

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

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

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| <p>“(a) The Authority, the Secretary, and the Commissioner;
and
“(b) The regional council for the region within which the territorial authority’s district is situated.”</p> <p>(2) All regional land transport committees established under section 23 of the principal Act before the 1st day of July 1992 are hereby abolished.</p> <p>63A. Regional land transport committees—(1) The principal Act is hereby amended by inserting, after section 27, the following section:</p> <p>“27A. (1) Every regional council shall, as soon as practicable after the commencement of this section, establish a land transport committee under this section for its region.</p> <p>“(2) Each regional land transport committee shall consist of such persons as may from time to time be appointed by the regional council, and in making such appointments the council may appoint any persons whom it considers to be suitable, including (but not limited to) representatives of all or any of the following:</p> <p>“(a) The regional council:
“(b) The territorial authorities in the council’s region:
“(c) The Authority:
“(d) The Commissioner:
“(e) The Secretary:
“(f) Commercial road users:
“(g) Private road users:
“(h) Railway operators:
“(i) Public transport users.</p> <p>“(3) The functions of each regional land transport committee shall be to prepare for approval by the relevant regional council the regional land transport strategy and the regional land transport programme for its region.</p> <p>“(4) The provisions of the Local Government Act 1974 and the Local Government Official Information and Meetings Act 1987 relating to the meetings of committees of regional councils, so far as they are applicable and with the necessary modifications, shall apply in respect of meetings of the regional land transport committees.</p> <p>“(5) Where a territorial authority has the functions, duties, and powers of a regional council under this Act, the foregoing</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> |
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provisions of this section shall apply as if the territorial authority were a regional council.

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

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

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

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

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

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

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

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

“(3) The Secretary—

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

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

30 *New*

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

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

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

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

Act”, and substituting the words “and district land transport programmes”.

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

“(6) The Authority shall forward to the Secretary and the Commissioner a copy of each national land transport programme submitted to the Minister.” 5

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

“31. (1) Before finalising a regional land transport strategy, the relevant regional council or territorial authority shall consult— 10

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

“(b) The adjoining regional councils and territorial authorities; and 15

“(c) The Authority; and

“(d) The Secretary; and

“(e) The Commissioner; and

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“(ea) Commercial road users; and 20

“(eb) Private road users; and

“(ec) Railway operators; and

“(ed) Public transport users; and

“(f) The public in the region or district.

“(2) Before finalising any regional land transport programme, the relevant regional council or territorial authority shall consult— 25

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

“(b) The adjoining regional councils and territorial authorities; and 30

“(c) The Authority(.); and

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“(d) The public in the region or district.

“(3) Before finalising any district land transport programme, the relevant territorial authority shall consult— 35

“(a) The regional council in the region; and

“(b) The Authority(.); and

New

“(c) The public in the district.

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

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

“(6) Every—

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

“(b) Regional council, in the case of a district land transport programme,—

shall provide to the regional council or territorial authority, as the case may be, sufficient information as the council or authority considers it requires in order to properly perform its functions in relation to such strategies and programmes under this Act.”

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

68. Approval of safety (administration) programme—Section 34 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) The Secretary shall forward to the Commissioner a copy of every safety (administration) programme approved under this section.”

69. Secretary may submit supplementary programme—Section 37 of the principal Act is hereby amended by adding the following subsection:

“(3) The Secretary shall forward to the Authority and the Commissioner a copy of every supplementary safety (administration) programme before submitting it to the Minister.”

70. Authority, local authorities, Secretary, and Commissioner to adhere to approved national land

transport programme—Section 39 (1) of the principal Act is hereby amended by inserting, after the words “local authority,”, the words “the Commissioner,”.

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71. Land transport annual report—Section 41 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections: 5

“(2) Each year by a date set by the Minister, the Secretary, after consultation with the Authority and the Commissioner, shall submit to the Minister a land transport annual report 10 comprising—

“(a) A report from the Commissioner comparing the performance of the Police, in relation to the safety (administration) projects delivered by the Police in that year, with the performance measures agreed for that year; and 15

“(b) A report from the Secretary comparing the performance of the Ministry in relation to the safety (administration) projects in that year other than those referred to in paragraph (a) of this subsection with the performance measures agreed for that year.” 20

“(3) The Secretary shall forward to the Authority and the Commissioner a copy of every land transport annual report submitted to the Minister.” 25

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

72. New sections substituted—The principal Act is hereby amended by repealing section 42, and substituting the following sections: 30

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“42. Reporting requirement—(1) The Secretary shall report to the Minister on the safety (administration)

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programme in such manner and at such times as the Minister directs.

5 “(2) The Commissioner shall report to the Minister on the safety (administration) projects delivered by the Police in such manner and at such times as the Minister directs.

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

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

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

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

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

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

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

“42A. Regional authorities to prepare annual report on regional land transport strategy—(1) Every regional council, and every territorial authority, that is required to prepare a regional land transport strategy, shall prepare an annual report as to the progress in implementing its regional land transport strategy. 5

“(2) Every such report shall be forwarded to the Secretary and the Authority within (2) 3 months after the close of the financial year to which it relates, and shall be made available to the public. 10

“(3) The Secretary and the Authority shall supply to the regional council such information within the possession or under the control of the Secretary or the Authority as may be requested by the regional council or territorial authority for the purposes of complying with its obligations under this section. 15

“42B. Regional councils to consider contracting out functions under Act—(1) Every regional council and every territorial authority, that is required to prepare a regional land transport strategy, shall consider whether it could most efficiently and effectively prepare its regional land transport strategy by means of its own operations or by contracting out those operations to appropriate persons selected after an appropriate competitive process. 20

“(2) Where a regional council or a territorial authority considers that other persons can more efficiently and effectively prepare its regional land transport strategy, the council or authority— 25

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

“(b) If a tender is successful, shall enter into an agreement setting out the terms on which the strategy is to be prepared by the other person. 30

“(3) Every regional council and every such territorial authority shall have and may exercise all such powers as are necessary or reasonably expedient to enable it to perform its duties under this section, and such powers and duties are in addition to, and not in substitution for, powers and duties conferred on regional councils and such territorial authorities by any other Act. 35

New

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

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73. Savings provisions relating to Auckland and Wellington regional land transport committees—

10 (1) Notwithstanding the repeal of section 23 of the principal Act by section 63 of this Act or anything in section 25 of the principal Act (as substituted by the said section 63),—

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

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

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

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[Part V of the Transport Amendment Bill (157-2) is now the Local Government Amendment Bill (No. 5) (157-3c).]