

# House of Representatives

## Supplementary Order Paper

Tuesday, 29 June 2004

### Local Government (Auckland) Amendment Bill

#### *Proposed amendments*

Hon Chris Carter, in Committee, to move the following amendments:

#### *Clause 2(1)*

To omit this subclause (lines 8 and 9 on page 2), and substitute the following subclause:

- (1) **Sections 37 and 38 and Schedules 4 and 5** come into force on—
  - (a) **1 January 2005**; or
  - (b) any earlier date specified by the Governor-General by Order in Council.

#### *Clause 4*

To omit from *subclause (1)* the definition of **public transport service obligation** (lines 1 and 2 on page 5).

To insert in *subclause (2)*, after the words “**activity class**,” (line 12 on page 5), the words “**affected community**,”.

To insert in *subclause (2)*, after the words “**land transport disbursement account**,” (line 13 on page 5), the words “**land transport options and alternatives**,”.

To insert in *subclause (2)*, after the words “**land transport programme**,” (line 14 on page 5), the words “**national land transport account**,”.

To insert in *subclause (2)*, after the words “**public transport service**,” (line 15 on page 5), the words “**regional land transport strategy**,”.

#### *Clause 9(1)(a)(ii)*

To omit the word “**obligations**” (line 33 on page 8), and substitute the words “**assets and liabilities**”.

To omit the expression “**24**” (line 33 on page 8), and substitute the expression “**25**”.

*Clause 15A*

To omit the expression “Local Government Act 2002” (lines 2 and 3 on page 13), and substitute the words “principal Act”.

*Clause 18(c)*

To omit the words “its principal” (line 4 on page 15), and substitute the word “ARTA’s”.

*Clause 22A*

To omit the expression “Local Government Act 2002” (lines 11 and 12 on page 18), and substitute the words “principal Act”.

*New heading and clause 24A*

To insert, after *clause 24* (after line 22 on page 20), the following heading and clause:

*Auckland Regional Transport Network Ltd*

**24A Dispositions by or in relation to Auckland Regional Transport Network Ltd**

- (1) This section applies to a disposition by or in relation to ARTNL if the Governor-General by Order in Council—
  - (a) identifies the disposition and the parties to the disposition; and
  - (b) provides that this section applies to the disposition.
- (2) Subpart 1 of Part 6 of the principal Act does not apply in relation to a disposition.
- (3) For the purposes of the Inland Revenue Acts and any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge,—
  - (a) the parties to a disposition are, in relation to the shares or the assets and liabilities transferred by the disposition, to be treated as the same person; and all transactions entered into by, or all acts of, the party making the disposition before the date on which the disposition takes effect are to be treated as having been entered into or performed by the party receiving the disposition on the date on which they were entered into or performed by the party making the disposition; and
  - (b) if a disposition is the transfer from ARTNL to ARH of shares in a subsidiary company of ARTNL, ARH and its members and directors must be treated as having held, at all times since the shares were acquired by ARTNL, the voting interests in and market value interests of the shares.
- (4) If, as a result of a disposition, ARTNL or a subsidiary company of ARTNL becomes a subsidiary company of ARH, then any income derived by ARH from ARTNL or the subsidiary company of ARTNL is to be treated as income derived as if ARH were a local authority and ARTNL or the subsidiary company of ARTNL were a council-controlled organisation.

- (5) **Subsection (4)** prevails over paragraph (b)(viii) of the definition of **local authority** in section OB 1 of the Income Tax Act 1994 and of the Income Tax Act 2004.
- (6) In this section—
- ARTNL** means Auckland Regional Transport Network Limited
- disposition** means a disposition to ARH, ARTA, or an Auckland territorial authority of all or some of—
- (a) the shares of ARTNL;
- (b) the assets and liabilities of ARTNL or a subsidiary company of ARTNL
- Inland Revenue Acts** has the meaning given to it in section 3(1) of the Tax Administration Act 1994.

*Clause 25(1)*

To omit the word “obligations” (lines 29, 30, and 31 on page 20), and substitute in each case the words “assets and liabilities”.

*Clause 25A(1)*

To omit *paragraph (b)* (lines 10 to 14 on page 21).

To insert in *paragraph (c)*, after the expression “27(1)” (line 15 on page 21), the expression “and (2)”.

To add to *paragraph (c)* the expression “; and” (line 17 on page 21).

To add the following paragraph (after line 17 on page 21):

- (d) section 27(3) of the Land Transport Management Act 2003 applies to all public service transport infrastructure and public transport service assets and liabilities vested in ARTA or ARH as if ARTA and ARH were regional councils.

*Clause 27(1A)*

To add the words “or from any assets that replace any of those assets” (line 15 on page 22).

*Clause 28*

To insert, before *paragraph (a)* (before line 11 on page 23), the following paragraph:

- (aa) include reference to activities or their prioritisation; or

To omit *paragraph (c)* (lines 15 and 16 on page 23).

*Clause 35*

To omit the expression “Local Government Act 2002” (line 5 on page 28), and substitute the words “principal Act”.

*Schedule 3*

To insert in *clause 4(1)*, after the words “Inland Revenue Acts” (line 18 on page 38), the words “and any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge”.

To insert in *clause 4(2)*, after the words “Inland Revenue Acts” (line 28 on page 38), the words “and any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge”.

To omit from *clause 4(3)* the words “; and includes any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge” (lines 35 to 37 on page 38).

#### *Schedule 4*

To omit from the heading to the Schedule the word “**obligations**” (line 2 on page 41), and substitute the words “**assets and liabilities**”.

To insert in *clause 1*, after the expression “**Schedule 3**” (line 5 on page 41), the words “and any other Act that imposes or provides for the collection of a tax, duty, levy, or other charge”.

To omit from *clause 1* the word “obligations” (lines 6 and 10 on page 41), and substitute in each case the words “assets and liabilities”.

To omit from the heading to *clause 3* the word “**obligations**” (line 31 on page 41), and substitute the words “**assets and liabilities**”.

To omit from *clause 3(1)* the word “obligations” (lines 35, 37, and 38 on page 41), and substitute in each case the words “assets and liabilities”.

To omit from *clause 3(2)* the word “obligations” (lines 10 and 12 on page 42), and substitute in each case the words “assets and liabilities”.

#### *Schedule 4A*

To omit from *paragraph (b)* the word “multimodel” (line 10 on page 43), and substitute the word “multimodal”.

#### *Schedule 5*

To add to *new section 12(6)* the following paragraphs (after line 1 on page 45):

- (a) take into account any current national land transport strategy and the National Energy Efficiency and Conservation Strategy;
- (b) from a date appointed by the Governor-General by Order in Council, give effect to the matters in the Auckland regional land transport strategy required by section 175(2) of the Land Transport Act 1998, unless it is required to do otherwise by operational considerations that affect the sequencing and timing of activities, the funding available to it, or its statutory functions or powers.

To insert in *new section 39(1)*, before the word “Auckland” (line 22 on page 45), the word “the”.

To insert in *new section 39(2)*, before the word “Auckland” (line 32 on page 45), the word “the”.

To omit from *new section 39(3)* the word “ARC” (line 1 on page 46), and substitute the words “the Auckland Regional Council”.

To omit from *new section 39(3A)* the word “ARC” (line 8 on page 46), and substitute the words “the Auckland Regional Council”.

To insert in *new section 39(7)(c)*, after the word “objective” (line 18 on page 47), the words “, including its social and environmental responsibilities,”.

To omit the expression “(g)” (line 2 on page 48), and substitute the expression “(3)”.

*Schedule 6*

To omit the item relating to the Income Tax Act 1994 (lines 12 to 33 on page 49), and substitute the following items:

**Income Tax Act 1994 (1994 No 164)**

Omit paragraph (h) of the definition of **council-controlled organisation** in section OB 1 and substitute:

“(h) any organisation that would be a council-controlled organisation of a kind described in paragraph (a) or paragraph (b) or paragraph (c) were it not for an exemption granted under section 6(4)(i) of the Local Government Act 2002;—

but does not include the Auckland Regional Transport Authority (as established by **section 7 of the Local Government (Auckland) Amendment Act 2004**) or Auckland Regional Holdings (as established by **section 16 of the Local Government (Auckland) Amendment Act 2004**).”

Omit subparagraph (vii) of paragraph (b) of the definition of **local authority** in section OB 1 and substitute:

“(vii) the Auckland Regional Transport Authority as established by **section 7 of the Local Government (Auckland) Amendment Act 2004**:

“(viii) other than for the purposes of section CB 3(b)(ii), Auckland Regional Holdings as established by **section 16 of the Local Government (Auckland) Amendment Act 2004**”.

**Income Tax Act 2004 (2004 No 35)**

Omit paragraph (h) of the definition of **council-controlled organisation** in section OB 1 and substitute:

“(h) Watercare Services Limited and any subsidiaries it has;—

but does not include the Auckland Regional Transport Authority (as established by **section 7 of the Local Government (Auckland) Amendment Act 2004**) or Auckland Regional Holdings (as established by **section 16 of the Local Government (Auckland) Amendment Act 2004**).”

Omit subparagraph (vii) of paragraph (b) of the definition of **local authority** in section OB 1 and substitute:

“(vii) the Auckland Regional Transport Authority as established by **section 7 of the Local Government (Auckland) Amendment Act 2004**:

“(viii) other than for the purposes of section CW 32(4)(c), Auckland Regional Holdings as established by **section 16 of the Local Government (Auckland) Amendment Act 2004**”.

### Explanatory note

This Supplementary Order Paper—

- inserts a new *clause 24A* to exempt certain dispositions by or in relation to Auckland Regional Transport Network Limited from consultative requirements in the Local Government Act 2002 and from certain taxation provisions;
  - contains drafting corrections and clarifications.
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