

House of Representatives
Supplementary Order Paper

Tuesday, 9 September 2008

Public Transport Management Bill

Proposed amendments

Jeanette Fitzsimons, in Committee, to move the following amendments:

Clause 3(2)

To insert the following paragraph after *paragraph (b)* (after line 6 on page 5):

- (ba) confers powers on regional councils to require all or any public transport services in their regions to be provided under contract with them, and consequently to discontinue any commercial public transport services provided in their regions that are subject to such a requirement; and

Clause 4

To insert the following definition after the definition of **contracted public transport service** (after line 33 on page 6):

contracting requirement means a provision of a regional public transport plan made under **section 14A**; and includes an amended contracting requirement

Paragraph (a) of the definition of **existing commercial service**: to insert after “a control” (line 23 on page 7) “or a contracting requirement”.

Paragraph (a) of the definition of **existing commercial service**: to insert after “the control” in each place where it appears (lines 24, 27, and 28 on page 7) “or contracting requirement” in each case.

Paragraph (b) of the definition of **existing commercial service**: to insert after “amended control” in each place where it appears (lines 29, 31, and 34 on page 7) “or contracting requirement” in each case.

Clause 9(1)(a)

To insert the following paragraph after *paragraph (b)* (after line 8 on page 16):

- (ba) impose any contracting requirement:

Clause 10

Subclause (1): to insert the following paragraph after *paragraph (c)* (after line 8 on page 18):

- (ca) may specify any contracting requirements under **section 14A**, and, if it does so, must state the matters required by **subsection (3)**:

Subclause (3): to insert after “controls” (line 29 on page 20) “or contracting requirements”.

Subclause (3)(a): to omit this paragraph (lines 31 to 34 on page 20) and substitute the following paragraph:

- (a) the regional council’s reasons for including the controls or contracting requirements in the plan, including a statement explaining why the regional council is satisfied that the controls or contracting requirements are consistent with the purpose of the plan; and

Subclause (3)(b): to insert after “those controls” (line 35 on page 20) “or contracting requirements”.

Clause 11(1)(b)(ii)

To insert after “**section 12**” (line 10 on page 30) “or **14A**”.

Clause 11A

Subclause (2): to insert after “control” (line 11 on page 31) “or contracting requirement”.

Subclause (2)(a): to insert after “control” (line 17 on page 31) “or contracting requirement”.

Subclause (2)(b): to insert after “in” (line 18 on page 31) “or pursuant to”.

Subclause (2)(b): to insert after “control” (line 19 on page 31) “or contracting requirement”.

Subclause (2)(c): to insert after “**(n)**” (line 21 on page 31) “or a contracting requirement”.

Subclause (2)(d): to insert after “**40A**” (line 25 on page 31) “or the contracting requirement is appealed under **section 40AA**”.

Subclause (3): to insert after “control” (line 28 on page 31) “or contracting requirement”.

New clause 14A

To insert the following clause after *clause 14* (after line 23 on page 38):

14A Contracting requirements

- (1) A regional council may state in a regional public transport plan that all or any public transport services in the regional council’s region that are described in the plan are required to be contracted public transport services; and, as a result, any of those services that are existing commercial services described

- in the plan are discontinued (in this Act called a **contracting requirement**).
- (2) A regional council may not adopt a regional public transport plan that imposes a contracting requirement unless it believes on reasonable grounds that—
 - (a) the contracting requirement is consistent with the purpose of the plan, after taking into account the matters referred to in **section 16**; and
 - (b) the contracting requirement contributes to the implementation of the policies in the plan; and
 - (c) if a service that is to be discontinued is specified in the plan as being needed by the community, a satisfactory alternative public transport service (of any mode) would be available to users of the discontinued service; and
 - (d) appropriate transitional arrangements (which may be any 1 or more of delaying the commencement date of the contracting requirement, providing financial or other assistance to operators, purchasing assets from operators, or anything else) have been or will be made by the council to alleviate as far as practicable any material adverse effects of the contracting requirement on operators of existing commercial services.
 - (3) A regional council may not include a contracting requirement in a regional public transport plan that applies to a public transport service that operates outside the region to which the regional public transport plan applies.
 - (4) If a regional council specifies 1 or more contracting requirements in a regional public transport plan, it must also specify in the plan—
 - (a) the transitional arrangements referred to in **subsection (2)(d)**; or
 - (b) the process that the regional council will adopt for determining those transitional arrangements.
 - (5) For the purposes of **subsection (1)**, services may be described in any 1 or more of the following ways:
 - (a) by specifying in the plan the services to which the contracting requirement applies;
 - (b) by the plan stating that the contracting requirement applies to all services in the region (or a part of the region) other than those specified in the plan;
 - (c) in any other manner.

New clause 15A

To insert the following clause after *clause 15* (after line 31 on page 38):

15A Exclusion of regional councils from liability to pay compensation for contracting requirements

- (1) Nothing makes a regional council liable to pay compensation to any person for—
 - (a) including a contracting requirement in a regional public transport plan; or
 - (b) anything that is done—
 - (i) by the regional council in implementing a contracting requirement; or
 - (ii) under **section 29(2), 33(3), or 39A**.
- (2) To avoid doubt, nothing in this section limits **section 9(2)**.

Clause 18(7)

To insert the following paragraph after *paragraph (a)* (after line 35 on page 43):

- (aa) include or amend a contracting requirement in a regional public transport plan; or

Clause 29

To add the following subclauses as subclauses (2) and (3) (after line 28 on page 53):

- (2) A regional council must decline to register a commercial public transport service if a contracting requirement applies to the service.
- (3) If a service to be registered is described in a proposed regional public transport plan as a service to which a contracting requirement will apply, the regional council may not decline to register the service under **subsection (2)** but, before registering the service, must advise the operator of the proposal.

Clause 33

To add the following subclauses (after line 14 on page 58):

- (3) A regional council must decline a variation to a registered commercial public transport service if the variation would make the service one to which a contracting requirement would apply.
- (4) If a variation to a registered commercial public transport service would make the service one that is described in a proposed regional public transport plan as a service to which a contracting arrangement will apply, the regional council may not decline the variation under **subsection (3)** but, before registering the service, must advise the operator of the proposal.

New clause 39A

To insert the following clause after *clause 39* (after line 31 on page 72):

39A Deregistration as result of contracting requirement

If a contracting requirement applies to a registered commercial public transport service, or part of such a service,—

- (a) that service or part is, by virtue of this Act, deregistered on the date on which the contracting requirement takes effect under **section 11A(2)**; and
- (b) the regional council must remove the details of that service, or part of that service, from the register.

New clause 40AA

To insert the following clause after *clause 40A* (after line 38 on page 74):

40AA Appeals in respect of contracting requirements

An operator of an existing commercial service to which a contracting requirement specified in a regional public transport plan will apply may appeal to the Environment Court—

- (a) against the contracting requirement on any of the following grounds:
 - (i) the contracting requirement is not consistent with the purpose of the regional public transport plan, after taking into account the matters referred to in **section 16**;
 - (ii) the contracting requirement does not contribute to the implementation of the policies in the plan;
 - (iii) if a service that is to be discontinued as a result of the contracting requirement is described in the plan as being needed by the community, a satisfactory alternative public transport service (of any mode) would not be available to users of the discontinued service;
 - (iv) the contracting requirement does not comply with **section 14A** or any other provision of this Act;
- (b) against the transitional arrangements on the grounds that they do not alleviate as far as practicable the material adverse effects of the contracting requirement on the operator.

Clause 40B

Subclause (1): to insert after “control” (line 3 on page 75) “or a contracting requirement”.

To insert the following subclause after *subclause (1)* (after line 6 on page 75):

- (1A) An operator of an existing commercial service who wishes to appeal against the transitional arrangements relating to a contracting requirement must lodge a notice of appeal with the Environment Court within 15 working days of receiving notice of the adoption, and a copy, of the transitional arrange-

ments under **section 11(1)(b)**, or a longer time that the court allows.

Subclause (2): to omit “**subsection (1)**” (lines 8 and 9 on page 75) and substitute “**subsection (1) or (1A)**”.

To insert the following subclause after *subclause (2)* (after line 11 on page 75):

(2A) The New Zealand Transport Agency has the right to appear and be heard during any appeal under **section 40AA**.

Subclause (3)(b): to insert after “control” (line 16 on page 75) “or contracting requirement”.

Subclause (3)(c): to omit this paragraph (lines 17 to 19 on page 75) and substitute the following paragraph:

- (c) as appropriate,—
 - (i) insert transitional arrangements in the plan in order to alleviate any material adverse effects of the control or any contracting requirement on any operator of an existing commercial service:
 - (ii) modify transitional arrangements in order to alleviate any material adverse effects of the control or any contracting requirement on any operator of an existing commercial service, whether or not the transitional arrangements are contained in the plan.

Subclause (5): to omit “**section 40A**” (line 26 on page 75) and substitute “**sections 40A or 40AA**”.

Explanatory note

This Supplementary Order Paper amends the Public Transport Management Bill. The amendments implement “Option C”.
