

House of Representatives

Supplementary Order Paper

Tuesday, 22 August 2023

Land Transport Management (Regulation of Public Transport)
Amendment Bill

*Proposed amendments for the consideration of the Committee of the
whole House*

Key:

- this is inserted text
- ~~this is deleted text~~

Note: This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- NOT have official status in terms of unamended text
- NOT have the status of an as-reported version of the Bill.

Explanatory note

This Supplementary Order Paper makes a number of minor amendments and corrections to language and references to improve clarity, precision, and consistency.

The most significant amendment is the insertion of *new subsection (3A)* into *new section 150* of the Land Transport Management Act 2003 (*see clause 19*, page 11). *Subsections (2) and (3)* of *new section 150* relate to the matters the Minister must consider before recommending the making of regulations regarding exempt public transport services. Those subsections do not provide the extension of the category of exempt public transport services to include appropriate inter-regional services. *New subsection (3A)* provides for how those subsections apply where regulations relate to inter-regional services.

Departmental disclosure statement

The Ministry of Transport considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.

The Honourable David Parker, in Committee, to propose the amendments shown in the following document.

Hon David Parker

Land Transport Management (Regulation of Public Transport) Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Land Transport Management (Regulation of Public Transport) Amendment Act **2023**.

2 Commencement

This Act comes into force on the day after Royal assent.

3 Principal Act

This Act amends the Land Transport Management Act 2003.

Part 1
Substantive amendments

4 Section 5 amended (Interpretation)

(1) In section 5(1), definition of **excluded passenger service**, repeal paragraph (d).

(2) In section 5(1), replace the definition of **exempt service** with:

exempt service is defined in **section 114A**

(3) In section 5(1), definition of **public transport service**, repeal paragraph (b)(ii).

(3A) In section 5(1), insert in its appropriate alphabetical order:

subsidy, in relation to a public transport service Part 5,—

(a) means any funding from—

- (i) the national land transport fund; or
- (ii) a local authority; but

(b) does not include—

- (i) anything done under an agreement between the relevant regional council and an operator to reduce passenger fares; or
- (ii) financial assistance provided by the relevant regional council for a passenger service identified in the council's regional public transport plan under section 120(1)(a)(vii)

(4) In section 5(1), replace the definition of **unit** with:

unit is defined in **section 114B**

5 Section 24 amended (Land transport disbursement accounts)

Replace section 24(4)(b) with:

(b) in accordance with a procurement procedure, unless the payment is—

- (i) of a type specified in section 26 (and so is not required to be made in accordance with a procurement procedure); or

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- (ii) for a public transport service operated by a regional council.

6 Section 25 amended (Procurement procedures)

After section 25(6), insert:

- (7) Subsections (2), (4), and (5) do not apply to any procurement procedure (or its approval) that relates to procurement of a public transport service.

7 Section 27 replaced (Manner in which certain local authority interests in public transport service must be held)

Replace section 27 with:

27 Local authority may hold interest in public transport services and infrastructure

- (1) A local authority may hold an interest in, or acquire the ownership of, either or both of the following:
 - (a) a public transport service;
 - (b) public transport infrastructure and associated assets.
- (2) To avoid doubt, **subsection (1)(a)** applies whether or not the local authority receives any funding from the national land transport fund in relation to the service.

8 New sections 114A and 114B inserted

After section 114, insert:

114A Meaning of exempt service

In this Part, an **exempt service** is a public transport service that satisfies one of the following:

- (b) it operates in a region that is required to have a regional public transport plan, but—
 - (i) when it started operating, it was not identified in that plan as integral to the public transport network in that region; and
 - (ii) it operates without a subsidy for its provision:
- (c) it operates in a region that is not required to have a regional public transport plan:
 - (ca) it operates inter-regionally between 2 or more regions, at least 1 of which is required to have a regional public transport plan, but—
 - (i) when it started operating, it was not identified in any plans as integral to the public transport network in any of those regions; and
 - (ii) it operates without a subsidy for its provision:
 - (cb) it operates inter-regionally between 2 or more regions that are not required to have regional public transport plans:

- (d) it is specified as an exempt service by regulations made under **section 150**.

114B Meaning of unit

- (1) In this Part, a **unit** is a defined geographic area (of any size)—
- (a) that is specified in a regional public transport plan; and
 - (b) for which the regional council for the region has specified (in any way) how public transport services must be operated.
- (2) For example, a regional council may specify the geographic boundaries of a unit by reference to—
- (a) cadastral, electoral, regional, territorial, or other central or local government administrative boundaries; or
 - (b) suburbs, roads, motorways, or railways; or
 - (c) landmarks; or
 - (d) destinations (for example, a hospital, public library, shopping centre, or transport depot).
- (3) For example, a regional council may specify how public transport services in a unit are to be operated by reference to 1 or more of the following:
- (a) operation along the whole or a part of the length of 1 or more specified routes within the unit; ~~or:~~
 - (b) operation according to a schedule that applies to ~~all the whole~~ or a part of ~~a 1 or more~~ specified ~~route or~~ routes within the unit; ~~or:~~
 - (c) operation from or to a particular destination within the unit; ~~or:~~
 - (d) operation within the unit without predetermined routes or schedules.

9 Section 115 amended (Principles)

Replace section 115(1) with:

- (1) All persons exercising powers or performing functions under this Part must be guided by each of the following principles to the extent relevant to the particular power or function:
- (a) well-used public transport services reduce the environmental and health impacts of land transport, including by reducing reliance on single-occupant vehicles and using zero-emission technology;
 - (b) public transport services support a mode shift from private motor vehicle use and equitable access to places, facilities, services, and social and economic opportunities if they are co-ordinated, integrated, reliable, frequent, accessible, affordable, and safe;
 - (c) fair and equitable employment or engagement of people in the public transport workforce should ensure that there is a sufficiently robust labour market to sustain and expand public transport services:

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- (d) regional councils, territorial authorities, and public transport operators should work together to co-ordinate public transport services, the provision of infrastructure, and land use as necessary—
 - (i) to meet the needs of passengers; and
 - (ii) to encourage more people to use the services:
- (e) public transport services should be provided in a way that assists—
 - (i) public transport investment to be efficient; and
 - (ii) public transport investment to give value for money.

10 Section 116 replaced (Public transport services must be provided under contract)

Replace section 116 with:

116 Planning, procuring, and operating public transport services

- (1) Planning, procuring, and operating public transport services must be carried out in an open and transparent manner, irrespective of who operates the service.
- (2) Without limiting **subsection (1)**, openness and transparency are required in relation to the following matters:
 - (a) operating costs:
 - (b) service performance (for example, by reference to key performance indicators such as reliability and punctuality):
 - (c) the vehicles, vessels, or other transport modes used or to be used to operate the services:
 - (d) the financial performance of the person operating or to be operating the services (for example, the person’s assets, liabilities, and equity):
 - (e) the aggregate terms and conditions of the workforce operating or to be operating the services.
- (3) This section does not require a regional council or the Agency to disclose information that ~~they~~it would be entitled to withhold in response to a request for information under the Local Government Official Information and Meetings Act 1987 or the Official Information Act 1982.
- (4) However, **subsection (3)** does not limit or affect—
 - (a) a regional council’s obligation to publish information under section 127(1)(b); or
 - (b) the obligations of a regional council to provide information under section 128.

116A Limitations on operating integral public transport services

- (1) A public transport service identified in a regional public transport plan as integral to the public transport network—

- (a) must be operated in a unit or part of a unit; and
- (b) may only be operated by—
 - (i) the regional council; or
 - (ii) a territorial authority whose district is within the region, under a contract with the regional council; or
 - (iii) any other person, under a contract with the regional council.
- (2) However, **subsection (1)** does not apply if the public transport service is an exempt service.

116B Limitations on payment of subsidies

A subsidy may only be provided to a public transport service that is—

- (a) identified in a regional public transport plan as integral to the region’s public transport network; and
- (b) operated in a unit or part of a unit.

11 Section 117 amended (Purpose of regional public transport plans)

In section 117(a), replace “councils” with “councils, territorial authorities,”.

12 Section 119 amended (Adoption of regional public transport plans)

Replace section 119(1) with:

- (1) A regional council must adopt a regional public transport plan if it intends to—
 - (a) enter into a contract for the supply of a public transport service; or
 - (b) operate a public transport service itself; or
 - (c) provide financial assistance to an operator or user of any other passenger service in a small passenger service vehicle.

13 Section 120 amended (Contents of regional public transport plans)

- (1) In section 120(1)(a)(i), delete “that the regional council proposes to provide”.
- (2) After section 120(1)(a)(i), insert:
 - (ia) identify the infrastructure necessary to support ~~those public transport services~~ the services identified under subparagraph (i); and
- (3) Replace section 120(1)(a)(ii) with:
 - (ii) for scheduled services identified under subparagraph (i), provide an outline of their routes, frequency, and hours of operation; and
 - (ia) for unscheduled services identified under subparagraph (i), provide an outline of their geographic area, and hours, of operation; and
- (4) In section 120(1)(a)(iv), replace “a unit is” with “~~the services~~ any service in a unit or part of a unit is”.

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- (5) In section 120(1)(a)(v), after “replaced by”, insert “a service or services in”.
- (6) Replace section 120(2)(d) with:
 - (d) the approach that will be taken to provide the service or services in a unit or part of a unit, including, if relevant, whether the service or services will be operated by the council itself or another person; and
- (7) In section 120(2)(e), after “procurement of”, insert “services in”.
- (8) In section 120(2)(f), after “performance of”, insert “services in”.

14 Section 124 amended (Matters to take into account when adopting regional public transport plans)

- (1) After section 124(c)(ii), insert:
 - (ia) the transport component of any plan or strategy that has been developed and publicly consulted on by—
 - (A) a territorial authority within the region; or
 - (B) the regional council if it has transferred its public transport responsibilities to a territorial authority under section 17 of the Local Government Act 2002; and
- (1A) In section 124(c)(iv), delete “, having regard to the desirability of encouraging a competitive and efficient market for public transport services”.
- (2) After section 124(c)(iv), insert:
 - (iva) the views of the territorial authorities in the region; and
- (3) After section 124(c)(v), insert:
 - (vi) the views of the public transport workforce and its representative unions registered under Part 4 of the Employment Relations Act 2000; and

15 Section 125 amended (Consultation requirements for regional public transport plans)

- (1) In the heading to section 125, replace “**Consultation requirements for**” with “**Preparation of**”.
- (2) Replace section 125(1) with:
 - (1) When preparing a draft regional public transport plan, a regional council must—
 - (a) (except Auckland Transport) prepare the draft in collaboration with the territorial authorities in the region; and
 - (b) consult all the following entities:
 - (i) the relevant regional transport committee (but Auckland Transport must consult the Auckland Council and each affected local board of the Auckland Council);

- (ii) the Agency;
- (iii) every ~~public transport operator~~ of a public transport service in the region;
- (iv) every person who has notified the regional council of a proposal to operate an exempt service in the region;
- (v) the Minister of Education;
- (vi) the relevant railway line access provider;
- (vii) Kāinga Ora—Homes and Communities, if there are any specified development projects in the region;
- (viii) if the regional council proposes to plan, procure, or operate an inter-regional public transport service, all relevant local authorities in the other regions in which the service is proposed to operate.

- (3) In section 125(2), delete “or Auckland Transport (as the case may be)”.
- (4) In section 125(2)(b), replace “83, 87, and 89” with “83 and 87”.

16 Section 128 amended (Power to require information from regional councils and Auckland Transport)

- (1) In the heading to section 128, delete “**and Auckland Transport**”.
- (2) Replace section 128(1) with:
 - (1) The Agency may require a regional council to provide it with information related to public transport planning and public transport services that is necessary to enable the Agency to perform its functions under this Act, including information that—
 - (a) is provided to the regional council under section 127; or
 - (b) the regional council holds in relation to planning, procuring, and operating public transport services (for example, any information relating to the matters listed in **section 116(2)** that the regional council has collected when exercising a power or performing a function under this Part).

17 Section 130 replaced (All exempt services to be registered)

Replace section 130 with:

130 Exempt services must be registered to operate

- (1) A person must not operate an exempt service in a region unless the service is registered as an exempt service with the regional council of that region.
- (2) Despite **subsection (1)**, a person may operate an exempt service in a region without the service being registered if—
 - (a) the service can be reserved for use by a single person or a self-selected group of people; or

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- (b) the service is an unscheduled service that is operated—
 - (i) using fewer than 10 vehicles; or
 - (ii) using vehicles with 9 or fewer seating positions, including the driver's; or
- (c) the service is a shuttle service.

18 Section 139 amended (Withdrawal of exempt services)

(1) Replace section 139(1) with:

(1) The operator of an exempt service that must be registered under **section 130** must notify the regional council in whose region the service is registered if it the operator intends to withdraw from operating the service.

(1A) The operator must give notice—

- (a) at least 60 working days before ~~it ceases~~ ceasing to operate the exempt service, if the service is identified in the relevant regional public transport plan as integral to the public transport network; or
- (b) at least 15 working days before ~~it ceases~~ ceasing to operate the service, in any other case.

(2) In section 139(2), replace “(1)” with “**(1A)**”.

19 Section 150 replaced (Regulations)

Replace section 150 with:

150 Regulations relating to exempt services

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations—

- (a) specifying that a public transport service is an exempt service; or
- (b) requiring an exempt service to be operated in a unit or part of a unit.

(2) The Minister may make a recommendation for the purposes of **subsection (1)(a)** only if ~~all of the following apply~~ —

- (a) the Minister or a regional council has requested the Agency to investigate whether the Minister should recommend making the order; and
- (b) the Agency, after consulting the operator of the service and ~~any relevant~~ the regional council, requests the Minister to recommend making the order; and
- (c) the Minister is satisfied that the consultation has taken place and that—
 - (i) the service is being, or will be, provided as part of a local roading network; or
 - (ii) the service, while operating as an exempt service,—
 - (A) will not receive a subsidy for its provision; and

- (AA) will not be an integral part of the relevant region's public transport network; and
 - (B) will not need its fares to be regulated; and
 - (C) will reflect and reinforce the principles set out in **section 115(1)**.
- (3) The Minister may make a recommendation for the purposes of **subsection (1)(b)** only if—
- (a) the Minister or a regional council has requested the Agency to investigate whether the Minister should recommend making the order; and
 - (b) the Agency, after consulting the operator of the service and ~~any relevant the~~ regional council, requests the Minister to recommend making the order; and
 - (c) the Minister is satisfied that the consultation has taken place and that—
 - (i) the service is integral to the public transport network (whether or not it is identified as such in the relevant regional public transport plan); and
 - (ii) either—
 - (A) the service needs its fares to be regulated; or
 - (B) operating the service in a unit or part of a unit will reflect and reinforce the principles set out in **section 115(1)**; and
 - (iii) the regional council has funding available to support the operation of the service in a unit or part of a unit.
- (3A) If the relevant public transport service is an inter-regional public transport service, the following apply:
- (a) the reference to a regional council in **subsections (2)(a) and (3)(a)** must be read as a reference to any regional council affected by the service;
 - (b) the reference to the regional council in **subsections (2)(b) and (3)(b)** must be read as a reference to all affected regional councils;
 - (c) the reference to the regional council in **subsection (3)(c)(iii)** must be read as a reference to any 1 or more of the affected regional councils;
 - (d) the reference to a local roading network in **subsection (2)(c)(i)** must be read as a reference to the local roading network of any 1 or more of the affected regions;
 - (e) the reference to a public transport network in **subsections (2)(c)(ii)(AA) and (3)(c)(i)** must be read as a reference to the public transport network of any 1 or more of the affected regions;

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- (f) the reference to the relevant regional public transport plan in **subsection (3)(c)(i)** must be read as a reference to the regional public transport plan of any 1 or more of the affected regional councils;
- (g) the references to a unit in **subsection (3)(c)(ii)(B) and (iii)** must be read as a reference to a unit in any 1 or more of the affected regions.
- (4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 2

Minor, consequential, and transitional amendments

- 20 Section 114 amended (Application of certain provisions of Local Government Act 2002 to Auckland Transport)**
In section 114, replace “83A, 87, and 89” with “83A and 87”.
- 21 Section 127 amended (Power to require information from operators of public transport services)**
- (1) In section 127(1)(a), after “operator of”, insert “a service in”.
 - (2) In section 127(1)(a), replace “for that unit” with “for that service”.
 - (3) In section 127(1)(b)(ii) and (c), replace “unit” with “service”.
- 22 Section 129 amended (Disclosure of information received under sections 127 and 128)**
- (1) In section 129(1), delete “of the unit” in each place.
 - (2) In section 129(3), delete “of the unit” in each place.
- 23 Section 131 amended (Register of exempt services)**
- (1) In section 131(1), replace “public transport services that are exempt services” with “exempt services that must be registered under **section 130**”.
 - (2) In section 131(2)(d), replace “routes” with “route or routes, or geographic area of operation,”.
- 24 Section 133 amended (Notification of proposal to operate or vary exempt services)**
- (1) In the heading to section 133, after “services”, insert “**that must be registered**”.
 - (2) In section 133(1)(a), after “exempt service”, insert “that must be registered under **section 130**”.
 - (3) In section 133(1)(a)(iv), replace “routes” with “routes, or geographic area of operation,”.

- 25 Section 134 amended (Grounds for declining registration or variation of exempt services)**
- (1) In section 134(1)(b), replace “routes” with “routes, or geographic area of operation,”.
 - (2) In section 134(2)(a), delete “of the route or routes”.
 - (3) In section 134(2)(a)(i), after “viability of any”, insert “service in a”.
 - (4) In section 134(2)(a)(ii), after “council of any”, insert “service in a”.
- 26 Section 135 amended (Process for declining registrations or variations of exempt services)**
- In section 135, replace “~~in the register~~ a variation of a route of an exempt service” with “a variation of ~~its~~ the route or routes, or geographic area of operation, of an exempt service”.
- 27 Section 136 amended (Registration of and variation to exempt services)**
- In section 136(1)(b), after “routes”, insert “, or geographic area of operation,”.
- 28 Section 137 amended (Deregistration of exempt services and removing details of variations)**
- (1) In section 137(2), after “routes”, insert “, or geographic area of operation,”.
 - (2) In section 137(4)(a), after “replaced by a”, insert “service in a”.
- 29 Section 140 amended (Right to appeal to Environment Court)**
- In section 140(1), replace “those units” with “those services”.
- 30 Section 141 amended (Appeals to District Court)**
- (1) In section 141(2)(b), after “routes”, insert “, or geographic area of operation,”.
 - (2) In section 141(2)(d), after “routes”, insert “, or geographic area of operation,”.
- 31 Section 147 amended (Operating public transport services that are not exempt or contracted)**
- (1) In the heading to section 147, replace “**contracted**” with “**in part of a unit**”.
 - (2) In section 147(1), replace “provided as a unit or part of a unit under contract with the regional council” with “operated in a unit or part of a unit”.
- 32 Section 148 amended (Varying registered exempt services without giving notice required by section 133)**
- In section 148, after “routes₁”, insert “~~or~~ geographic area of operation,”.
- 33 Schedule 1AA amended**
- In Schedule 1AA,—
- (a) insert the Part set out in the **Schedule** of this Act as the last Part; and

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- (b) make all necessary consequential amendments.

Schedule
New Part 3 inserted into Schedule 1AA

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Part 3
**Provisions relating to Land Transport Management (Regulation of
Public Transport) Amendment Act 2023**

9 Definition

In this Part, **amendment Act** means the Land Transport Management (Regulation of Public Transport) Amendment Act **2023**.

10 Regional public transport plan treated as complying with certain requirements

- (1) This clause applies if a regional council has adopted a regional public transport plan under section 119 before the amendment Act commences.
- (2) On and from the commencement of the amendment Act, the plan must be treated as having been made in accordance with subpart 1 of Part 5 of this Act.
- (3) However, when the plan is first renewed or varied in accordance with section 126, the regional council must, at the same time, comply with all requirements of this Act as amended by the amendment Act (for example, the requirements in **sections 115(1) and 120(1)(a)(ia) and (2)(d)**).

11 Regional public transport plan treated as exempt from complying with certain requirements

- (1) This clause applies if a regional council, immediately before the amendment Act commences,—
 - (a) has a regional public transport plan (a **current plan**); and
 - (b) is in the process of adopting, varying, or renewing it under section 119.
- (2) The requirement in section 126(1)(a) does not apply to the council's current plan. However, the process in **subclause (1)(b)** must be completed as soon as is reasonably practicable.
- (3) To avoid doubt, the new plan must comply with all requirements of this Act as amended by the amendment Act.

12 Exempt inter-regional public transport services continue to be exempt

- (1) This clause applies to an inter-regional public transport service—
 - (a) that is operating and receiving a subsidy immediately before the amendment Act commences; and

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- (b) the funding arrangements for which remain substantially the same on and after that commencement.
- (2) Despite **sections 114A and 116B**, on and from the commencement of the amendment Act, the public transport service—
 - (a) continues to be an exempt service; and
 - (b) may continue to receive ~~the~~ a subsidy.
- 13 Regulation-making processes already begun under section 150**
- (1) This clause applies if, immediately before the amendment Act commences,—
 - (a) a consultation process under section 150(2) was underway; but
 - (b) regulations have not yet been made under section 150(1).
- (2) On and from the commencement of the amendment Act, all processes of consultation by the Agency and consideration and recommendation by the Minister may continue under section 150(2) as in force immediately before the amendment Act commences.
- (3) If the Minister continues consideration under **subclause (2)**, the Minister’s consideration must be of the matters set out in section 150(2)(a), (b), or (c) (as applicable) as in force immediately before the amendment Act commences.
- (4) Regulations made on a recommendation that is made after consideration under **subclause (3)** have effect as if they were made under **section 150** as in force on and from the commencement of the amendment Act.