

**Reprint  
as at 1 January 2010**



**Land Transport Management Act  
2003**

Public Act    2003 No 118  
Date of assent    12 November 2003  
Commencement    see section 2

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Ministry of Transport.**

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**1 Title**

This Act is the Land Transport Management Act 2003.

**Part 1**  
**Preliminary provisions**

**2 Commencement**

- (1) Sections 40 to 44, 92, and 103(1) and (2) come into force on a date to be appointed by the Governor-General by Order in Council.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

Section 2(1): sections 40 to 44, 92, and 103(1) and (2) brought into force, on 9 September 2004, by the Land Transport Management Act Commencement Order 2004 (SR 2004/237).

### **3 Purpose**

- (1) The purpose of this Act is to contribute to the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system.
- (2) To contribute to that purpose, this Act—
  - (a) provides an integrated approach to land transport funding and management; and
  - (b) improves social and environmental responsibility in land transport funding, planning, and management; and
  - (c) provides the Agency with a broad land transport focus; and
  - (d) improves long-term planning and investment in land transport, including planning and investment in coastal shipping and rail; and
  - (e) ensures that land transport funding is allocated in an efficient and effective manner; and
  - (f) improves the flexibility of land transport funding by providing for alternative funding mechanisms.
  - (g) *[Repealed]*

Section 3(1): amended, on 1 August 2008, by section 4(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 3(2)(c): substituted, on 1 August 2008, by section 4(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 3(2)(d): amended, on 1 August 2008, by section 4(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 3(2)(f): substituted, on 1 August 2008, by section 4(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 3(2)(g): repealed, on 1 August 2008, by section 4(5) of the Land Transport Management Amendment Act 2008 (2008 No 47).

### **4 Treaty of Waitangi**

In order to recognise and respect the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi and to maintain and improve opportunities for Māori to contribute to land transport decision-making processes, sections 18, 18A, 18G, 18H, 49, 59, 65H, 65I, 78, and 100(1)(f)

and clause 6 of Schedule 7 provide principles and requirements that are intended to facilitate participation by Māori in land transport decision-making processes.

Section 4: substituted, on 1 August 2008, by section 5 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## 5 Interpretation

(1) In this Act, unless the context otherwise requires,—

**activity** means a land transport output or capital project, or both

**activity class** means a grouping of similar activities

**administration** means the activities or components of activities that in the opinion of the Agency are, or reasonably ought to be, provided in administering the delivery of land transport-related activities

**affected community**, in relation to a proposed activity, means a group of people who are affected by the proposed activity because of living, studying, or working in close geographical proximity to the proposed activity

**Agency** means the New Zealand Transport Agency established under section 93

**approved activity** means an activity approved under section 20

**approved organisation** means—

- (a) *[Repealed]*
- (b) a regional council:
- (c) a territorial authority:
- (d) an approved public organisation

**approved public organisation** means a public organisation approved under section 23

**ARTA** means the Auckland Regional Transport Authority established by section 7 of the Local Government (Auckland) Amendment Act 2004

**Auckland local authority** has the same meaning as in section 4(1) of the Local Government (Auckland) Amendment Act 2004

**Auckland Region** has the same meaning as in section 4(1) of the Local Government (Auckland) Amendment Act 2004

**Auckland Regional Council** means the Auckland Regional Council referred to in Part 1 of Schedule 2 of the Local Government Act 2002

**Auckland territorial authority** has the same meaning as in section 4(1) of the Local Government (Auckland) Amendment Act 2004

**capital project**—

- (a) means an individual land transport-related activity of a capital nature; and
- (b) includes—
  - (i) planning, design, and supervision related to the particular capital project; and
  - (ii) construction and reconstruction; and
  - (iii) any activity of a capital nature the purpose of which is to improve public safety in relation to land transport; and
  - (iv) administration related to the particular capital project

**coastal shipping** means the carriage of coastal cargo by means of any ship (as defined in section 2(1) of the Maritime Transport Act 1994), being carriage that is authorised by or under section 198 of that Act

**combination of activities** means 2 or more activities from—

- (a) the same activity class;
- (b) 2 or more activity classes

**Commissioner** means the Commissioner of Police

**concession agreement** means an agreement or a suite of agreements approved under section 56 between a public road controlling authority and 1 or more other persons, being an agreement or agreements in respect of an activity that involves the leasing of land for roading purposes under Part 2 (whether or not the public road controlling authority is the lessor)

**concession road** means a formed or unformed road to which a concession agreement applies

**concessionaire** means a person who has a concession agreement with a public road controlling authority

**council-controlled organisation** has the same meaning as in section 6 of the Local Government Act 2002

**council-controlled trading organisation** has the same meaning as in section 6 of the Local Government Act 2002

**Crown Bank Account** has the same meaning as in the Public Finance Act 1989

**district** means—

- (a) the district of a territorial authority;
- (b) in relation to land in respect of which a Minister of the Crown is the council, that land

**enforcement authority**, in relation to a toll road, means the public road controlling authority named in the relevant Order in Council made under section 46

**enforcement officer** has the same meaning as in section 2(1) of the Land Transport Act 1998

**excise duty** means any excise duty payable on motor spirits, compressed natural gas, or liquefied petroleum gas under the Customs and Excise Act 1996

**excise-equivalent duty** means any excise-equivalent duty payable on motor spirits, compressed natural gas, or liquefied petroleum gas under the Customs and Excise Act 1996

**fees and charges**, when used in Part 2,—

- (a) means the fees and charges prescribed for the purposes of the Road User Charges Act 1977 and the fees and charges prescribed for the purposes of Part 1 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986; but
- (b) does not include any infringement fee (whether recovered by an enforcement authority or under the Summary Proceedings Act 1957) or any other fine or penalty

**financial year** means a period of 12 months beginning on 1 July and ending on 30 June

**GPS** means a government policy statement issued under section 86

**impact** means the contribution made to an objective or outcome, including by a specified activity class or activity classes

**land transport**—

- (a) means—
  - (i) transport on land by any means:

- (ii) the infrastructure, goods, and services facilitating that transport; and
- (b) includes—
  - (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)

**land transport disbursement account** means an account kept under section 24

**land transport options and alternatives** includes land transport demand management options and alternatives

**land transport revenue** has the meaning given to it by section 6

**local authority** has the same meaning as in section 5(1) of the Local Government Act 2002

**local road** means a road (other than a State highway) in the district, and under the control, of a territorial authority

**Māori land** has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993

**Māori roadway** means a roadway laid out or to be laid out by order of the Maori Land Court under sections 315 to 326 of Te Ture Whenua Maori Act 1993 or laid out under any former Act relating to Māori land

**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

**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

**minor and ancillary works—**

- (a) means works associated with a local road that are determined by the Agency to be minor and ancillary roading works; but
- (b) does not include in-house professional services or works associated with a State highway

**motor spirits** does not include aviation spirits of a kind specified in the Excise and Excise-equivalent Duties Table (as defined in section 76A of the Customs and Excise Act 1996) as aviation fuel

**motor vehicle** has the same meaning as in section 2(1) of the Land Transport Act 1998

**national energy efficiency and conservation strategy** means a strategy issued under the Energy Efficiency and Conservation Act 2000

**national land transport fund** or **fund** means the fund established under section 10

**national land transport programme** means a national land transport programme adopted under section 19, as from time to time amended or varied

**national land transport strategy** means a national land transport strategy prepared under Part 3

**new road** includes a lane that is added to an existing road

**outcome** has the same meaning as in section 2 of the Public Finance Act 1989

**outputs** means goods or services

**personal information** has the same meaning as in section 2(1) of the Privacy Act 1993

**Police** means the Police of New Zealand within the meaning of the Policing Act 2008

**procurement procedure** means a procurement procedure approved under section 25

**public organisation** means—

- (a) a Minister of the Crown;
- (b) a department of State;
- (c) a Crown entity (as defined in section 7 of the Crown Entities Act 2004);

- (ca) an organisation named or described in Schedule 4 of the Public Finance Act 1989;
- (d) a State enterprise (as defined in section 2 of the State-Owned Enterprises Act 1986);
- (e) a local authority;
- (f) a council-controlled organisation

**public road controlling authority**, in relation to a concession road or a toll road, means the Agency or a territorial authority, regardless of whether any other person is also a controlling authority for the road

**public transport service** means the carriage of passengers for hire or reward by means of—

- (a) a large passenger service vehicle as defined in section 2(1) of the Land Transport Act 1998; or
- (b) a small passenger service vehicle as defined in section 2(1) of the Land Transport Act 1998; or
- (c) a ferry; or
- (d) a rail vehicle as defined in section 4(1) of the Railways Act 2005; or
- (e) a hovercraft; or
- (f) any other mode of transport (other than air transport) available to the public generally

**regional council**—

- (a) means a regional council within the meaning of the Local Government Act 2002; and
- (b) when used in—
  - (i) Part 2 or 3, includes a unitary authority; and
  - (ii) Part 2, excludes—
    - (A) the Auckland Regional Council; and
    - (B) the Waikato Regional Council in relation to that part of its region within the district of the Franklin District Council

**regional land transport programme** means a regional land transport programme prepared under Part 2, as from time to time amended or varied

**regional land transport strategy** means a regional land transport strategy prepared under Part 3



**regional public transport plan** has the same meaning as in section 4 of the Public Transport Management Act 2008

**regional transport committee** means a regional transport committee established under section 105 or clause 11 of Schedule 7

**registered owner**, in relation to a motor vehicle, means the person registered under the Transport (Vehicle and Driver Registration and Licensing) Act 1986 as the owner of the vehicle

**registered service** has the same meaning as in section 4 of the Public Transport Management Act 2008

**road**—

- (a) means a road as defined in section 2(1) of the Government Roding Powers Act 1989; and
- (b) despite the terms of that definition, in subpart 2 of Part 2, includes a motorway as defined in that section; and
- (c) includes toll booths and other toll-related infrastructure on a road

**road** includes a motorway

**road controlling authority**, in relation to a road, means the Minister, Department of State, Crown entity, State enterprise, or territorial authority that controls the road

**road tolling scheme** means a road tolling scheme established by Order in Council under section 46

**Secretary** means the chief executive of the Ministry

**State highway** means a road, whether or not constructed or vested in the Crown, that is declared to be a State highway under section 11 of the National Roads Act 1953, section 60 of the Government Roding Powers Act 1989 (formerly known as the Transit New Zealand Act 1989), or under section 103; and includes—

- (a) all land along or contiguous with its route that is the road; and
- (b) any part of an intersection that is within the route of the State highway; and
- (c) for the purposes of regional land transport programmes, the national land transport programme, and any expen-

ditures approved under section 20 by the Agency, a proposed State highway

**statutorily independent function** means,—

- (a) in the case of the Agency, a function specified in section 95(2):
- (b) a matter in respect of which this Act provides must be carried out independently

**territorial authority** has the same meaning as in section 5(1) of the Local Government Act 2002

**toll** means a toll that is payable under Part 2, and includes different levels of tolls if more than 1 level is set in respect of the same road

**toll operator**, in relation to a toll road, means the public road controlling authority or concessionaire who operates the toll road under a road tolling scheme

**toll road** means a road or part of a road that is subject to tolling under a road tolling scheme

**unitary authority** has the same meaning as in section 5(1) of the Local Government Act 2002.

- (2) Every reference in this Act to a road or a State highway, unless the context otherwise requires, includes the land on which the road or State highway exists, and also includes all bridges, culverts, ferries, fords, signs, signals, barriers, or other structures forming or intended by the territorial authority or the Agency to form part of the road, State highway, or land.
- (3) For the purposes of performing any function or exercising any power or carrying out any duty in relation to construction, maintenance, financial assistance, or control under this Act, the Agency may from time to time determine, either generally or in relation to any specified road or to any portion or side of any specified road, what part of a road is a carriage-way, footway, water table, drain, dividing strip, traffic island, safety zone, plantation, verge, shoulder, parking space, curb, channel, or other thing, and every such determination of the Agency is final but may at any time be amended or revoked by the Agency.
- (4) A determination by the Agency for the purposes of subsection (3) in relation to any road or portion of a road may be made by

express resolution of the Agency or by way of approval by the Agency of a plan that delineates the several parts of the road or portion of the road.

- (5) All references to a main highway in any other Act, or in any regulation, rule, bylaw, order, or other enactment, or in any contract, agreement, deed, instrument, application, licence, notice, declaration, or other document are, unless inconsistent with the context or with the provisions of this Act or the Government Roadway Powers Act 1989, to be read as references to a State highway.

Section 5(1) **activity class**: substituted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **administration**: amended, on 1 August 2008, by section 6(5) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **administration**: amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **Agency**: inserted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **approved organisation** paragraph (a): repealed, on 1 August 2008, by section 6(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **approved safety administration programme**: repealed, on 1 December 2004, by section 3(1) of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **ARTA**: inserted, on 1 December 2004, by section 45 of the Local Government (Auckland) Amendment Act 2004 (2004 No 57).

Section 5(1) **Auckland local authority**: inserted, on 1 December 2004, by section 45 of the Local Government (Auckland) Amendment Act 2004 (2004 No 57).

Section 5(1) **Auckland Region**: inserted, on 1 December 2004, by section 45 of the Local Government (Auckland) Amendment Act 2004 (2004 No 57).

Section 5(1) **Auckland Regional Council**: inserted, on 1 December 2004, by section 45 of the Local Government (Auckland) Amendment Act 2004 (2004 No 57).

Section 5(1) **Auckland territorial authority**: inserted, on 1 December 2004, by section 45 of the Local Government (Auckland) Amendment Act 2004 (2004 No 57).

Section 5(1) **Authority**: repealed, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **board**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **board member**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **collecting body**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **combination of activities**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **entity**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **financial year**: substituted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **GPS**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **impact**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **interested**: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(1) **land transport**: substituted, on 1 December 2004, by section 3(2) of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **land transport programme**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **Minister or responsible Minister**: substituted, on 1 December 2004, by section 3 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **minor and ancillary works** paragraph (a): amended, on 1 August 2008, by section 6(6) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **minor and ancillary works**: amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **motor spirits**: substituted, on 1 January 2010, by section 11(4) of the Customs and Excise Amendment Act 2009 (2009 No 61).

Section 5(1) **national energy efficiency and conservation strategy**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **national land transport account**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **national land transport fund or fund**: substituted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **national land transport strategy**: substituted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **outcome**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **performance agreement**: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(1) **Police**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **Police**: amended, on 1 October 2008, pursuant to section 130(4) of the Policing Act 2008 (2008 No 72).

Section 5(1) **public organisation** paragraph (c): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(1) **public organisation** paragraph (ca): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(1) **public road controlling authority**: amended, on 1 August 2008, by section 6(7) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **public transport service**: substituted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 5(1) **regional council**: substituted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **regional land transport committee**: repealed, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **regional land transport programme**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **regional land transport strategy**: substituted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **regional public transport plan**: inserted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 5(1) **regional transport committee**: inserted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **registered service**: substituted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 5(1) **road** first definition paragraph (a): amended, on 1 August 2008, by section 6(8) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **road** second definition: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **safety administration**: repealed, on 1 December 2004, by section 3(1) of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **safety administration programme**: repealed, on 1 December 2004, by section 3(1) of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **State highway**: substituted, on 1 August 2008, by section 6(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **statutorily independent function** paragraph (a): amended, on 1 August 2008, by section 6(9)(a) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **statutorily independent function** paragraph (a): amended, on 1 August 2008, by section 6(9)(b) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **statutorily independent function** paragraph (a): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **statutorily independent function** paragraph (b): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(1) **Transfund**: repealed, on 1 December 2004, by section 3(1) of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 5(1) **Transit**: repealed, on 1 August 2008, by section 6(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(1) **unitary authority**: inserted, on 1 August 2008, by section 6(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(2): added, on 1 August 2008, by section 6(10) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(3): added, on 1 August 2008, by section 6(10) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(4): added, on 1 August 2008, by section 6(10) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 5(5): added, on 1 August 2008, by section 6(10) of the Land Transport Management Amendment Act 2008 (2008 No 47).

## 6 Meaning of land transport revenue

In this Act, unless the context otherwise requires, **land transport revenue** means—

- (a) all road user charges (excluding applicable refunds, and goods and services tax payable under the Goods and Services Tax Act 1985) calculated in accordance with Schedule 3 of the Road User Charges Act 1977, any additional charges under section 21A of that Act, and any assessments under section 18C or 18D of that Act;
- (b) all excise duty and excise-equivalent duty on motor spirits, compressed natural gas, or liquefied petroleum gas under the Customs and Excise Act 1996 (excluding applicable refunds or drawbacks of duties, and goods and services tax payable under the Goods and Services Tax Act 1985);
- (c) all fees and charges (excluding applicable refunds, and goods and services tax payable under the Goods and Services Tax Act 1985) identified, in regulations made for the purposes of Part 1 of the Transport (Vehicle and

Driver Registration and Licensing) Act 1986, as land transport revenue for the purposes of this Act:

- (d) the amount of interest, calculated according to a formula determined by the Minister and the Minister of Finance, earned from the investment of cash held by the Crown from the revenues referred to in paragraphs (a) to (c):
- (e) all other public money that is required by any enactment to be treated as land transport revenue for the purposes of this Act.

Section 6: substituted, on 1 August 2008, by section 7 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **7 Act binds the Crown**

This Act binds the Crown.

### **7A Application of Act to Chatham Islands**

- (1) Except as expressly provided in this Act, this Act applies to the Chatham Islands as if the Chatham Islands Council were a unitary authority.
- (2) Sections 12 to 18H (which relate to regional land transport programmes) apply with the necessary modifications to the Chatham Islands Council as if that Council were a unitary authority to which paragraph (b) of the definition of regional council applies, except that—
  - (a) the Chatham Islands Council, rather than a regional transport committee, prepares and consults on a regional land transport programme for the Chatham Islands; and
  - (b) in preparing its regional land transport programme, the Chatham Islands Council does not have a regional land transport strategy to take into account.
- (3) Nothing in sections 73 to 83 (which relate to regional land transport strategies) applies to the Chatham Islands Council.
- (4) Nothing in sections 105 to 107 (which relate to regional transport committees) applies to the Chatham Islands Council.

Section 7A: inserted, on 1 August 2008, by section 8 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **Part 2**

### **Planning and funding of land transport system**

Part 2 heading: amended, on 1 August 2008, by section 9 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **Subpart 1—Planning and funding system**

Subpart 1 heading: amended, on 1 August 2008, by section 10 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### *National land transport fund*

#### **8 National land transport fund**

*[Repealed]*

Section 8: repealed, on 1 August 2008, by section 11 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **9 The Crown's authority to incur certain land transport expenses and capital expenditure**

- (1) In accordance with any regulations made under section 109(b)(i), the Crown may, without further appropriation than this subsection, incur expenses or capital expenditure in a financial year up to an amount agreed by the responsible Minister and the Minister of Finance that is not more than the excise duty and excise-equivalent duty estimated to have been paid by users of pleasure craft (within the meaning of section 2(1) of the Maritime Transport Act 1994) in that financial year, for the following activities and services:
  - (a) search and rescue activities, whether in relation to pleasure craft or otherwise; and
  - (b) recreational boating safety and safety awareness; and
  - (c) maritime safety services that benefit the users of pleasure craft; and
  - (d) administration by the Secretary in relation to the activities and services described in paragraphs (a) to (c).
- (2) The Crown may utilise land transport revenue to fund Police activities or combinations of Police activities up to the amount approved by the responsible Minister under section 18L.



- (3) The Crown may, without further appropriation than this subsection, incur expenses or capital expenditure up to an amount equal to the land transport revenue for that financial year less the amounts for the year that are referred to in subsections (1) and (2) for—
- (a) activities and combinations of activities approved under section 20; and
  - (b) expenses resulting from, and repayment of, any borrowing in accordance with section 10(1)(b).
- (4) The Crown may, without further appropriation than this subsection, incur expenses or capital expenditure in any financial year up to any positive amount calculated under subsection (5) for—
- (a) activities and combinations of activities approved under section 20; and
  - (b) expenses resulting from, and repayment of, any borrowing in accordance with section 10(1)(b).
- (5) The amount referred to in subsection (4) is to be calculated in accordance with the following formula:

$$a - b = c$$

where—

- a is land transport revenue from any previous financial years; and
- b is the expenses and capital expenditure incurred under subsections (1), (2), (3), and (4) for those previous financial years; and
- c is the calculated amount.

Section 9: substituted, on 1 August 2008, by section 12 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*National land transport account*  
*[Repealed]*

Heading: repealed, on 1 August 2008, by section 13 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**10 National land transport fund**

- (1) The national land transport fund is the cumulative balance of—

- (a) the inflows specified in subsection (2), less any expenses and capital expenditure and repayment items of the type outlined in subsection (3) that have been accrued at any point in time; and
  - (b) the proceeds of any borrowing undertaken for the purpose of managing cashflow for the national land transport programme by—
    - (i) the Agency, in accordance with section 162 of the Crown Entities Act 2004; or
    - (ii) the Crown, in accordance with subpart 1 of Part 6 of the Public Finance Act 1989.
- (2) The inflows of the national land transport fund are—
  - (a) land transport revenue, less any expenses or capital expenditure incurred under section 9(1);
  - (b) any revenue received by the Agency for the management of Crown land, including leases and licences;
  - (c) any proceeds from the sale of land held or acquired for the purposes of a State highway or any proposed State highway;
  - (d) any interest earned by the Agency from the investment of cash from the moneys referred to in paragraphs (a) to (c);
  - (e) any other public money provided to meet expenses or capital expenditure, incurred or to be incurred in accordance with an appropriation or other authority by or under an Act in respect of approved activities or combinations of activities of a type described in subsection (3).
- (3) The national land transport fund must be used to pay for—
  - (a) Police activities or combinations of Police activities approved under section 18L;
  - (b) activities or combinations of activities (including those relating to State highways) approved under section 20 for which the Agency is responsible for delivery or managing delivery;
  - (c) regional councils' activities or combinations of activities approved under section 20;

- (d) territorial authorities' activities or combinations of activities approved under section 20 (other than public transport services activities):
  - (e) regional and territorial authorities' activities or combinations of activities approved under section 20 that have been authorised by a transfer of responsibility under section 17 of the Local Government Act 2002:
  - (f) approved public organisations' activities or combinations of activities approved under section 20:
  - (g) expenses resulting from, and repayment of, any borrowing in accordance with subsection (1)(b).
- (4) A local authority whose activities or combinations of activities are included in a regional land transport programme approved by ARTA is not entitled to receive funds directly from the Agency.
- (5) ARTA must, as soon as practicable and at no cost to the local authority, pay to an Auckland local authority the funds received by ARTA from the Agency for approved activities or combinations of activities to be carried out by the local authority.
- (6) Despite subsection (4), the Auckland Regional Council may receive funds directly from the Agency in respect of activities or combinations of activities approved under section 20 in respect of the preparation (including consultation) and approval of a regional land transport strategy for the Auckland Region.

Section 10: substituted, on 1 August 2008, by section 14 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **11 Annual report on national land transport fund**

- (1) After the end of each financial year, the Agency must prepare an annual report on the national land transport fund.
- (2) The annual report required under subsection (1) must be prepared in accordance with generally accepted accounting practice, and must include—
- (a) a statement of inflows and expenses and capital expenditure of the national land transport fund for the financial year to which the report relates and the previous 2 financial years:

- (b) a statement of cash flows in respect of the national land transport fund for the financial year to which the report relates:
  - (c) a statement of the financial position of the national land transport fund (including its closing balance):
  - (d) a statement of commitments:
  - (e) a statement of performance for each activity class funded by the national land transport fund for the financial year to which the report relates, unless the Minister has approved the inclusion of the information in the Agency's annual report under section 150 of the Crown Entities Act 2004:
  - (f) an explanation of how the funding of activities or combinations of activities under the national land transport programme has contributed to the achievement of any outcomes, objectives or impacts set out in any national land transport strategy or the relevant GPS:
  - (g) an explanation of how the national land transport fund has been managed with respect to the closing balance.
- (3) The provisions of the Crown Entities Act 2004 in respect of the preparation, audit, presentation, and publication of a Crown entity's annual report (including its financial statements) apply, with all necessary modifications, to the annual report required under subsection (1).
- (4) The Agency must make a copy of the annual report publicly available in accordance with section 108.

Section 11: substituted, on 1 August 2008, by section 15 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### *Regional land transport programmes*

Heading: substituted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **12 Overview of regional land transport programmes**

- (1) A regional land transport programme allows approved organisations and the Agency to recommend funding for land transport activities or combinations of activities from the national land transport fund that will contribute to—

- (a) a region's outcomes that are identified in the relevant regional land transport strategy; and
  - (b) any outcomes, objectives and impacts identified by the Crown in any national land transport strategy or the relevant GPS.
- (2) Regional land transport programmes, which are prepared by regional transport committees (or, in the case of the Auckland Region, ARTA), include—
  - (a) proposed activities and combinations of activities for 3 financial years; and
  - (b) an indication of significant activities for the following 3 financial years; and
  - (c) a 10-year financial forecast.
- (3) This section is intended by way of explanation only, and if this section is inconsistent with another provision of this Act or any other Act, then the other provision prevails.

Section 12: substituted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **12A Authority's land transport programme**

*[Repealed]*

Section 12A: repealed, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **13 Responsibility for preparing and approving regional land transport programmes**

- (1) Every 3 financial years, each regional council, in the case of every region except the Auckland Region, must—
  - (a) ensure that the relevant regional transport committee prepares, on the regional council's behalf, a regional land transport programme; and
  - (b) approve the regional land transport programme by a date appointed by the Agency.
- (2) Every 3 financial years, ARTA (in the case of the Auckland Region) must—
  - (a) prepare an Auckland regional land transport programme; and
  - (b) approve the Auckland regional land transport programme by a date appointed by the Agency.

- (3) Before ARTA prepares an Auckland regional land transport programme, ARTA must consult with the Auckland regional transport committee about—
  - (a) ARTA's proposed areas of focus for the programme; and
  - (b) the process ARTA intends to use in preparing the programme.
- (4) A regional council or regional transport committee may—
  - (a) prepare and approve a regional land transport programme at the same time as it prepares and approves a regional land transport strategy; and
  - (b) use a single consultation process that complies with sections 18, 18A, and 78 when preparing its programme and strategy.
- (5) A regional council may publish a regional land transport programme and a regional land transport strategy as a single document.

Section 13: substituted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **14 Core requirements of regional land transport programmes prepared by regional transport committees**

When a regional transport committee prepares a regional land transport programme on behalf of the relevant regional council, the regional transport committee must—

- (a) be satisfied that the regional land transport programme—
  - (i) contributes to the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system; and
  - (ii) contributes to each of the following:
    - (A) assisting economic development;
    - (B) assisting safety and personal security;
    - (C) improving access and mobility;
    - (D) protecting and promoting public health;
    - (E) ensuring environmental sustainability;and
  - (iii) is consistent with—
    - (A) the relevant GPS; and

- (B) any relevant regional land transport strategy; and
- (b) take into account any—
  - (i) national land transport strategy; and
  - (ii) national energy efficiency and conservation strategy; and
  - (iii) relevant national policy statement and any relevant regional policy statements or plans that are for the time being in force under the Resource Management Act 1991; and
  - (iv) relevant regional public transport plan; and
  - (v) likely funding from any source.

Section 14: substituted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 14(b)(iv): substituted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 14(b)(v): added, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

## **15 Core requirements of regional land transport programmes prepared by ARTA**

ARTA must, in preparing an Auckland regional land transport programme,—

- (a) be satisfied that the Auckland regional land transport programme—
  - (i) contributes to the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system; and
  - (ii) contributes to each of the following:
    - (A) assisting economic development;
    - (B) assisting safety and personal security;
    - (C) improving access and mobility;
    - (D) protecting and promoting public health;
    - (E) ensuring environmental sustainability;and
  - (iii) is consistent with the relevant GPS; and
- (b) give effect to the matters in the Auckland regional land transport strategy, 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, duties, or powers; and
- (c) take into account any—
- (i) national land transport strategy; and
  - (ii) national energy efficiency and conservation strategy; and
  - (iii) relevant national policy statement and any relevant regional policy statements or plans that are for the time being in force under the Resource Management Act 1991; and
  - (iv) relevant regional public transport plan; and
  - (v) likely funding from any source.

Section 15: substituted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 15(c)(iv): substituted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 15(c)(v): added, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

## **16 Form and content of regional land transport programmes (for regions other than Auckland Region)**

- (1) For the purpose of seeking payment from the national land transport fund, a regional land transport programme (for regions other than the Auckland Region) must contain, for the 3 financial years to which the programme relates,—
- (a) activities or combinations of activities, identified by approved organisations in the region, relating to local road maintenance, local road renewals and local road minor capital works, and existing public transport services; and
  - (b) the following activities or combinations of activities that the regional transport committee decides to include in the regional land transport programme:
    - (i) activities or combinations of activities proposed by approved organisations in the region, other than those identified under paragraph (a); and
    - (ii) activities or combinations of activities relating to State highways in the region that are proposed by the Agency; and



- (iii) activities or combinations of activities, other than those relating to State highways, that the Agency may propose for the region and that the Agency wishes to see included in the regional land transport programme; and
- (c) the order of priority, as determined by the regional transport committee, of the activities or combinations of activities that the committee decides to include in the committee's regional land transport programme under paragraph (b); and
- (d) an assessment of each activity or combination of activities, prepared in accordance with subsection (5) by the organisation that identified or proposed the activity or combination of activities under paragraph (a) or (b), to include—
  - (i) the objective or objectives to be achieved; and
  - (ii) an estimate of the total cost and the cost for each year; and
  - (iii) the expected duration; and
  - (iv) any proposed sources of funding other than the national land transport fund (including, but not limited to, tolls, regional fuel taxes, funding from approved organisations, and contributions from other parties); and
  - (v) any other relevant information.
- (2) A regional land transport programme must contain assessments by the regional transport committee of—
  - (a) how the programme complies with section 14; and
  - (b) the relationship of Police activities or combinations of Police activities to the regional land transport programme.
- (3) A regional land transport programme must also include—
  - (a) a statement of transport priorities for the region for the 6 financial years from the start of the programme, for which funding will be sought from the national land transport fund; and
  - (b) all significant expenditure on land transport activities to be funded from sources other than the national land transport fund; and

- (c) a list of each activity or combination of activities that have been approved under section 20 but are not yet completed; and
  - (d) an identification of those activities or combinations of activities (if any) that have inter-regional significance; and
  - (e) an explanation of the proposed action if it is proposed that an activity or combination of activities be varied, suspended, or abandoned; and
  - (f) an indication of any nationally or regionally significant activities that are likely to be recommended for inclusion in the national land transport programme over the 3 financial years following the regional land transport programme; and
  - (g) a financial forecast of anticipated revenue and expenditure on activities for the 10 financial years from the start of the regional land transport programme; and
  - (h) a description of how monitoring will be undertaken to assess implementation of the regional land transport programme; and
  - (i) a summary of the consultation carried out in the preparation of the regional land transport programme; and
  - (j) a summary of the policy relating to significance adopted by the regional transport committee under section 106; and
  - (k) any other relevant matters.
- (4) For the purpose of the inclusion of activities or combinations of activities in a national land transport programme, a regional land transport programme must be in the form and contain the detail that the Agency may prescribe in writing to regional transport committees.
- (5) The assessment under subsection (1)(d) must be in a form and contain the detail required by the regional transport committee, taking account of any prescription made by the Agency under subsection (4).
- (6) For the purposes of this section, **existing public transport services** means the level of public transport services in place in the financial year before the commencement of the regional

land transport programme, and any minor changes to those services.

Section 16: substituted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**17 Form and content of ARTA's regional land transport programmes**

- (1) For the purpose of seeking payment from the national land transport fund, ARTA's regional land transport programme must contain, for the 3 financial years to which the programme relates,—
- (a) the following activities and combinations of activities that ARTA decides to include in ARTA's regional land transport programme:
    - (i) activities or combinations of activities proposed by approved organisations in the region; and
    - (ii) activities or combinations of activities relating to State highways in the region that are proposed by the Agency; and
    - (iii) activities or combinations of activities, other than those relating to State highways, that the Agency may propose for the region and the Agency wishes to see included in ARTA's regional land transport programme; and
  - (b) the order of priority, as determined by ARTA, of the activities or combinations of activities that ARTA decides to include in ARTA's regional land transport programme under paragraph (a); and
  - (c) an assessment of each activity or combination of activities, prepared in accordance with subsection (5) by the organisation that proposed the activity or combination of activities under paragraph (a), to include—
    - (i) the objective or objectives to be achieved; and
    - (ii) an estimate of the total cost and the cost for each year; and
    - (iii) the expected duration; and
    - (iv) any proposed sources of funding other than the national land transport fund (including, but not limited to, tolls, regional fuel taxes, funding from

- approved organisations, and contributions from other parties); and
  - (v) any other relevant information.
- (2) ARTA's regional land transport programme must contain assessments by ARTA of—
- (a) how the programme complies with section 15; and
  - (b) the relationship of Police activities or combinations of Police activities to ARTA's regional land transport programme.
- (3) ARTA's regional land transport programme must also include—
- (a) a statement of transport priorities for the region for the 6 financial years from the start of the programme, for which funding will be sought from the national land transport fund; and
  - (b) all significant expenditure on land transport activities to be funded from sources other than the national land transport fund; and
  - (c) a list of each activity or combination of activities that have been approved under section 20 but are not yet completed; and
  - (d) an identification of those activities or combinations of activities (if any) that have inter-regional significance; and
  - (e) an explanation of the proposed action if it is proposed that an activity or combination of activities be varied, suspended, or abandoned; and
  - (f) an indication of any nationally or regionally significant activities that are likely to be recommended for inclusion in the national land transport programme over the 3 financial years following ARTA's regional land transport programme; and
  - (g) a financial forecast of anticipated revenue and expenditure on activities for the 10 financial years from the start of ARTA's regional land transport programme; and
  - (h) a description of how monitoring will be undertaken to assess implementation of ARTA's regional land transport programme; and

- (i) a summary of the consultation carried out in the preparation of ARTA's regional land transport programme; and
  - (j) a summary of the policy relating to significance adopted by ARTA under section 106; and
  - (k) any other relevant matters.
- (4) For the purpose of the inclusion of activities or combinations of activities in a national land transport programme, ARTA's regional land transport programme must be in the form and contain the detail that the Agency may prescribe in writing to ARTA.
- (5) The assessment under subsection (1)(c) must be in a form and contain the detail required by ARTA, taking account of any prescription made by the Agency under subsection (4).

Section 17: substituted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **18 Consultation requirements**

When preparing a regional land transport programme, a regional transport committee or ARTA (as the case may require) must consult—

- (a) every affected regional council; and
- (b) every affected territorial authority; and
- (c) every affected approved public organisation; and
- (d) the Agency; and
- (e) the Commissioner; and
- (f) affected district health boards; and
- (g) the Accident Compensation Corporation; and
- (h) the New Zealand Historic Places Trust; and
- (i) the New Zealand Railways Corporation; and
- (j) representative groups of land transport users and providers (including representative groups of coastal shipping users and providers); and
- (k) affected communities; and
- (l) Māori of the region; and
- (m) the public in the region.

Section 18: substituted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**18A Consultation principles**

- (1) In carrying out the consultation required under section 18, a regional transport committee or ARTA (as the case may require) must—
  - (a) act in accordance with the consultation principles set out in section 82 of the Local Government Act 2002; and
  - (b) use the special consultative procedure under sections 83, 87(2)(a), and 89 of the Local Government Act 2002.
- (2) A regional transport committee or ARTA complies with subsection (1) if the required consultation on the regional land transport programme is carried out in conjunction with the relevant regional council's consultation on its long-term council community plan or its annual plan under the Local Government Act 2002.
- (3) When consulting under section 18 and this section with respect to its regional land transport programme, ARTA need not consult any organisation or person referred to in section 18 about any activity or combination of activities in its regional land transport programme if an Auckland local authority has already consulted that organisation or person about the activity or combination of activities in the course of preparing that local authority's current long-term council community plan or annual plan in accordance with the Local Government Act 2002.

Section 18A: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**18B Process for approving regional land transport programmes prepared by regional transport committees**

- (1) A regional transport committee that has prepared a regional land transport programme on behalf of a regional council must, after it has consulted under sections 18 and 18A, lodge the regional land transport programme with the regional council.
- (2) If a regional transport committee decides not to include in its regional land transport programme an activity or combination of activities proposed by an approved organisation or the Agency, the regional transport committee must, at the same time as it lodges the programme with the regional council

- under subsection (1), give the approved organisation or the Agency (as the case may require) written advice of the decision and the reasons for the decision.
- (3) The relevant regional council may, after considering a regional land transport programme that has been lodged with it under subsection (1), decide—
- (a) to approve the regional land transport programme, without modification; or
  - (b) to refer the regional land transport programme back to the regional transport committee with a request that the regional transport committee reconsider 1 or more aspects of the regional land transport programme.
- (4) If a regional council refers a regional land transport programme back to its regional transport committee, the regional transport committee may, after reconsidering the aspects referred back to it by the regional council in its request, forward to the regional council either or both of the following:
- (a) an amended regional land transport programme that has been consulted on in accordance with sections 18 and 18A;
  - (b) any additional information that has been requested by the regional council or that the regional transport committee considers will help the regional council with its decision.
- (5) Despite subsection (4)(a), a regional transport committee may forward an amended regional land transport programme to the regional council without consulting in accordance with sections 18 and 18A if the amendment or amendments to the regional land transport programme are not significant.
- (6) If a regional council receives an amended regional land transport programme, or a regional land transport programme with additional information, under subsection (4), it must—
- (a) approve the programme or amended programme and forward it to the Agency; or
  - (b) forward the programme or amended programme to the Agency stating that it is not approved along with a statement of its reasons.
- (7) If the Agency receives an amended regional land transport programme, or a regional land transport programme with addi-

tional information, under subsection (6)(b), the Agency must, when developing the national land transport programme,—

- (a) treat the regional land transport programme or amended regional land transport programme as approved; and
  - (b) consider the regional council's statement of reasons.
- (8) Section 18F applies, with the necessary modifications, to any programme or amended programme and statement of reasons forwarded under subsection (6).

Section 18B: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**18C ARTA must give Agency reasons for not including in its regional land transport programme activities or combinations of activities proposed by Agency**

When forwarding its regional land transport programme to the Agency, ARTA must give the Agency written reasons for any decision not to include in its regional land transport programme an activity or combination of activities proposed by the Agency for inclusion in the programme.

Section 18C: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**18D Variation of regional land transport programmes**

- (1) If good reason exists to do so, a regional transport committee or ARTA may prepare a variation to its regional land transport programme during the 3 years to which it applies.
- (2) A variation may be prepared by a regional transport committee—
  - (a) at the request of an approved organisation or the Agency; or
  - (b) on the regional transport committee's own motion.
- (3) A variation may be prepared by ARTA—
  - (a) at the request of the Agency; or
  - (b) on ARTA's own motion.
- (4) The regional transport committee or ARTA must consider any variation request promptly.
- (5) The provisions of this Act that apply to the preparation of a regional land transport programme apply with the necessary modifications to a variation of a regional land transport pro-



gramme; however, consultation is not required for any variation that—

- (a) is not significant; or
- (b) arises from the declaration or revocation of a State highway.

- (6) Section 18B applies, with the necessary modifications, to the approval by a regional council or ARTA of a variation of a regional land transport programme.
- (7) The Agency must consider promptly whether to vary the national land transport programme after receiving a varied regional land transport programme forwarded to it by a regional council or ARTA.
- (8) A variation of a regional land transport programme does not create an obligation on the Agency to vary the national land transport programme, but the Agency must give written reasons for any decision not to do so.
- (9) This section does not apply if section 18E applies.

Section 18D: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**18E Changes to certain activities or combinations of activities**

- (1) This section applies to any activities or combinations of activities that have been identified by an approved organisation under section 16(1)(a) and included in a regional land transport programme.
- (2) If an approved organisation has good reason to change any activities or combinations of activities to which this section applies, it may request the Agency to vary the national land transport programme to take account of that change, and must inform the regional transport committee that it has made that request.
- (3) A request must be made in a form and with the detail prescribed by the Agency in writing to approved organisations.
- (4) The Agency must consider promptly any request made under this section to vary the national land transport programme.
- (5) A request made under this section does not create an obligation to vary the national land transport programme but the Agency must give written reasons for any decision not to do so.

- (6) If the Agency approves a variation under subsection (4), the relevant regional land transport programme is to be read as if the approved variation had been included in the approved programme.
- (7) This section does not apply to approved organisations in the Auckland Region.

Section 18E: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**18F Availability of regional land transport programmes**

A regional council or ARTA (as the case may require) must, by a date or dates appointed by the Agency,—

- (a) forward copies of its approved regional land transport programme to—
  - (i) the Secretary; and
  - (ii) the Agency; and
  - (iii) the Commissioner; and
  - (iv) approved organisations in the region; and
- (b) make the approved regional land transport programme publicly available in accordance with section 108.

Section 18F: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**18G Separate consultation with Māori on particular activities**

- (1) An approved organisation or the Agency (as the case may require) must do everything reasonably practicable to separately consult Māori affected by any activity proposed by the approved organisation or the Agency that affects or is likely to affect—
  - (a) Māori land; or
  - (b) land subject to any Māori claims settlement Act; or
  - (c) Māori historical, cultural, or spiritual interests.
- (2) The relevant approved organisation or the Agency (as the case may be) must consult the land holding trustee (as defined in section 7 of the Waikato Raupatu Claims Settlement Act 1995) about any proposed activity that affects or is likely to affect land registered in the name of Pootatau Te Wherowhero under section 19 of that Act.

Section 18G: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**18H Māori contribution to decision making**

- (1) The Agency and approved public organisations must, with respect to funding from the national land transport fund,—
  - (a) establish and maintain processes to provide opportunities for Māori to contribute to the organisation’s land transport decision-making processes; and
  - (b) consider ways in which the organisation may foster the development of Māori capacity to contribute to the organisation’s land transport decision-making processes; and
  - (c) provide relevant information to Māori for the purposes of paragraphs (a) and (b).
- (2) Subsection (1) does not limit the ability of the Agency or an approved public organisation to take similar action in respect of any other population group.

Section 18H: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Police activities or combinations of Police activities*

Heading: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**18I Recommendations for Police activities or combinations of Police activities**

Every 3 financial years the Agency must, by a date appointed by the Minister, prepare its recommendations for any Police activities or combinations of Police activities that are to be funded under section 10(3)(a) for the following 3 financial years.

Section 18I: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**18J Requirements before recommending Police activities or combinations of Police activities**

- (1) Before recommending any Police activities or combinations of Police activities that are to be funded under section 10(3)(a), the Agency must consult the Commissioner and the Secretary.
- (2) The Agency must, in recommending any Police activities or combinations of Police activities for funding under section 10(3)(a),—
  - (a) be satisfied that those Police activities or combinations of Police activities—
    - (i) contribute to the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system; and
    - (ii) contribute to each of the following:
      - (A) assisting economic development;
      - (B) assisting safety and personal security;
      - (C) improving access and mobility;
      - (D) protecting and promoting public health;
      - (E) ensuring environmental sustainability; and
  - (b) give effect to the relevant GPS; and
  - (c) take into account any—
    - (i) national land transport strategy; and
    - (ii) regional land transport strategies; and
    - (iii) national energy efficiency and conservation strategy; and
    - (iv) relevant national policy statement and any relevant regional policy statements or plans that are for the time being in force under the Resource Management Act 1991; and
    - (v) regional public transport plans.

Section 18J: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 18J(2)(c)(iv): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 18J(2)(c)(v): added, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

**18K Content of recommendations under section 18I**

The Agency must ensure that its recommendations under section 18I include—

- (a) the recommended funding contribution under section 10(3)(a) for the proposed Police activities or combinations of Police activities; and
- (b) a list of the Police activities or combinations of Police activities that are proposed to be funded under section 10(3)(a); and
- (c) the performance measures associated with the delivery of those proposed Police activities or combinations of Police activities; and
- (d) the revenue to be received by the Commissioner from sources (other than the national land transport fund) applicable to the Police activities or combinations of Police activities for which funding is sought from the national land transport fund; and
- (e) a long-term financial forecast that contains a forecast of anticipated revenue and expenditure on any Police activities or combinations of Police activities for the following 10 financial years.

Section 18K: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**18L Approval of recommendations**

- (1) After considering the Agency's recommendations under section 18I, the responsible Minister, in consultation with the Minister of Police, must approve or decline those recommendations for payment under section 10(3)(a).
- (2) The responsible Minister must notify the Agency and the Commissioner of the responsible Minister's decision to approve or decline the Agency's recommendations.

Section 18L: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**18M Variation of approval**

- (1) The Agency may recommend a variation of an approval under section 18L(1).

- (2) After considering the Agency's recommendation, the responsible Minister, in consultation with the Minister of Police, must approve or decline the variation, and, if approved, the variation forms part of the approval it varies.
  - (3) The responsible Minister must notify the Agency and the Commissioner of the responsible Minister's decision to approve or decline the Agency's recommendation for variation.
- Section 18M: inserted, on 1 August 2008, by section 16 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### *National land transport programme*

#### **19 Overview of national land transport programme**

- (1) The Agency may include activities and combinations of activities from regional land transport programmes, and research, education, training, and other activities that the Agency is responsible for delivering, in the national land transport programme, so that the national land transport programme contributes to—
  - (a) the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system; and
  - (b) the outcomes, objectives and impacts identified by the Crown in any national land transport strategy or the relevant GPS.
- (2) The national land transport programme also lists Police activities and combinations of Police activities that have been approved for funding by the Minister.
- (3) The national land transport programme includes approved activities or combinations of activities and those proposed for funding over the following 3 financial years, an assessment of regionally and nationally significant activities for the following 3 financial years, and a financial forecast.
- (4) This section is intended by way of explanation only, and if this section is inconsistent with another provision of this Act or any other Act, then the other provision prevails.

Section 19: substituted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**19A Responsibility for preparing and adopting national land transport programme**

- (1) Every 3 financial years, the Agency must prepare and adopt a national land transport programme for the following 3 financial years.
- (2) The Agency must adopt a national land transport programme before the start of the first financial year to which it applies.
- (3) Despite subsection (2), the Agency may, with the written agreement of the Minister, adopt a national land transport programme before 1 September of the first financial year to which it applies.
- (4) A national land transport programme adopted under subsection (3) is to be treated as if it were adopted before the start of the financial year to which it applies.
- (5) Following the adoption of a national land transport programme under this section, the Agency must consider whether to amend its statement of intent, under section 148 of the Crown Entities Act 2004, to take into account any relevant particulars of the national land transport programme.

Section 19A: inserted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**19B Core requirements for national land transport programme**

The Agency must, in preparing a national land transport programme,—

- (a) ensure that the national land transport programme—
  - (i) contributes to the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system; and
  - (ii) contributes to each of the following:
    - (A) assisting economic development;
    - (B) assisting safety and personal security;
    - (C) improving access and mobility;
    - (D) protecting and promoting public health;
    - (E) ensuring environmental sustainability;and
  - (iii) gives effect to the relevant GPS; and
- (b) take into account any—

- (i) national land transport strategy; and
- (ii) regional land transport strategies; and
- (iii) regional land transport programmes; and
- (iv) national energy efficiency and conservation strategy; and
- (v) relevant national policy statement and any relevant regional policy statements or plans that are for the time being in force under the Resource Management Act 1991; and
- (vi) regional public transport plans.

Section 19B: inserted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 19B(b)(v): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 19B(b)(vi): added, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

#### **19C Content of national land transport programme**

A national land transport programme must include the following matters:

- (a) an indication of any significant forthcoming national land transport issues known to the Agency; and
- (b) an assessment as to how the programme complies with section 19B; and
- (c) a list of the activity classes identified in the relevant GPS to be funded from the national land transport fund, and their proposed level of funding; and
- (d) approved activities and combinations of activities; and
- (e) any Police activities or combinations of Police activities approved under section 18L to be delivered by the Commissioner; and
- (f) activities and combinations of activities that the Agency anticipates being funded from the national land transport fund if they are—
  - (i) included in a regional land transport programme; or
  - (ii) activities or combinations of activities (other than those relating to State highways) for which the Agency is responsible for delivery or managing delivery; and



- (g) an indication of any nationally or regionally significant activities that are likely to be considered for funding in the 3 financial years that follow the 3 financial years covered by the national land transport programme; and
- (h) a statement of the Agency's anticipated revenue and expenditure in respect of the national land transport programme for 10 financial years from the start of the programme; and
- (i) relevant directions under Part 3 of the Crown Entities Act 2004 or any other Act.

Section 19C: inserted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**19D Notification about decision not to include activities in national land transport programme**

- (1) This section applies to the following decisions by the Agency in relation to an activity or combination of activities:
  - (a) a decision not to include an activity or a combination of activities in the national land transport programme;
  - (b) a decision to include an activity or a combination of activities in the national land transport programme, but at a different level of priority to that accorded to the activity or combination of activities in the relevant regional land transport programme.
- (2) If this section applies, the Agency must give the relevant regional transport committee or ARTA (as the case may require) written advice of the Agency's decision and its reasons for making that decision.

Section 19D: inserted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**19E Variation of national land transport programme**

- (1) The Agency may vary the national land transport programme during the 3 financial years to which it applies.
- (2) The provisions of this Act that apply to the preparation of the national land transport programme apply with the necessary modifications to a variation of the national land transport programme.

- (3) If a current GPS is amended under section 90(1), the Agency must vary the national land transport programme as soon as practicable to give effect to that amendment.
- (4) Despite subsection (2), the Agency need not make a varied national land transport programme publicly available under section 108 if it is satisfied that the variation is not significant.

Section 19E: inserted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **19F Availability of national land transport programme**

The Agency must make a copy of the national land transport programme publicly available in accordance with section 108.

Section 19F: inserted, on 1 August 2008, by section 17 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### *Approval of activities and combinations of activities*

Heading: inserted, on 1 August 2008, by section 18 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **20 Approval of activities and combinations of activities**

- (1) The Agency may approve an activity or combination of activities as qualifying for payments from the national land transport fund.
- (2) In approving a proposed activity or combination of activities, the Agency must be satisfied that—
  - (a) the activity or combination of activities is included in the national land transport programme or qualifies under subsection (4); and
  - (b) the national land transport programme continues to meet the requirements of section 19B; and
  - (c) the following objectives have been taken into account in respect of the activity or combination of activities:
    - (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
    - (v) ensuring environmental sustainability; and

- (d) the activity or combination of activities contributes to the Agency's objective, including its social and environmental responsibility, in an efficient and effective manner; and
  - (e) the activity or combination of activities has, to the extent practicable, been assessed against other land transport options and alternatives; and
  - (f) the relevant consultation requirements of this Act have been complied with.
- (3) In approving a proposed activity or combination of activities, the Agency must take into account—
  - (a) the relevant GPS; and
  - (b) any national land transport strategy; and
  - (c) any relevant regional land transport strategy; and
  - (d) any national energy efficiency and conservation strategy; and
  - (e) any relevant national policy statement and any relevant regional policy statements that are for the time being in force under the Resource Management Act 1991; and
  - (f) any relevant regional public transport plan.
- (4) Despite subsections (2) and (3), the Agency may approve for payment under subsection (1) any activity or combination of activities that, in the opinion of the Agency,—
  - (a) are in the urgent interests of public safety; or
  - (b) are necessary to effect immediate or temporary repair of damage caused by a sudden and unexpected event.
- (5) When approving an activity or combination of activities as qualifying for payments from the national land transport fund, the Agency must be satisfied that the expenditure on the national land transport programme and any expenses associated with any borrowing undertaken in accordance with section 10(1)(b) in the relevant financial year will not exceed the lesser of—
  - (a) the maximum level of expenditure for the national land transport programme outlined in the relevant GPS for that financial year and the actual or anticipated amount of the closing balance of the national land transport fund at the end of the previous financial year; or

- (b) the sum of—
  - (i) the anticipated inflows to the national land transport fund in that financial year; and
  - (ii) the actual or anticipated amount of the closing balance of the national land transport fund at the end of the previous financial year; and
  - (iii) the allowable variation for that financial year specified in the relevant GPS.

Section 20: substituted, on 1 August 2008, by section 18 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 20(3)(e): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 20(3)(f): added, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

#### **20A Methods of assessment**

The Agency may apply different methods of assessment for the purpose of approving different activities or combinations of activities.

Section 20A: substituted, on 1 August 2008, by section 18 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **20B Agency may impose terms and conditions**

The Agency may approve activities or combinations of activities subject to any terms and conditions, which must be relevant and reasonable, that the Agency thinks fit.

Section 20B: inserted, on 1 August 2008, by section 18 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **20C Agency must set rate of funding assistance**

The Agency must set the rate of funding assistance from the national land transport fund for activities or combinations of activities in accordance with any criteria set by the Minister.

Section 20C: inserted, on 1 August 2008, by section 18 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **20D Funding decisions to be made available**

- (1) If the Agency decides to approve or decline funding for an activity or a combination of activities under section 20, the Agency must—

- (a) ensure that every decision that it makes under that section and its reasons for making that decision are made available to any affected approved organisation; and
  - (b) give any organisation or any person responsible for that activity or combination of activities written advice of its decision and reasons for its decision.
- (2) After approving or declining funding for activities or combinations of activities, the Agency must place a copy of the decision, and the reasons for the decision, on its Internet site.
- (3) In complying with subsection (2), the Agency may decide to withhold information if the disclosure of that information would be contrary to the interests specified in section 6 or 9(2)(a), (b), (ba), (h), (i), or (j) of the Official Information Act 1982.
- (4) If the Agency decides to withhold information under subsection (3), it must provide its reasons for doing so on its Internet site.
- (5) Information withheld under subsection (3) may be requested under the Official Information Act 1982.

Section 20D: inserted, on 1 August 2008, by section 18 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **21 Funding for land transport research, education, or training**

*[Repealed]*

Section 21: repealed, on 1 August 2008, by section 19 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **22 Funding for Māori roadways**

- (1) The Agency may, in accordance with this Part, approve an activity relating to a Māori roadway as qualifying for payments to the Agency from the national land transport fund as if the roadway were a State highway.
- (2) The Agency may, in accordance with this Part, approve an activity relating to a Māori roadway as qualifying for payments to a territorial authority from the national land transport fund as if the roadway were a local road.

- (3) The Agency and territorial authorities may receive funding for a Māori roadway if the activity is included in a regional land transport programme.

Section 22(1): amended, on 1 August 2008, by section 20(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 22(1): amended, on 1 August 2008, by section 20(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 22(1): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 22(2): amended, on 1 August 2008, by section 20(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 22(2): amended, on 1 August 2008, by section 20(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 22(2): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 22(3): substituted, on 1 August 2008, by section 20(5) of the Land Transport Management Amendment Act 2008 (2008 No 47).

### *Public organisations*

#### **23 Approval of public organisations**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—
- (a) approve any public organisation for the purpose of section 10(3)(f);
  - (b) revoke any approval given under this subsection.
- (2) Before making a recommendation under subsection (1), the Minister must—
- (a) consult the persons or organisations considered by the Minister to be representative of those classes of persons having an interest in the approval or revocation; and
  - (b) in the case of an approval, be satisfied that granting the approval would be consistent with the purpose of this Act.
- (3) Without limiting subsection (1), an order made under that subsection may—
- (a) grant an approval in relation to particular land transport purposes;
  - (b) grant an approval subject to conditions specified in the order.

- (4) The Department of Conservation and the Waitangi National Trust Board and ARTA are deemed to be approved public organisations under this section.

Section 23(1)(a): amended, on 1 August 2008, by section 21 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 23(4): amended, on 1 December 2004, by section 45 of the Local Government (Auckland) Amendment Act 2004 (2004 No 57).

*Land transport disbursement accounts*

**24 Land transport disbursement accounts**

- (1) Every approved organisation must operate a land transport disbursement account into which must be paid all money received from the Agency pursuant to an approval under section 20.
- (2) The Agency need not have a land transport disbursement account, but must—
- (a) comply with section 96; and
  - (b) ensure that all payments are made in accordance with a procurement procedure unless exempt by or under section 26.
- (3) All expenditure from a land transport disbursement account must be accounted for in a manner prescribed by the Agency after consultation with the Auditor-General.
- (4) Payments may be made out of a land transport disbursement account only for approved activities or combinations of activities, and only—
- (a) within the limits and terms and conditions of the approval granted under sections 20 and 20B; and
  - (b) in accordance with a procurement procedure unless exempt by or under section 26.
- (5) An approved organisation may—
- (a) carry forward to any later financial year any amount of the credit balance in its land transport disbursement account at the close of any financial year; and
  - (b) use that money at any time for payments in accordance with this section.

Section 24: substituted, on 1 August 2008, by section 22 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Procurement procedures***25 Procurement procedures**

- (1) For the purposes of this Part, the Agency must approve 1 or more procurement procedures that are designed to obtain the best value for money spent by the Agency and approved organisations, having regard to the purpose of this Act.
- (2) In approving a procurement procedure, the Agency must also have regard to the desirability of—
  - (a) enabling persons to compete fairly for the right to supply outputs required for approved activities, if 2 or more persons are willing and able to provide those outputs; and
  - (b) encouraging competitive and efficient markets for the supply of outputs required for approved activities.
- (3) Every approved procurement procedure must specify how procurement is to be carried out (which may differ for different kinds of procurement).
- (4) It is a condition of every procurement procedure that the Agency or an approved organisation must procure outputs from a provider other than the Agency or that organisation (as the case may require), or its employees.
- (5) However, nothing in subsection (4) prevents an approved organisation from procuring from the organisation's own business units the provision of minor and ancillary works on terms approved by the Agency.
- (6) Nothing in this section compels an organisation or person to accept the lowest tender received by it for the provision of any outputs.

Section 25(1): amended, on 1 August 2008, by section 23(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 25(1): amended, on 1 August 2008, by section 23(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 25(1): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 25(2): amended, on 1 August 2008, by section 23(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 25(2): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 25(3): amended, on 1 August 2008, by section 23(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).



Section 25(4): substituted, on 1 August 2008, by section 23(5) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 25(5): amended, on 1 August 2008, by section 23(6) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 25(5): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

## **26 Payments exempt from procurement procedure**

Section 25 does not apply in relation to any payment—

- (a) approved by the Agency on the ground that the costs of the procurement process would be disproportionate to the value of the proposed activity or combination of activities; or
- (b) made in respect of any approved administration activity that is approved by the Agency for the purpose of this section; or
- (c) made in respect of in-house professional services that are—
  - (i) approved by the Agency; and
  - (ii) undertaken by the Agency or an approved organisation using the Agency's or approved organisation's own staff and assets; or
- (d) made under the land transport disbursement account of an approved organisation if the payment is made to the land transport disbursement account of another approved organisation to enable that other organisation to exercise delegated functions and powers under this Act of that first-mentioned approved organisation; or
- (da) made from ARTA's land transport disbursement account if the payment is made to the land transport disbursement account of another approved organisation; or
- (e) made in respect of any registered service of any public transport operator in relation to any 12-month period that follows—
  - (i) the withdrawal or proposed withdrawal of that operator from the provision of the service; or
  - (ii) the withdrawal of any other operator from the provision of the same or a similar service; or
- (f) made in respect of any expenditure that is necessary in the urgent interests of public safety; or

- (g) made in respect of any expenditure that is necessary for the immediate or temporary repair of damage caused by a sudden and unexpected event.

Compare: 1989 No 75 s 27(4), (5)

Section 26(a): amended, on 1 August 2008, by section 24(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 26(a): amended, on 1 August 2008, by section 24(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 26(a): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 26(b): amended, on 1 August 2008, by section 24(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 26(b): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 26(c)(i): amended, on 1 August 2008, by section 24(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 26(c)(i): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 26(c)(ii): substituted, on 1 August 2008, by section 24(5) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 26(da): inserted, on 1 December 2004, by section 45 of the Local Government (Auckland) Amendment Act 2004 (2004 No 57).

Section 26(e): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

## **26A Notice of exemption or approval of certain procurement procedures**

If the Agency grants itself an exemption under section 26(a) or approves a procurement procedure under section 25(1) to meet its own procurement requirements, it must publish the details of its exemption or approval (as the case may be) and its reasons on its Internet site.

Section 26A: inserted, on 1 August 2008, by section 25 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### *Local authority interests in public transport services*

## **27 Manner in which certain local authority interests in public transport service must be held**

- (1) Any interest that a local authority has in a public transport service to which this section applies must be held in a council-

controlled trading organisation, whether or not in conjunction with another local authority.

- (2) This section applies to a public transport service held by a local authority if, and only if, the public transport service indirectly receives funding for the purpose from the national land transport fund.
- (3) A regional council may, subject to subsection (1), hold an interest in, or acquire the ownership of, a public transport service or any public transport infrastructure.

Compare: 1974 No 66 s 594ZR

Section 27(2): amended, on 1 August 2008, by section 26 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Safety administration programme*  
*[Repealed]*

Heading: repealed, on 1 December 2004, by section 17(a) of the Land Transport Management Amendment Act 2004 (2004 No 97).

**28 Safety administration programme**  
*[Repealed]*

Section 28: repealed, on 1 December 2004, by section 17(a) of the Land Transport Management Amendment Act 2004 (2004 No 97).

**29 Approval of safety administration programme**  
*[Repealed]*

Section 29: repealed, on 1 December 2004, by section 17(b) of the Land Transport Management Amendment Act 2004 (2004 No 97).

**30 Agencies must adhere to safety administration programme**  
*[Repealed]*

Section 30: repealed, on 1 December 2004, by section 17(b) of the Land Transport Management Amendment Act 2004 (2004 No 97).

**31 Secretary must make safety administration programme available to public**  
*[Repealed]*

Section 31: repealed, on 1 December 2004, by section 17(b) of the Land Transport Management Amendment Act 2004 (2004 No 97).

**32 Secretary may submit supplementary safety administration programme**

*[Repealed]*

Section 32: repealed, on 1 December 2004, by section 17(b) of the Land Transport Management Amendment Act 2004 (2004 No 97).

**33 Minister may approve supplementary safety administration programme**

*[Repealed]*

Section 33: repealed, on 1 December 2004, by section 17(b) of the Land Transport Management Amendment Act 2004 (2004 No 97).

**34 Reports on outputs and programmes**

*[Repealed]*

Section 34: repealed, on 1 August 2008, by section 27 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*General provisions*

**35 Needs of transport disadvantaged must be considered**

In preparing any programme under this Part, the Agency, the Commissioner, the Secretary, every local authority, ARTA, and every approved public organisation must consider the needs of persons who are transport disadvantaged.

Compare: 1989 No 75 s 42K

Section 35: amended, on 1 August 2008, by section 28(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 35: amended, on 1 August 2008, by section 28(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 35: amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

**36 Agency may reduce, refuse, or withhold payments in certain cases**

- (1) This section applies if the Agency considers that, in relation to an approved activity, an approved organisation or person—
- (a) is in breach of a procurement procedure; or
  - (b) has been or is or will be likely to be in breach of any other provision of this Act relating to payments from a land transport disbursement account; or

- (c) has constructed or undertaken the activity, or is proposing to construct or undertake the activity, to standards that are excessively high or unsatisfactory.
- (2) If this section applies, the Agency may, to the extent that it considers appropriate,—
  - (a) reduce any payment for any approved activity; or
  - (b) refuse the whole or part of any payment for any approved activity; or
  - (c) withhold the whole or part of any payment for any approved activity.
- (3) The Agency may, under subsection (2),—
  - (a) reduce, refuse, or withhold any amount that it is presently considering paying for any approved activity; or
  - (b) reduce, refuse, or withhold any amount that it proposes to pay for any approved activity in the future.
- (4) If the Agency makes any payment for an approved activity that is based on information that is subsequently found to be erroneous or inaccurate, the payment is recoverable in any court of competent jurisdiction as a debt due to the Agency.

Section 36 heading: amended, on 1 August 2008, by section 29(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(1): amended, on 1 August 2008, by section 29(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(1): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 36(2): amended, on 1 August 2008, by section 29(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(2): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 36(3): amended, on 1 August 2008, by section 29(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(3): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 36(4): amended, on 1 August 2008, by section 29(5) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 36(4): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

**37 Disputes**

- (1) This section applies to any dispute or difference between an organisation and the Agency about 1 or more of the following:
- (a) whether the organisation has complied with a procurement procedure in a particular case:
  - (b) the terms on which the Agency has granted an approval under section 25(5) for the provision of minor and ancillary works:
  - (c) the application of section 26 in a particular case:
  - (d) whether a payment should be reduced, refused, or withheld under section 36.
- (2) The dispute or difference must be determined by a single arbitrator appointed by the Minister.
- (3) No member or employee of the organisation or of the Agency is qualified to be an arbitrator under this section.
- (4) The organisation and the Agency are the parties to the arbitration.
- (5) Articles 35 and 36 of Schedule 1 of the Arbitration Act 1996 (which relate to recognition and enforcement of an arbitral award) and clause 6 of Schedule 2 of that Act (which relates to costs and expenses of an arbitration) apply in relation to an arbitration under this section as if this section were an arbitration agreement within the meaning of that Act, but no other provisions of that Act apply in relation to an arbitration under this section.

Compare: 1989 No 75 s 25

Section 37(1): amended, on 1 August 2008, by section 30(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 37(1): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 37(1)(b): amended, on 1 August 2008, by section 30(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 37(1)(b): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 37(3): amended, on 1 August 2008, by section 30(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 37(3): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 37(4): amended, on 1 August 2008, by section 30(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 37(4): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

**38 Provision of information**

- (1) The Agency may require an approved organisation to provide any information that the Agency considers it needs to perform its functions under this Act.
- (2) An approved organisation may require any other approved organisation to provide any information that it considers it needs to perform its functions under this Act.
- (3) A requirement under this section must be made in writing, and the information required must be provided as soon as practicable after the requirement is received and be in a readily understandable form.
- (4) It is the duty of the Secretary, the Agency, and approved organisations to give reasonable assistance to each other to enable them to perform their respective functions and duties, and exercise their respective powers under this Act.

Compare: 1974 No 66 s 594ZZJ: 1989 No 75 ss 34, 42J

Section 38(1): amended, on 1 August 2008, by section 31(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 38(1): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 38(4): added, on 1 August 2008, by section 31(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

**38A Good reasons for refusing to supply requested information**

- (1) The Agency may refuse a request for information under section 78(4) or 83(2) or clause 10(2) of Schedule 7 only if the information may, in the Agency's opinion, be withheld under section 6 or section 9(2)(a), (b), (ba), (h), (i), or (j) of the Official Information Act 1982.
- (2) Subsection (1) applies only if the Agency is satisfied that the reason for the refusal is not outweighed by the regional transport committee's or ARTA's need to have the information in order to discharge its functions.

Section 38A: inserted, on 1 August 2008, by section 32 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Infrastructure Auckland*  
*[Repealed]*

Heading: repealed, on 1 December 2004, by section 45 of the Local Government (Auckland) Amendment Act 2004 (2004 No 57).

**39 Special provisions relating to Auckland Region**  
*[Repealed]*

Section 39: repealed, on 1 August 2008, by section 33 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Diversion of excise duty and excise-equivalent  
duty to national land transport fund*

- 40 Apportionment of excise duty and excise-equivalent duty**  
Of the excise duty and excise-equivalent duty paid into the Crown Bank Account, after deducting any relevant refunds or drawbacks of duties under the Customs and Excise Act 1996, there must be paid to the national land transport fund the amounts prescribed for the purpose by regulations made under section 45.

Compare: 1989 No 75 s 100

- 41 Refund of excise duty, excise-equivalent duty, and GST**
- (1) Persons using any motor spirits, compressed natural gas, or liquefied petroleum gas are entitled to a refund in respect of excise duty, excise-equivalent duty, and goods and services tax charged on the consideration for the supply of motor spirits, compressed natural gas, or liquefied petroleum gas, to the extent that the amount of the duty that is refunded forms part of the consideration for that supply and to the extent specified in regulations made under section 45.
  - (2) Nothing in this section applies to any motor spirits, compressed natural gas, or liquefied petroleum gas used for any purpose declared by regulations made under section 45 to be exempt from the provisions of this section.
  - (3) *[Repealed]*
  - (4) No such refund of excise duty, excise-equivalent duty, or goods and services tax may be allowed unless application is made for that refund in accordance with section 42.



- (5) If the amount of any refund of excise duty, excise-equivalent duty, and goods and services tax provided for in regulations made under section 45 is increased, reduced, or varied by any Act or by any regulations, refunds of duty or tax paid, whether before or after the coming into force of that increase, reduction, or variation, in satisfaction of a liability for that duty or tax incurred before that date may be applied for and made as if the increase, reduction, or variation were not in force.

Compare: 1989 No 75 s 101

Section 41(3): repealed, on 1 August 2008, by section 34 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **42 Procedure for obtaining refund**

- (1) Every application for a refund under section 41 must be made to the Secretary on a form to be provided by the Secretary, and must be supported by any documentary evidence and any other information that the Secretary may require or as may be prescribed.
- (2) Applications for refunds must be made in respect of periods ending with the date or dates approved by the Secretary.
- (3) No refund may be allowed unless application for the refund is made within 2 years following the close of the period in respect of which the application is made.
- (4) If the application for a refund is made after the expiration of 3 months from the close of the relevant period but within 2 years after the close of that period, the amount of the refund otherwise payable must be reduced by 10% unless a full refund is allowed under subsection (5).
- (5) If application for a refund is made after the expiration of 3 months from the close of the relevant period, whether or not it is made within 2 years after the close of that period, the Secretary may, at his or her discretion, allow a full refund.
- (6) The Secretary may, at his or her discretion, allow a refund in any special case before the close of any period in respect of motor spirits, compressed natural gas, or liquefied petroleum gas used within that period.

Compare: 1989 No 75 s 102

**43 Offence and penalty**

- (1) A person commits an offence who, for the purposes of obtaining a refund under section 41, makes any application or furnishes any information that he or she knows to be false in any material particular.
- (2) A person who commits an offence against subsection (1) is liable on summary conviction to a fine not exceeding \$2,000.
- (3) Despite anything in the Summary Proceedings Act 1957, any information for an offence against subsection (1) may be laid at any time within 3 years after the date of the offence.

**44 Consequential repeal**

Part 5 of the Transit New Zealand Act 1989 is consequentially repealed.

**45 Regulations relating to sections 41 and 42**

The Governor-General may, from time to time, by Order in Council, make regulations providing for any matters contemplated by sections 41 and 42, necessary for the administration of those sections, or necessary for giving those sections full effect.

Section 45 heading: amended, on 1 August 2008, by section 35(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 45: amended, on 1 August 2008, by section 35(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

## Subpart 2—Road tolling schemes and concession agreements

### *Road tolling schemes*

**46 Authority to establish road tolling scheme**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, establish a road tolling scheme to provide funds that may be applied by or on behalf of a public road controlling authority for the purposes of—
  - (a) 1 or more of the following activities, namely, the planning, design, supervision, construction, maintenance, or operation of a new road; and

- (b) meeting any conditions or requirements set out in the order.
- (2) An order under subsection (1) must—
  - (a) describe (so far as is practicable)—
    - (i) the new road, or part of it, in respect of which the toll revenue may be applied; and
    - (ii) the road or roads that may be tolled (being the new road and, if the order so provides, a road that meets the requirements of section 48(2)), or the part or parts of those roads that may be tolled; and
  - (b) set out any conditions that must be met to the satisfaction of the Minister, being—
    - (i) any conditions that must be met before the public road controlling authority or toll operator may begin tolling; and
    - (ii) any other conditions that apply; and
  - (c) set out a process by which the Minister will confirm whether he or she is satisfied that the relevant conditions to be met before tolling may begin have been met.
- (3) An order made under subsection (1) may (without limitation)—
  - (a) set tolls, or empower the public road controlling authority or toll operator to set tolls within the maximum limit, or according to the method, set out in the order;
  - (b) provide for different levels of tolls to be levied in respect of different classes of person or motor vehicles, different times or days, different directions of travel, or different methods of payment, or to be levied on any other differential basis;
  - (c) grant exemptions from the obligation to pay tolls under the scheme (whether on a basis referred to in paragraph (b) or on any other basis specified in the order), and empower the public road controlling authority or toll operator to grant exemptions (which power is subject to any limitations set out in the order);
  - (d) state how the tolls are to be collected;
  - (e) specify any information that the toll operator or the public road controlling authority is required to provide to

the Minister or any other specified person or organisation:

- (f) authorise the enforcement authority to have access to law enforcement information held by a holder agency under the Privacy Act 1993, and set out terms and conditions governing that access;
  - (g) require the public road controlling authority to prepare a demand management plan in accordance with the order;
  - (h) specify civil penalties for breach of conditions referred to in subsection (2)(b)(ii), and establish a procedure for resolving disputes about the application of those penalties;
  - (i) require notice of the Minister's confirmation of the matters referred to in subsection (2)(c) to be published in the manner set out in the order.
- (4) An order made under subsection (1) is a regulation for the purposes of the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publication Act 1989.
- (5) Before recommending that an order made under subsection (1) be amended or revoked, the Minister must consult the relevant public road controlling authority about his or her proposal.
- (6) This section does not limit any other Act that provides for tolls to be levied or collected in respect of any road.

#### **47 When tolling power is exercisable**

- (1) The power of a public road controlling authority or toll operator to begin tolling a road or part of it in accordance with an Order in Council made under section 46(1) is exercisable—
- (a) from the time, or on and from the date, specified for the purpose in a notice published by the Minister stating that he or she is satisfied as to the matters referred to in section 46(2)(c); or
  - (b) if no time is so specified, from the time that notice is published.
- (2) A notice under subsection (1) must be published in the form and manner specified in the relevant order made under section 46(1) (if such requirements are specified in the order).

- (3) The power of a public road controlling authority or toll operator to continue tolling a road or part of it in accordance with an order made under section 46(1) is exercisable—
  - (a) during the period specified for the purpose in the order; or
  - (b) if no period is specified in the order, while the toll-setting provisions of the order remain in force.

**48 Procedure for recommending making of order under section 46**

- (1) The Minister must not recommend the making of an Order in Council under section 46(1) unless—
  - (a) he or she is satisfied that the activity contributes to the purpose of this Act; and
  - (b) he or she has taken into account how the activity—
    - (i) assists economic development; and
    - (ii) assists safety and personal security; and
    - (iii) improves access and mobility; and
    - (iv) protects and promotes public health; and
    - (v) ensures environmental sustainability; and
  - (c) he or she has taken into account—
    - (i) any current national land transport strategy, relevant regional land transport strategies, relevant regional public transport plans, any relevant GPS, and National Energy Efficiency and Conservation Strategy; and
    - (ii) the availability of alternative land transport options and the impact of the activity on those options; and
    - (iii) the land transport options and alternatives that have been considered by the public road controlling authority; and
    - (iv) whether the activity is consistent with current priorities for land transport expenditure; and
    - (v) the outcome of consultation undertaken by the public road controlling authority; and
  - (d) either—
    - (i) the activity is included in the current national land transport programme; or

- (ii) the Minister is satisfied that there is a high degree of support from affected communities; and
- (e) he or she is satisfied that—
  - (i) the requirement in subsection (2) (if applicable) is met; and
  - (ii) there is available to road users a feasible, untolled, alternative route.
- (2) The Minister, must not recommend that an existing road or part of it be tolled unless he or she is satisfied that the existing road or part is located near, and is physically or operationally integral to, the new road in respect of which the tolling revenue will be applied.
- (3) If the Agency has assessed an activity against any criterion in subsection (1) in the course of performing its functions and duties under section 19 or section 20, the Minister is entitled to rely on that assessment and need not separately assess the activity against that criterion for the purpose of this section.
- (4) The Minister may, at his or her discretion,—
  - (a) recommend or decline to recommend the making of an order under section 46(1):
  - (b) after consulting the public road controlling authority about his or her proposal, recommend the making of an order under section 46(1) that contains provisions different from those requested by the public road controlling authority.
- (5) The application of subsection (1)(d)(i) is subject to section 109.

Section 48(1)(c)(i): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 48(1)(c)(i): amended, on 1 August 2008, by section 36(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 48(3): amended, on 1 August 2008, by section 36(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 48(3): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

#### **49 Consultation requirements**

- (1) A public road controlling authority that seeks funding by way of a road tolling scheme must consult in accordance with sec-

tions 15 to 18 as if the public road controlling authority were seeking funding from the Agency, and those sections apply with the necessary modifications.

- (2) However, a public road controlling authority need not consult any person or organisation referred to in those sections about any matter if it has already consulted them about the matter in the course of carrying out consultation under any provision of this Act, other than this section, or under or for the purposes of any other Act.

Section 49(1): amended, on 1 August 2008, by section 37 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 49(1): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

## **50 Privacy**

- (1) This section applies to personal information held or stored for the purposes of a road tolling scheme by or on behalf of a toll operator or enforcement authority.
- (2) The toll operator must not use any personal information to which this section applies except for the purpose of collecting tolls.
- (3) The enforcement authority must not use any personal information to which this section applies except for the purpose of enforcing the toll offence provisions of this Act.
- (4) The disclosure of personal information to which this section applies on any of the grounds set out in principle 11 in the Privacy Act 1993 is not prohibited by subsection (2) or subsection (3).
- (5) The toll operator and enforcement authority must each outline their privacy policies in a document and make the document available for inspection by the public free of charge during usual working hours or for purchase at a reasonable price.

## **51 Payment of tolls**

- (1) A toll must be paid at the time the toll is due for payment under section 52.
- (2) A toll must be paid by a method required by the toll operator, and the toll operator may offer alternative methods of payment.

- (3) At least 1 of the methods of payment must be a method that does not record personal information in relation to the person paying the toll.
- (4) The toll operator may impose reasonable charges in connection with the administration of any method of payment.

## **52 Who is liable to pay toll**

- (1) The driver of a motor vehicle is liable for payment of the toll to the toll operator when the vehicle reaches the toll payment point.
- (2) If the driver fails to pay the toll as required by subsection (1), the registered owner of the motor vehicle is liable for payment of the toll to the toll operator.
- (3) However, the registered owner of a motor vehicle is not liable under subsection (2) to pay a toll if, within 28 days after being notified of the non-payment of the toll, the registered owner supplies to the toll operator, in a sworn statement in writing or a statutory declaration,—
  - (a) the name and address of the driver of the vehicle or any other particulars within the knowledge of the registered owner that may lead to the identification of the person who was in charge or control of the vehicle at the relevant time; or
  - (b) a statement that the vehicle was a stolen vehicle at the relevant time.
- (4) Tolls (and the associated enforcement costs) are recoverable in a court of competent jurisdiction as a debt due to the toll operator.
- (5) Tolls are not payable in respect of any motor vehicle that—
  - (a) is a Police vehicle; or
  - (b) is a fire engine; or
  - (c) is an ambulance; or
  - (d) is exempt by virtue of an Order in Council made under section 46(1).

## **53 Enforcement of tolls**

A toll operator may deny a motor vehicle physical access to its toll road, or past the toll payment point, if—



- (a) the vehicle is subject to a toll, or the driver or registered owner of the vehicle is liable to pay a toll; and
- (b) the driver or registered owner of the vehicle has not paid the toll or made an acceptable payment arrangement with the toll operator.

**54 Offences and penalties**

- (1) A person commits an offence if the person, without reasonable excuse, refuses or fails to pay a toll payable by that person.
- (2) An offence against subsection (1) is a moving vehicle offence under the Land Transport Act 1998.
- (3) A person commits an offence if, for the purpose of section 52(3), the person gives a sworn statement in writing or a statutory declaration and, in that statement or declaration, gives information that the person knows to be false or misleading.
- (4) A person who commits an offence against subsection (3) is liable on summary conviction to a fine not exceeding \$500.
- (5) Subsection (3) does not limit section 111 of the Crimes Act 1961.

**55 Application of Fair Trading Act 1986**

- (1) Nothing in this Part limits the application of the Fair Trading Act 1986.
- (2) For the purposes of the Fair Trading Act 1986, a toll operator is supplying services to those by whom the tolls are payable and is accordingly in trade.

*Concession agreements for roads*

**56 Concession agreements**

- (1) An activity described in the definition of concession agreement in section 5 must not be undertaken by a public road controlling authority except under a concession agreement.
- (2) Before entering into a concession agreement, a public road controlling authority must—
  - (a) obtain the Minister's prior written approval in principle; and

- (b) satisfy the Minister that the conditions referred to in subsection (3)(b)(i) that are attached to that approval have been met.
- (3) In granting an approval in principle under subsection (2), the Minister—
  - (a) must set conditions that protect public access to the associated new road:
  - (b) may make the approval subject to any other conditions the Minister thinks fit, including (without limitation) conditions that—
    - (i) must be met before the public road controlling authority may enter into a concession agreement:
    - (ii) relate to the apportionment of risk as between the parties:
    - (iii) relate to the responsibilities of the parties:
    - (iv) relate to the rights of the parties:
  - (c) may specify civil penalties for breach of the conditions referred to in paragraph (b), and establish a procedure for resolving disputes about the application of those penalties.
- (4) Conditions imposed under subsection (3) form part of the relevant concession agreement.
- (5) The term of a concession agreement must not exceed 35 years from the date on which the associated new road is opened to the public, except that the Minister may, before the expiry of the agreement, approve an extension of the agreement once only by up to 10 years if he or she is satisfied that—
  - (a) there are exceptional circumstances justifying the extension; and
  - (b) the extension is justified in terms of the criteria set out in section 58(1)(a) and (b); and
  - (c) the concession agreement has been in effect for at least two-thirds of its term.
- (6) A concession agreement must not include any provision that provides a disincentive for a person to pursue other sustainable transport options (for example, public transport or the implementation of demand management strategies).

- (7) In performing functions, exercising rights or powers, or providing services under a concession agreement, a concessionaire must act in accordance with the agreement and this Part.
- (8) This section does not empower any person to levy a toll.

**57 When concession agreement may be entered into**

A public road controlling authority that has an approval in principle to enter into a concession agreement may enter into a concession agreement if the Minister has notified the public road controlling authority that he or she is satisfied that it has met the relevant conditions attached to the approval under section 56(3)(b)(i).

**58 Approval process and relationship to national land transport programme**

- (1) In considering whether to grant an approval under section 56, the Minister must—
  - (a) be satisfied that the activity contributes to the purpose of this Act; and
  - (b) take into account how the activity—
    - (i) assists economic development; and
    - (ii) assists safety and personal security; and
    - (iii) improves access and mobility; and
    - (iv) protects and promotes public health; and
    - (v) ensures environmental sustainability; and
  - (c) take into account any current national land transport strategy, relevant regional land transport strategy, relevant regional public transport plan, any relevant GPS, and National Energy Efficiency and Conservation Strategy; and
  - (d) take into account the availability of alternative land transport options and the impact of the activity on those options; and
  - (e) take into account the land transport options and alternatives that have been considered by the public road controlling authority; and
  - (f) take into account whether the activity is consistent with current priorities for land transport expenditure; and

- (g) take into account the outcome of consultation undertaken by the public road controlling authority.
- (2) The Minister must not approve a public road controlling authority entering into a concession agreement in respect of an activity unless—
  - (a) either—
    - (i) the activity is included in the current national land transport programme; or
    - (ii) the Minister is satisfied that the activity has a high degree of support from affected communities; and
  - (b) the land and road comprised in the agreement will be owned by a road controlling authority during the term of the agreement.
- (3) The fact that an approval has been granted under section 56 in respect of an activity does not of itself make the activity an approved activity.
- (4) If the Agency has assessed an activity against any criterion in subsection (1) in the course of performing its functions and duties under section 19 or section 20, the Minister is entitled to rely on that assessment and need not separately assess the activity against that criterion for the purpose of this section.
- (5) The application of subsection (2)(a)(i) is subject to section 109.

Section 58(1)(c): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 58(1)(c): amended, on 1 August 2008, by section 38(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 58(4): amended, on 1 August 2008, by section 38(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 58(4): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

## **59 Consultation requirements**

- (1) A public road controlling authority that seeks funding by way of a concession agreement must consult in accordance with sections 15 to 18 as if the public road controlling authority were seeking funding from the Agency, and those sections apply with the necessary modifications.

- (2) However, a public road controlling authority need not consult any person or organisation referred to in those sections about any matter if it has already consulted them about the matter in the course of carrying out consultation under any provision of this Act, other than this section, or under or for the purposes of any other Act.

Section 59(1): amended, on 1 August 2008, by section 39 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 59(1): amended, on 1 December 2004, by section 16 of the Land Transport Management Amendment Act 2004 (2004 No 97).

## **60 Terms of concession agreements**

- (1) A concession agreement may include any terms and conditions agreed by the parties that are not inconsistent with—
- (a) the terms and conditions of the Minister's approval under section 56; or
  - (b) the provisions of, or requirements under, this Act or any other enactment.
- (2) In addition, a concession agreement must include the functions, duties, and powers under Part 21 of the Local Government Act 1974 or Part 4 of the Government Roding Powers Act 1989 that are delegated under section 61.

Section 60(2): amended, on 1 August 2008, by section 40 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **61 Delegation of roading functions and powers to concessionaires**

- (1) A road controlling authority may, with the prior approval of the Minister, delegate in writing to a concessionaire all or any of its functions and powers under—
- (a) Part 21 of the Local Government Act 1974; or
  - (b) Part 4 of the Government Roding Powers Act 1989, other than the power under section 61(3) to make by-laws or the power under section 62 to delegate.
- (2) While functions or powers of a road controlling authority are delegated to a concessionaire under subsection (1),—
- (a) the concessionaire must perform or exercise the delegated functions, duties, or powers in its own name and is liable accordingly; and

- (b) neither the road controlling authority nor the Crown is answerable for any act or default of the concessionaire in the performance or exercise of any functions, duties, or powers so delegated; and
  - (c) the road controlling authority may not perform or exercise any of the functions, duties, or powers so delegated without first revoking that delegation.
- (3) A concessionaire to whom any functions or powers are delegated under subsection (1) may, with the prior approval in writing of the Minister and the road controlling authority, delegate to any other person such of those functions or powers as are so approved.
- (4) *[Repealed]*  
Section 61(1)(b): amended, on 1 August 2008, by section 41(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).  
Section 61(4): repealed, on 1 August 2008, by section 41(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **62 Effect of delegation under section 61**

- (1) This section applies in relation to delegations under section 61.
- (2) A person may, subject to any general or special directions given or conditions imposed by the road controlling authority, exercise any functions or powers under a delegation in the same manner and with the same effect as if they had been conferred or imposed on that person directly by section 61 and not by delegation.
- (3) A delegation may be made—
  - (a) to a specified person or to persons of a specified class; or
  - (b) to the holder or holders for the time being of a specified office or specified class of office.
- (4) A delegation must be given for a specified period but in any event is revocable on the terms and conditions agreed in the relevant concession agreement.
- (5) Until it is revoked or it expires, a delegation continues in force according to its tenor, despite the fact that the person by whom it was made may cease to hold office, and continues to have effect as if it were made by the person for the time being holding that office.

- (6) A person purporting to act under a delegation must, when reasonably requested to do so, produce evidence of his or her authority to so act.
- (7) A person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

### **63 Leasing**

- (1) A road controlling authority may, for the purpose of enabling a concessionaire to discharge any responsibilities under a concession agreement or this Part, grant a lease for a term not longer than 35 years over any land under the control of the road controlling authority.
- (2) However, a road controlling authority may extend the lease once only by up to 10 years in order to align the term of the lease as closely as practicable with the term of a related concession agreement (as provided for in section 56(5)).
- (3) In subsection (1), **land** includes—
  - (a) an estate, right, title, or interest in land; and
  - (b) a road or portion of a road; and
  - (c) land acquired by the road controlling authority under the Public Works Act 1981.
- (4) The lease—
  - (a) may be set out in the concession agreement or in a separate deed or agreement;
  - (b) may be for the whole or any part of any period or periods within the concession agreement and on any terms and conditions that the road controlling authority thinks fit;
  - (c) if so required by the Minister, must include provisions setting out the rights and responsibilities of the lessor and lessee, including provisions about matters such as fees;
  - (d) must include provisions relating to the protection of public access to the land.
- (5) While the concession has effect, the grant of the lease—
  - (a) is not a subdivision for the purposes of section 218 of the Resource Management Act 1991; and

- (b) is not subject to sections 40 to 42 of the Public Works Act 1981.
- (6) For the purposes of the Rating Powers Act 1988 and the Local Government (Rating) Act 2002, land subject to a lease under subsection (1) and formed and used for a road is not rateable property.
- (7) A licence must not be granted for the purpose referred to in subsection (1).

#### **64 Registration of leases**

Despite anything in the Land Transfer Act 1952, if a lease under section 63 is in the form of a deed and the lease is granted over land for which no certificate of title or computer register has been issued or created under that Act or the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002, the Minister may request the Registrar-General of Land to register the deed by constituting it as a computer interest register under section 9 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002; and the Registrar-General of Land must register the deed accordingly.

#### *Enforcement of this Part and other land transport legislation*

#### **65 This Part and other land transport legislation enforceable in relation to concession roads and toll roads**

- (1) This section applies in relation to persons who are enforcement officers under the Land Transport Act 1998.
- (2) In relation to a concession road or toll road and to any person, vehicle, or animal on that road,—
  - (a) enforcement officers who are constables and enforcement officers who are a Police employee who is not a constable authorised for the purpose by the Commissioner may enforce the provisions of this Part and the other enactments referred to in section 113(1) of the Land Transport Act 1998, and, to avoid doubt, the road must be regarded for this purpose as a road as defined in section 2(1) of that Act; and



- (b) other enforcement officers who are appointed for the purposes of this Part under section 208(1) of the Land Transport Act 1998 may enforce the provisions of this Part relating to tolls, and, to avoid doubt, the road must be regarded for this purpose as a road as defined in section 2(1) of that Act; and
  - (c) the provisions of the Summary Proceedings Act 1957 and the regulations in force under that Act apply accordingly.
- (3) For the purposes of sections 52(1)(c) and 53 of the Land Transport Act 1998, an enforcement officer who gives or imposes any lawful requirement, direction, notice, request, or prohibition in relation to a person, vehicle, or animal on a concession road or toll road must be regarded as acting in the execution of his or her functions or powers under that Act.

Section 65(2)(a): amended, on 1 October 2008, pursuant to section 116(a)(vii) of the Policing Act 2008 (2008 No 72).

Section 65(2)(a): amended, on 1 October 2008, pursuant to section 116(d) of the Policing Act 2008 (2008 No 72).

### Subpart 3—Regional fuel tax

Subpart 3: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### *Preliminary provisions*

Heading: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **65A Overview of subpart**

- (1) This subpart enables a region to obtain, by the imposition of a fuel tax for the region (known as a **regional fuel tax**), the funding that it needs to contribute to capital projects that—
  - (a) will result in a net benefit to the region; and
  - (b) are a priority for the region; and
  - (c) will not reasonably be fully funded from sources other than a regional fuel tax within the time frame desired by the region.

- (2) This subpart—
- (a) provides a process for a region to develop and establish a regional fuel tax scheme (sections 65E to 65P), that—
    - (i) forms the basis for imposing a regional fuel tax in a particular region; and
    - (ii) is approved by Order in Council made under section 65O(1);
  - (b) provides for the review of a regional fuel tax scheme (section 65Q);
  - (c) provides for—
    - (i) the collection of regional fuel tax from any person who supplies fuel to a retail destination in a region that is subject to a regional fuel tax scheme (sections 65T to 65Y); and
    - (ii) refunds of regional fuel tax (sections 65ZB and 65ZC);
  - (d) provides for the distribution of regional fuel tax to project agencies, which are responsible for the capital projects included in the relevant regional fuel tax scheme (sections 65Z and 65ZA).
- (3) This section is intended only as a guide to the general scheme and effect of this subpart.

Section 65A: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **65B Purposes of subpart**

The purposes of this subpart are—

- (a) to contribute to an affordable, integrated, safe, responsive, and sustainable land transport system; and
- (b) to provide funding from regional fuel tax for capital projects in a region that—
  - (i) will result in a net benefit to the region; and
  - (ii) are a priority for the region; and
  - (iii) will not reasonably be fully funded from sources other than a regional fuel tax within the time frame desired by the region.

Section 65B: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## 65C Interpretation

In this subpart, unless the context otherwise requires,—

**capital project** includes a group of capital projects

**diesel** means a refined distillate from petroleum or biological material having a viscosity and distillation range that is intermediate between that of kerosene and that of light lubricating oil, whether or not it contains additives, and that is intended for use as fuel in internal combustion engines ignited by compression

**fuel**—

- (a) means petrol or diesel; and
- (b) includes any other class of fuel specified by regulations made under section 65ZE as fuel for the purposes of this subpart; but
- (c) does not include—
  - (i) any class of fuel excluded by regulations made under section 65ZE from being fuel for the purposes of this subpart; or
  - (ii) jet A1 fuel; or
  - (iii) avgas fuel

**petrol** means a refined distillate from petroleum or biological material, normally boiling within the range of 15°C to 220°C, whether or not it contains additives, that is intended for use as a fuel in spark-ignition internal combustion engines

**petroleum** means—

- (a) any naturally occurring hydrocarbon (other than coal) whether in a gaseous, liquid, or solid state; or
- (b) any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state; or
- (c) any naturally occurring mixture of 1 or more hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state, and 1 or more of the following, namely, hydrogen sulphide, nitrogen, helium, or carbon dioxide

**project agency**, in relation to a capital project under a scheme or a proposed scheme, means any of the following that is responsible for the capital project:

- (a) an approved organisation:

- (b) in the case of a capital project for railway infrastructure (within the meaning of section 4(1) of the Railways Act 2005), the New Zealand Railways Corporation:
- (c) in the case of a capital project for a State highway, the Agency:
- (d) in the case of Auckland, and despite sections 9(1)(d) and 32(1)(a) of the Local Government (Auckland) Amendment Act 2004, includes the Auckland Regional Council

**regional fuel tax** means the regional fuel tax that is payable under this subpart exclusive of goods and services tax payable under the Goods and Services Tax Act 1985

**regional fuel tax scheme** or **scheme** means a regional fuel tax scheme established by Order in Council made under section 65O(1)

**responsible Ministers** means the Minister of Finance and the Minister responsible for this Act

**retail destination** means any location where fuel is supplied for end use.

Section 65C: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **65D Application of subpart**

- (1) This subpart does not apply in the Chatham Islands, or to fuel sold, or agreed to be sold, or disposed of, for delivery within the Chatham Islands or used there by any fuel distributor.
- (2) Despite anything in section 105(11), (12), and (13), a regional fuel tax scheme prepared under this subpart must be prepared in relation to a region.
- (3) For the purposes of subsection (2), **region**—
  - (a) has the same meaning as in the Local Government Act 2002; but
  - (b) means, in relation to Auckland, the Auckland Region as defined in the Local Government (Auckland) Amendment Act 2004.
- (4) To avoid doubt, all of the district of the Franklin District Council is—
  - (a) included in the Auckland Region; and

- (b) excluded from the Waikato region.

Section 65D: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Regional fuel tax schemes*

Heading: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65E Preparation of proposed regional fuel tax scheme**

- (1) Subject to subsection (3), this section applies if a regional transport committee on behalf of a regional council considers that—
- (a) its region needs funding for 1 or more capital projects that it considers are a priority for the region, which may include capital projects located in another region; and
  - (b) full funding for those capital projects from any other source is not reasonably available within the time frame desired by the regional transport committee.
- (2) If this section applies, a proposed regional fuel tax scheme may be prepared by the relevant regional transport committee on behalf of the relevant regional council.
- (3) The Auckland Regional Council may, having regard to the views of the Auckland regional transport committee, prepare a proposed regional fuel tax scheme for the Auckland Region if the Auckland Regional Council considers that—
- (a) its region needs funding for 1 or more capital projects that it considers are a priority for the region, which may include capital projects located in another region; and
  - (b) full funding for those capital projects from any other source is not reasonably available within the time frame desired by the regional council.
- (4) The Auckland regional transport committee is responsible for reviewing, varying, or replacing a regional fuel tax scheme prepared under subsection (3), and for preparing any subsequent scheme.
- (5) If subsection (3) applies,—
- (a) all references to a regional transport committee in sections 65E to 65P are to be treated as references to the

Auckland Regional Council, with all necessary modifications; and

- (b) sections 65K(1)(b) and (3) and 65N(2) do not apply.

Section 65E: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **65F Capital projects**

A proposed regional fuel tax scheme must—

- (a) identify and describe each capital project that is included in the proposed scheme, which may include capital projects located in another region; and
- (b) state the anticipated timing and costs of each of those capital projects; and
- (c) state how each of those capital projects is to be funded, including—
  - (i) the expenditure to be funded from regional fuel tax; and
  - (ii) the expenditure to be funded from sources other than regional fuel tax; and
- (d) provide the details of every project agency that has accepted responsibility for each of those capital projects.

Section 65F: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **65G General information about proposed regional fuel tax scheme**

- (1) A proposed regional fuel tax scheme must—

- (a) include a statement of the expected contribution to the region's outcomes that are identified in any relevant regional land transport strategy; and
- (b) provide for the proposed scheme's intended start date, which—
  - (i) must not be earlier than 9 months after the commencement of this subpart; and
  - (ii) must fall on the first day of January, April, July, or October; and
  - (iii) must allow for a reasonable period in which retailers may prepare for the introduction of a regional fuel tax scheme; and

- (c) provide the date that the proposed scheme ends; and
  - (d) state the rate or rates of regional fuel tax that are required under the proposed scheme, which,—
    - (i) in the case of the Auckland Region, may not exceed 5 cents per litre of fuel for all of the capital projects that have been identified by the Auckland Region as priorities for that region, subject to section 65M; and
    - (ii) in every other case, may not exceed 10 cents per litre of fuel for all of the capital projects that have been identified by any other region as priorities for that region; and
  - (e) provide the date that the rate applies (if there is only 1 rate) or the dates that each of the rates applies (if there is more than 1 rate), provided that the rate or rates may only apply from the first day of January, April, July, or October; and
  - (f) state the duration of the regional fuel tax contribution to each capital project that is included in the proposed scheme; and
  - (g) state the allocation of revenue between each of the capital projects covered by the proposed scheme; and
  - (h) include any other information or other matter that may be prescribed by regulations made under this subpart.
- (2) The maximum duration of a regional fuel tax contribution referred to in subsection (1)(f) is 30 years.
- (3) However, the maximum duration referred to in subsection (2) may be extended by 5 years, but only if the additional 5 years arises out of a material change in circumstances that results in a replacement of the scheme under section 65S.
- (4) Despite subsection (1)(d),—
- (a) in all cases no more than a maximum of 5 cents per litre of fuel may be used for carriageways for general traffic; and
  - (b) the total rate of any regional fuel tax scheme may not exceed—
    - (i) 2 cents per litre of fuel in 2009; and
    - (ii) 5 cents per litre of fuel in 2010.

Section 65G: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **65H Persons that must be consulted**

When preparing a proposed regional fuel tax scheme, a regional transport committee must consult—

- (a) every affected approved organisation (which, for the avoidance of doubt, in the Auckland Region includes ARTA); and
- (b) the Agency; and
- (c) the Commissioner; and
- (d) the Ministry of Health; and
- (e) affected district health boards; and
- (f) the Accident Compensation Corporation; and
- (g) the New Zealand Historic Places Trust; and
- (h) the New Zealand Railways Corporation; and
- (i) representative groups of land transport users and providers (including representative groups of coastal shipping users and providers); and
- (j) affected communities; and
- (k) Māori of the region; and
- (l) the public in the region.

Section 65H: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **65I Consultation principles and procedures**

- (1) In carrying out the consultation required by section 65H, a regional transport committee must—
  - (a) act in accordance with the consultation principles set out in section 82 of the Local Government Act 2002; and
  - (b) use the special consultative procedure under sections 83, 87(2)(a), and 89 of the Local Government Act 2002.
- (2) A regional transport committee complies with subsection (1) if the required consultation on its proposed regional fuel tax scheme is carried out in conjunction with—
  - (a) the relevant regional council's consultation on its long-term council community plan or its annual plan under the Local Government Act 2002; or



- (b) any other consultation under this Act.

Section 65I: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65J Proposed regional fuel tax scheme to be lodged with relevant regional council**

The relevant regional transport committee may lodge its proposed regional fuel tax scheme with the relevant regional council if the regional transport committee is satisfied that—

- (a) the proposed regional fuel tax scheme would contribute to an affordable, integrated, safe, responsive, and sustainable land transport system and will result in a net benefit to the region; and
- (b) the following matters have been taken into account:
  - (i) any relevant GPS;
  - (ii) any relevant national land transport strategy and any relevant national energy efficiency and conservation strategy;
  - (iii) any relevant regional land transport strategies;
  - (iv) any relevant regional public transport plans;
  - (v) the consultation undertaken under section 65H; and
- (c) the capital projects included in the proposed scheme are consistent with the region's priorities for land transport expenditure; and
- (d) full funding for those capital projects from any other source will not reasonably be available within the time frame desired by the regional transport committee; and
- (e) forecast regional fuel tax revenue and regional fuel tax expenditure have been aligned; and
- (f) adequate consideration has been given to phasing the proposed regional fuel tax to mitigate the financial impact of the proposed regional fuel tax scheme on people resident in the region; and
- (g) retailers will have a reasonable period in which to prepare for the introduction of a regional fuel tax scheme.

Section 65J: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 65J(b)(iv): substituted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 65J(b)(v): added, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

**65K Relevant regional council's decision concerning proposed regional fuel tax scheme**

- (1) The relevant regional council may, after considering a proposed regional fuel tax scheme that has been lodged with it under section 65J, decide—
  - (a) to lodge the proposed scheme with the responsible Ministers; or
  - (b) to refer the proposed scheme back to the regional transport committee with a request that the regional transport committee reconsider 1 or more aspects of the proposed scheme.
- (2) A proposed scheme that is lodged with the responsible Ministers must include a statement of how the matters set out in section 65J have been addressed.
- (3) If a regional council refers the proposed regional fuel tax scheme back to its regional transport committee, the regional transport committee may, after reconsidering the aspects referred to it by the regional council in its request, forward to the regional council either or both of the following:
  - (a) an amended proposed scheme;
  - (b) any additional information that has been requested by the regional council or that the regional transport committee considers will help the regional council with its decision.

Section 65K: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65L Functions of Agency under this subpart**

The Agency's functions under this subpart include—

- (a) providing the responsible Ministers with any advice, as requested by the responsible Ministers, relating to the effect that a proposed regional fuel tax scheme may have on the national land transport programme; and
- (b) the following functions in respect of regional fuel tax:
  - (i) collection; and
  - (ii) distribution; and

- (iii) providing refunds; and
- (iv) prosecution of offences specified in section 65ZD.

Section 65L: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65M Additional capital projects may be included in proposed regional fuel tax scheme for Auckland Region**

- (1) If the proposed regional fuel tax scheme that is lodged with the responsible Ministers under section 65K is for the Auckland Region, the responsible Ministers may amend the proposed scheme by including 1 or more capital projects that the responsible Ministers have identified as priorities for the Auckland Region, provided that the responsible Ministers are satisfied that the projects are consistent with the Auckland regional land transport strategy.
- (2) However, the rate of regional fuel tax at any one time under a regional fuel tax scheme for the Auckland Region may not exceed 10 cents per litre of fuel, which is made up as follows:
  - (a) a maximum of 5 cents per litre of fuel for capital projects specified by the relevant region; and
  - (b) a maximum of 5 cents per litre of fuel for any capital projects specified by the responsible Ministers.
- (3) Despite subsection (2), no more than a combined maximum of 5 cents per litre of fuel may be used for carriageways for general traffic in the Auckland Region.

Section 65M: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65N Decisions of Ministers concerning proposed regional fuel tax scheme**

- (1) The responsible Ministers may, after considering a proposed regional fuel tax scheme, or a proposed scheme that they have amended under section 65M, decide—
  - (a) to recommend to the Governor-General the making of an Order in Council to approve the proposed regional fuel tax scheme and prescribe the rate or rates of regional fuel tax under that proposed scheme; or

- (b) to refer the proposed regional fuel tax scheme back to the regional council with a request that the relevant regional transport committee reconsider 1 or more of the aspects of the proposed scheme; or
  - (c) to decline to recommend the making of an Order in Council under section 65O(1).
- (2) If the responsible Ministers refer the proposed regional fuel tax scheme back to the regional council, the regional council must refer the proposed scheme back to the relevant regional transport committee under section 65K(1)(b).

Section 65N: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **65O Order in Council establishing regional fuel tax scheme**

- (1) The Governor-General may, by Order in Council made on the recommendation of the responsible Ministers,—
  - (a) approve a regional fuel tax scheme; and
  - (b) prescribe the rate or rates of regional fuel tax that apply under that scheme; and
  - (c) provide the date that the rate applies (if there is only 1 rate) or the dates that each of the rates applies (if there is more than 1 rate), provided that—
    - (i) the rate or rates may only apply from the first day of January, April, July, or October; and
    - (ii) must not apply earlier than 9 months after the commencement of this subpart.
- (2) There may be only 1 regional fuel tax scheme for each region.
- (3) An Order in Council under subsection (1) must include a copy of the regional fuel tax scheme that it approves.
- (4) If an Order in Council under subsection (1) prescribes 1 or more rates of regional fuel tax that are to apply over the period covered by the scheme,—
  - (a) only 1 rate of regional fuel tax may apply at any one time; and
  - (b) the applicable rate must not exceed 10 cents per litre of fuel.
- (5) An Order in Council made under subsection (1) is a regulation for the purposes of—
  - (a) the Regulations (Disallowance) Act 1989; and

- (b) the Acts and Regulations Publication Act 1989.

Section 65O: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65P Procedure for recommending making of Order in Council under section 65O(1)**

- (1) The responsible Ministers must not recommend the making of an Order in Council under section 65O(1) unless the responsible Ministers are satisfied that the following have been correctly considered:
- (a) the matters set out in section 65J; and
  - (b) the impact of the proposed regional fuel tax scheme on the national land transport programme; and
  - (c) in respect of a proposed scheme amended under section 65M(1), whether the proposed scheme will—
    - (i) contribute to an affordable, integrated, safe, responsive, and sustainable land transport system; and
    - (ii) result in a net benefit to the Auckland Region.
- (2) The responsible Ministers may, at their discretion,—
- (a) recommend or decline to recommend the making of an Order in Council under section 65O(1):
  - (b) after consulting the relevant region about its proposal, recommend the making of an Order in Council under section 65O(1) that contains provisions different from those contained in the proposed regional fuel tax scheme prepared by the region.

Section 65P: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Review of regional fuel tax scheme*

Heading: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65Q Review of regional fuel tax scheme**

- (1) At any time after its regional fuel tax scheme has started, the relevant regional transport committee, on behalf of the relevant regional council, may review the scheme.

- (2) As a result of the review, the regional transport committee may decide to—
- (a) leave the scheme unchanged; or
  - (b) vary the scheme under section 65R, to change the allocation of regional fuel tax revenue between the capital projects already included in the scheme; or
  - (c) replace the scheme under section 65S, provided that a scheme may not be replaced more than once every 3 years.
- (3) If the regional transport committee decides to vary or replace a scheme in accordance with subsection (2), the allocation of regional fuel tax revenue to a capital project included in the scheme must not be reduced without the prior agreement of the relevant project agency.

Section 65Q: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65R Variation of allocation of regional fuel tax revenue between capital projects**

- (1) If the regional transport committee decides to vary the allocation of regional fuel tax revenue between the capital projects included in a regional fuel tax scheme under section 65Q, the regional transport committee must act in accordance with sections 65J to 65P.
- (2) The requirements set out in sections 65J to 65P that apply to a proposed regional fuel tax scheme apply, with all necessary modifications, to varying a regional fuel tax scheme.
- (3) To avoid doubt, the consultation requirements as set out in sections 65H and 65I do not apply to a variation of a regional fuel tax scheme.

Section 65R: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65S Replacement of regional fuel tax scheme**

- (1) Subject to subsection (3), if the regional transport committee decides to replace a regional fuel tax scheme with a new scheme under section 65Q(2)(c), the regional transport committee must act in accordance with sections 65E to 65P.

- (2) The requirements of sections 65E to 65P that apply to a proposed regional fuel tax scheme apply, with all necessary modifications, to replacing a regional fuel tax scheme.
- (3) A regional fuel tax scheme may be replaced not more than once every 3 years.

Section 65S: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### *Collection of regional fuel tax*

Heading: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **65T When power to collect regional fuel tax is exercisable**

- (1) The Agency may start collecting regional fuel tax in relation to a regional fuel tax scheme that is approved by Order in Council made under section 65O(1) from the date specified in the Order in Council, which must be the first day of January, April, July, or October.
- (2) The power of the Agency to collect regional fuel tax in relation to the relevant regional fuel tax scheme is exercisable—
  - (a) during the period specified for the purpose in the relevant Order in Council made under section 65O(1); or
  - (b) if no period is specified in that Order in Council, while the relevant scheme remains in force.

Section 65T: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **65U Persons who must pay regional fuel tax**

- (1) Any fuel sold from a retail destination in a region that is subject to a regional fuel tax scheme is liable to regional fuel tax.
- (2) Any person who supplies fuel to a retail destination in a region that is subject to a regional fuel tax scheme must pay to the Agency the appropriate amount of regional fuel tax on the fuel.

Section 65U: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65V Returns**

- (1) Every person who must pay a regional fuel tax under section 65U must send to the Agency a monthly return as prescribed in regulations made under this Act.
- (2) A monthly return must be sent to the Agency within 28 days after the end of the month in which fuel was supplied to a retail destination in a region subject to a regional fuel tax scheme.
- (3) The regional fuel tax payable (as outlined in a monthly return) must be paid within 20 days after the end of the month in which a monthly return was sent to the Agency.
- (4) If a regional fuel tax that has become payable remains unpaid after the date on which it became payable under subsection (3), 10% of the amount of the tax unpaid must be added to it by way of additional tax, and must be paid accordingly.
- (5) The amount of any unpaid regional fuel tax (including any associated enforcement costs) is recoverable in any court of competent jurisdiction as a debt due to the Agency.
- (6) The Agency may reasonably request any person to provide information relevant to compliance with the payment of regional fuel tax.

Section 65V: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65W Confirmation of tax**

- (1) The Agency may, in confirming the regional fuel tax paid by a person under section 65U, rely on the information set out in the monthly return submitted under section 65V or may make an assessment of the correct amount payable.
- (2) In making an assessment of the correct amount payable, the Agency may reasonably request any person to provide information relevant to the assessment of regional fuel tax payable.
- (3) For the purposes of this subpart, the Auditor-General has, in respect of the records relating to the supply of fuel by any person who is liable to pay regional fuel tax, the same powers as the Auditor-General has under Part 4 of the Public Audit Act 2001.



- (4) The Agency must comply with any requirement by the Auditor-General to make an assessment or amended assessment for the purpose of this subpart.

Section 65W: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65X Assessment presumed to be correct**

Every assessment made by the Agency under this subpart is taken to be correct, and the tax is payable accordingly, unless, on an appeal under section 65Y, a different amount is proved to be the tax payable on the fuel, or it is proved that no tax is payable, as the case may be.

Section 65X: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65Y Appeal against assessment**

- (1) Within 14 days after a demand for the tax is made by the Agency in accordance with the Agency's assessment, any person may appeal to a District Court against the assessment.
- (2) On the hearing of the appeal, the District Court, whose decision is final, may confirm or amend the assessment made by the Agency.

Section 65Y: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Distribution of proceeds of regional fuel tax*

Heading: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**65Z Accounting for regional fuel tax**

- (1) In respect of a regional fuel tax, the Agency must account for—
- (a) revenue received; and
  - (b) refunds; and
  - (c) revenue held for future refunds; and
  - (d) administration and enforcement costs; and
  - (e) interest received.
- (2) Each financial year, there is payable out of the regional fuel tax received by the Agency—

- (a) payments to project agencies for capital projects that are included in a regional fuel tax scheme; and
- (b) any costs and expenses of the Agency that—
  - (i) arise out of the performance of its functions and duties and the exercise of its powers under this subpart; and
  - (ii) have been approved by the responsible Ministers; and
- (c) all refunds of regional fuel tax under regulations made under section 65ZE to the extent specified in the regulations without further appropriation than this paragraph.

Section 65Z: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **65ZA Regional fuel tax disbursement account**

- (1) Every project agency must—
  - (a) operate a regional fuel tax disbursement account into which must be paid all funds received by the project agency under section 65Z; and
  - (b) ensure that all payments are made in accordance with a procurement procedure unless exempt under section 26.
- (2) The Agency need not have a regional fuel tax disbursement account, but must—
  - (a) comply with section 96; and
  - (b) ensure that all payments by the Agency, in its capacity as a project agency, are made in accordance with a procurement procedure unless exempt under section 26.
- (3) All expenditure from a regional fuel tax disbursement account must be accounted for in a manner prescribed by the Agency after consultation with the Controller and Auditor-General.
- (4) Payments may be made from a regional fuel tax disbursement account only in respect of capital projects that are included in a regional fuel tax scheme.
- (5) A project agency may—
  - (a) carry forward to any later financial year any amount of the credit balance in its regional fuel tax disbursement account at the close of any financial year; and
  - (b) use that money at any time for payments in accordance with this section.

Section 65ZA: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### *Refunds*

Heading: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **65ZB Refund of regional fuel tax**

- (1) Persons using any fuel are, if they have applied for a refund in accordance with section 65ZC, entitled to a refund of regional fuel tax to the extent—
  - (a) that the refund is for regional fuel tax actually paid; and
  - (b) that the fuel has been used or will be used for—
    - (i) commercial non-road purposes; or
    - (ii) non-road purposes by a charitable entity registered under the Charities Act 2005; or
    - (iii) non-road purposes by a public sector organisation as defined in the Protected Disclosures Act 2000; and
  - (c) specified in regulations made under section 65ZE.
- (2) Nothing in this section applies to any fuel used for any purpose declared by regulations made under section 65ZE to be exempt from this section.
- (3) Every refund of regional fuel tax will be calculated in accordance with the rate of regional fuel tax in effect on the date the fuel was purchased.

Section 65ZB: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **65ZC Procedure for obtaining refund**

- (1) Every application for a refund under section 65ZB must be—
  - (a) made to the Agency; and
  - (b) supported by any documentary evidence and any other information that the Agency may require or as may be prescribed in regulations made under this Act.
- (2) Applications for refunds must be made in respect of periods ending with the date or dates approved by the Agency.

- (3) No refund may be allowed unless application for the refund is made within 12 months following the close of the period in respect of which the application is made.
- (4) If the application for a refund is made after the expiration of 3 months from the close of the relevant period but within 12 months after the close of that period, the amount of the refund otherwise payable must be reduced by 10% unless a full refund is allowed under subsection (5).
- (5) If application for a refund is made after the expiration of 3 months from the close of the relevant period, whether or not it is made within 12 months after the close of that period, the Agency may, at its discretion, allow a full refund.
- (6) The Agency may, at its discretion, allow a refund in any special case before the close of any period in respect of fuel supplied within that period.
- (7) The Agency may reclaim an overpayment of a refund.
- (8) The Agency may reasonably request any person to provide information relating to an application for a refund of regional fuel tax.

Section 65ZC: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### *Miscellaneous*

Heading: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### **65ZD Offences and penalties**

- (1) A person commits an offence if the person knowingly—
  - (a) refuses or fails to file a monthly return under section 65V; or
  - (b) refuses or fails to provide information, as reasonably requested by the Agency, relevant to—
    - (i) the compliance with or enforcement of regional fuel tax under section 65V; or
    - (ii) the assessment of regional fuel tax payable under section 65W; or
    - (iii) the application for a refund of regional fuel tax under section 65ZC; or

- (c) refuses or fails to pay any regional fuel tax payable by that person under this subpart; or
  - (d) provides altered, false, incomplete, or misleading information under section 65V; or
  - (e) evades the payment of any regional fuel tax that the person is liable to pay under this Act.
- (2) A person commits an offence who, for the purposes of sections 65V, 65W, 65ZB, or 65ZC, makes any application or provides any information that the person knows is false in any material particular.
- (3) A person who commits an offence against subsection (1) or (2) is liable on summary conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$10,000; or
  - (b) in the case of a body corporate, to a fine not exceeding \$100,000.
- (4) Despite anything in the Summary Proceedings Act 1957, any information for an offence against subsection (1) or (2) may be laid at any time within 3 years after the date of the offence.

Section 65ZD: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### **65ZE Regulations**

The Governor-General may from time to time, by Order in Council, make regulations for 1 or more of the following purposes:

- (a) providing for the assessment and collection of regional fuel tax:
- (b) specifying any information that the Agency is required to provide to the responsible Ministers or any other specified person or organisation:
- (c) specifying any information that a project agency is required to provide to the Agency or any other specified person or organisation:
- (d) providing for exemptions from, or waivers or refunds of, any regional fuel tax under this subpart, in whole or in part, in any class of case:
- (e) prescribing forms to be used for the purposes of this subpart:

- (f) prescribing the matters that must be included in forms (other than prescribed forms) used in connection with regional fuel tax schemes:
- (g) prescribing matters to be included in any returns to be made or accounts or records to be kept by any person for any purpose under this subpart:
- (h) providing for any other matter contemplated by this subpart, necessary for its administration, or necessary for giving it full effect.

Section 65ZE: inserted, on 1 August 2008, by section 42 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### Part 3

#### Land transport strategic documents

Part 3: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### *National land transport strategy*

Heading: inserted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **66 Overview of national land transport strategy**

- (1) A national land transport strategy, which is completed by the Minister every 6 financial years and covers a period of at least 30 financial years, enables the Minister to provide guidance to the land transport sector on the Crown's outcomes and objectives in relation to land transport in New Zealand.
- (2) This section is intended by way of explanation only, and if this section is inconsistent with another provision of this Act or any other Act, then the other provision prevails.

Section 66: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **67 Responsibility for completing national land transport strategy**

- (1) The Minister may, on behalf of the Crown, complete a national land transport strategy that—
  - (a) takes effect on—

- (i) the 28th day after the date of its notification in the *Gazette*; or
  - (ii) any later date specified in the national land transport strategy; and
- (b) covers a period of at least 30 financial years.
- (2) At least once in every 6 financial years after the first national land transport strategy takes effect, the Minister—
  - (a) must review the national land transport strategy; and
  - (b) may amend or replace the national land transport strategy.
- (3) The Minister may amend or replace a national land transport strategy by following, with any necessary modifications, the procedure provided in sections 70 and 71.
- (4) An amendment forms part of the national land transport strategy it amends.

Compare: 1998 No 110 ss 170(1), 172(1), 173

Section 67: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **68 Core requirements of national land transport strategy**

The Minister must, in preparing a national land transport strategy,—

- (a) ensure that the national land transport strategy—
  - (i) contributes to the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system; and
  - (ii) contributes to each of the following:
    - (A) assisting economic development;
    - (B) assisting safety and personal security;
    - (C) improving access and mobility;
    - (D) protecting and promoting public health;
    - (E) ensuring environmental sustainability;and
- (b) take into account any—
  - (i) national energy efficiency and conservation strategy; and

- (ii) relevant national policy statement that is for the time being in force under the Resource Management Act 1991.

Compare: 1998 No 110 s 170(3)

Section 68: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **69 Form and content of national land transport strategy**

- (1) A national land transport strategy may be produced in the form that the Minister considers appropriate.
- (2) A national land transport strategy—
  - (a) must include the following matters:
    - (i) the Crown's outcomes and objectives in relation to land transport in New Zealand over a period of at least 30 financial years; and
    - (ii) the measurable targets to achieve those outcomes and objectives; and
  - (b) may contain any other details that the Minister considers relevant.

Section 69: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **70 Procedure for completing national land transport strategy**

Before completing the national land transport strategy, the Minister must—

- (a) publish in the relevant daily newspapers a notice of the Minister's proposal to complete the strategy, and also publish the notice in the *Gazette*; and
- (b) give interested persons a reasonable time, which must be specified in the notice published under paragraph (a), to make submissions on the proposal; and
- (c) consult such persons, representative groups within the land transport system or elsewhere, government departments, local authorities, and Crown entities as the Minister in each case considers appropriate.

Compare: 1998 No 110 s 171(1)

Section 70: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).



**71 Availability of national land transport strategy**

As soon as practicable after completing a national land transport strategy, the Minister must—

- (a) make a copy of the national land transport strategy publicly available in accordance with section 108; and
- (b) present a copy of the national land transport strategy to the House of Representatives; and
- (c) arrange for a copy of the national land transport strategy to be given to each of the following:
  - (i) the Secretary:
  - (ii) the Agency:
  - (iii) the Commissioner:
  - (iv) every regional transport committee:
  - (v) every approved organisation.

Compare: 1998 No 110 s 171(2)

Section 71: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**72 Effect of national land transport strategy**

- (1) The Secretary must ensure that the actions of the Ministry take into account any national land transport strategy.
- (2) In exercising its powers or performing its functions and duties, the Agency must take into account any national land transport strategy.
- (3) The Commissioner must, except to the extent that his or her statutory functions or duties or common law obligations in any particular case otherwise require, ensure that in exercising his or her powers or performing his or her functions and duties he or she takes into account any national land transport strategy.

Compare: 1998 No 110 s 174

Section 72: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Regional land transport strategies*

Heading: inserted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**73 Overview of regional land transport strategy**

- (1) A regional land transport strategy, which (for regions other than Auckland) is prepared by the relevant regional transport committee for each region on behalf of the relevant regional council every 6 financial years and covers a period of at least 30 financial years, enables each regional council to provide guidance on the land transport outcomes sought by the region.
- (2) This section is intended by way of explanation only, and if this section is inconsistent with another provision of this Act or any other Act, then the other provision prevails.

Section 73: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**74 Responsibility for preparing and approving regional land transport strategies**

- (1) At least once in every 6 financial years, each regional council must—
  - (a) ensure that the relevant regional transport committee prepares, on the regional council's behalf, a regional land transport strategy that covers a period of at least 30 financial years; and
  - (b) approve the regional land transport strategy.
- (2) For the purposes of this section and of sections 75 to 83, that part of the district of the Franklin District Council that is within the region of the Waikato Regional Council is to be treated—
  - (a) as not being part of the region of the Waikato Regional Council; but
  - (b) as being part of the region of the Auckland Regional Council.
- (3) Nothing in this section or in sections 75 to 83 applies to the Auckland Regional Council or to Auckland's regional land transport strategy.

- (4) Despite subsection (3), Schedule 7 applies to the Auckland Regional Council and to Auckland's regional land transport strategy.

Compare: 1998 No 110 s 175(5)

Section 74: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Transit*  
*[Repealed]*

Heading: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**75 Core requirements for regional land transport strategies**

A regional transport committee must, when preparing a regional land transport strategy on behalf of a regional council,—

- (a) ensure that the regional land transport strategy—
  - (i) contributes to the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system; and
  - (ii) contributes to each of the following:
    - (A) assisting economic development:
    - (B) assisting safety and personal security:
    - (C) improving access and mobility:
    - (D) protecting and promoting public health:
    - (E) ensuring environmental sustainability; and
  - (iii) is consistent with any—
    - (A) national land transport strategy; and
    - (B) relevant national policy statement or any relevant regional policy statement or regional plan that is for the time being in force under the Resource Management Act 1991; and
  - (iv) avoids, to the extent reasonable in the circumstances, adverse effects on the environment; and
- (b) take into account—
  - (i) the relevant GPS; and

- (ii) any national energy efficiency and conservation strategy; and
- (iii) any relevant district plans.

Compare: 1998 No 110 s 175(2)(e), (3), (4)

Section 75: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **76 Other matters that must be taken into account**

When preparing a regional land transport strategy on behalf of a regional council, a regional transport committee must also take into account—

- (a) any guidelines issued by the Minister for regional land transport strategies; and
- (b) the land transport funding likely to be available within the region for implementing the strategy during the period covered by the strategy; and
- (c) the views of affected communities; and
- (d) the views of land transport network providers in the region; and
- (e) the need to give early and full consideration to land transport options and alternatives in a way that contributes to the matters referred to in section 75(a)(iv), and paragraph (c); and
- (f) the need to provide early and full opportunities for persons and organisations listed in section 78(1) to contribute to the development of those regional land transport strategies; and
- (g) the need to take account of the relevant regional council's function under section 30(1)(gb) of the Resource Management Act 1991 to consider the strategic integration of transport infrastructure with land use through objectives, policies, and methods.

Compare: 1998 No 110 s 175(2)(b)–(d), (f)–(i), (q)

Section 76: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **77 Contents of regional land transport strategies**

A regional land transport strategy must contain the following matters:

- (a) inter-regional and intra-regional transport outcomes relevant to the region; and
- (b) the strategic options for achieving those outcomes; and
- (c) an assessment as to how the regional land transport strategy complies with sections 75 and 76; and
- (d) a statement of any relevant regional economic or land-use considerations, and the likely funding of any land transport infrastructure associated with those considerations; and
- (e) a demand management strategy; and
- (f) an assessment of the appropriate role for each land transport mode in the region; and
- (g) an assessment of the role of education and enforcement in contributing to the land transport outcomes; and
- (h) *[Repealed]*
- (i) a statement that identifies any strategic option for which co-operation is required with other regions; and
- (j) a statement that identifies persons or organisations who should be involved in the further development of strategic options; and
- (k) measurable targets to be achieved to meet the outcomes of the regional land transport strategy; and
- (l) a statement provided by an independent auditor of how the process followed by the regional transport committee complied with the requirements of this Act; and
- (m) a summary of the policy relating to significance adopted by the regional transport committee under section 106.

Compare: 1998 No 110 s 175(2)(j)–(p); 2004 No 57 s 36

Section 77: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 77(h): repealed, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

## **78 Consultation requirements**

- (1) When preparing a proposed regional land transport strategy on behalf of a regional council, a regional transport committee must consult—
  - (a) the adjoining regional councils and territorial authorities; and
  - (b) the approved organisations in the region; and

- (c) the Secretary; and
  - (d) the Agency; and
  - (e) the Commissioner; and
  - (f) the New Zealand Historic Places Trust; and
  - (g) the New Zealand Railways Corporation; and
  - (h) representative groups of land transport users and providers (including representative groups of coastal shipping users and providers); and
  - (i) the Ministry of Health; and
  - (j) the Accident Compensation Corporation; and
  - (k) the district health boards in the region; and
  - (l) affected communities; and
  - (m) Māori of the region; and
  - (n) the public in the region.
- (2) In carrying out the consultation required by subsection (1), a regional transport committee must—
- (a) act in accordance with the consultation principles set out in section 82 of the Local Government Act 2002; and
  - (b) use the special consultative procedure under sections 83, 87(2)(a), and 89 of the Local Government Act 2002.
- (3) A regional transport committee complies with subsection (2) if the required consultation on the regional land transport strategy is carried out in conjunction with the relevant regional council's consultation on its long-term council community plan or its annual plan under the Local Government Act 2002.
- (4) An approved organisation and the Agency must assist a regional transport committee that is preparing a regional land transport strategy by giving the regional transport committee any reasonably requested information that the regional transport committee needs in order to prepare the regional land transport strategy.

Compare: 1998 No 110 s 179

Section 78: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **79 Process for approving regional land transport strategies**

- (1) A regional transport committee that has prepared a regional land transport strategy on behalf of a regional council must,

after it has consulted under section 78, lodge the regional land transport strategy with the regional council.

- (2) The relevant regional council may, after considering a regional land transport strategy that has been lodged with it under subsection (1) or (3), decide—
  - (a) to approve the regional land transport strategy without modification; or
  - (b) to refer the regional land transport strategy back to the regional transport committee with a request that the regional transport committee reconsider 1 or more of the aspects of the regional land transport strategy.
- (3) If a regional council refers a regional land transport strategy back to its regional transport committee, the regional transport committee may, after reconsidering the aspects referred back to it by the regional council in its request, forward to the regional council either or both of the following:
  - (a) an amended regional land transport strategy that has been consulted on in accordance with section 78:
  - (b) any additional information that has been requested by the regional council or that the regional transport committee considers will help the regional council with its decision.

Section 79: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **80 Availability of regional land transport strategy**

As soon as practicable after it has approved a regional land transport strategy, a regional council must—

- (a) forward copies of it to—
  - (i) the Secretary; and
  - (ii) the Agency; and
  - (iii) the Commissioner; and
  - (iv) the approved organisations in the region; and
- (b) make a copy of the approved regional land transport strategy publicly available in accordance with section 108.

Compare: 1998 No 110 s 177

Section 80: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**81 Variation of regional land transport strategy**

- (1) Subject to subsection (2), a regional council may vary its regional land transport strategy at any time.
- (2) The provisions of this Act that apply to the preparation and approval of a regional land transport strategy apply, with the necessary modifications, to a variation of a regional land transport strategy.
- (3) A variation forms part of the regional land transport strategy it varies.
- (4) Subsection (2) does not apply to any variations that are not significant.
- (5) A regional council must—
  - (a) monitor its regional land transport strategy; and
  - (b) promptly vary its regional land transport strategy if necessary to ensure that it is consistent with the national land transport strategy.

Compare: 1998 No 110 s 176

Section 81: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**82 Effect of regional land transport strategies**

- (1) The Secretary must ensure that the actions of the Ministry take into account any relevant regional land transport strategies and any relevant regional public transport plans.
- (2) In exercising its powers or performing its functions and duties, the Agency must ensure that it takes into account any relevant regional land transport strategies and any relevant regional public transport plans.
- (3) The Commissioner must, except to the extent that his or her statutory functions or duties or common law obligations in any particular case otherwise require, ensure that in exercising or performing his or her functions, duties, and powers he or she takes into account any relevant regional land transport strategies and any relevant regional public transport plans.

Compare: 1998 No 110 s 181

Section 82: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 82(1): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).



Section 82(2): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

Section 82(3): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

### **83 Progress reports on regional land transport strategy**

- (1) Every 3 financial years a regional transport committee must prepare a progress report on the implementation of any regional land transport strategy in place during the previous 3 financial years.
- (2) The Secretary, the Agency, the Commissioner, and the approved organisations in the relevant region must supply to the regional transport committee such information within its or his or her possession or control as may be reasonably requested by the regional transport committee for the purposes of preparing its progress report.
- (3) Within 3 months after the close of the third financial year to which its progress report relates, the regional transport committee, on behalf of the relevant regional council, must—
  - (a) forward copies of the report to—
    - (i) the Secretary; and
    - (ii) the Agency; and
    - (iii) the Commissioner; and
    - (iv) the territorial authorities in the region; and
  - (b) make a copy of the progress report publicly available in accordance with section 108.

Compare: 1998 No 110 s 182

Section 83: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### *GPS*

Heading: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### **84 Overview of GPS**

- (1) A GPS, which is issued by the Minister every 3 financial years, enables the Minister to—

- (a) guide the Agency and land transport sector on the outcomes and objectives, and the short- to medium-term impacts, that the Crown wishes to achieve—
    - (i) through the national land transport programme; and
    - (ii) from the allocation of the national land transport fund; and
  - (b) link the amount of revenue raised from road users with the planned levels of expenditure from the national land transport fund.
- (2) This section is intended by way of explanation only, and if this section is inconsistent with another provision of this Act or any other Act, then the other provision prevails.

Section 84: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **85 Status of GPS**

To avoid doubt, a GPS is not—

- (a) a direction for the purposes of Part 3 of the Crown Entities Act 2004; and
- (b) a regulation for the purposes of the Acts and Regulations Publication Act 1989; and
- (c) a regulation for the purposes of the Regulations (Disallowance) Act 1989.

Section 85: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **86 Minister must issue GPS before national land transport programme**

- (1) The Minister must issue a new GPS in advance of the expiry of the current national land transport programme.
- (2) A GPS must be in effect at all times over the same period as the current national land transport programme.

Section 86: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **87 Preparation of GPS**

- (1) The Minister must, in preparing the GPS,—
  - (a) be satisfied that the GPS—

- (i) contributes to the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system; and
    - (ii) contributes to each of the following:
      - (A) assisting economic development:
      - (B) assisting safety and personal security:
      - (C) improving access and mobility:
      - (D) protecting and promoting public health:
      - (E) ensuring environmental sustainability; and
    - (iii) is consistent with any—
      - (A) national land transport strategy:
      - (B) national energy efficiency and conservation strategy; and
  - (b) take into account any relevant national policy statement that is in force under the Resource Management Act 1991; and
  - (c) have regard to the views of Local Government New Zealand and representative groups of land transport users and providers (including representative groups of coastal shipping users and providers).
- (2) Before issuing a GPS, the Minister must consult with the Agency about the proposed GPS.

Section 87: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Miscellaneous provisions*  
*[Repealed]*

Heading: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**88 Content of GPS**

- (1) The GPS sets out how land transport funding is intended to improve the land transport sector in the context of land transport policy.
- (2) The GPS must include the following:
  - (a) the short- to medium-term impacts that the Crown wishes to achieve through the allocation of funding from the national land transport fund:

- (b) the activity classes to be funded from the national land transport fund:
  - (c) likely changes to the duties, fees, and charges paid into the national land transport fund for the first 3 years of the period covered by the GPS:
  - (d) an expenditure target for the national land transport programme for each of the first 3 years and any subsequent years that the Minister considers relevant:
  - (e) a maximum and minimum level of expenditure for the national land transport programme for each of the first 3 years and any subsequent years that the Minister considers relevant (subject to the ability to carry forward funds from the closing balance of the national land transport fund for a financial year to a future financial year):
  - (f) an allowable variation between expenses and capital expenditure incurred under the national land transport programme and the inflows received in the national land transport fund:
  - (g) funding ranges for each activity class for a period of 6 financial years:
  - (h) forecast funding ranges for each activity class for the period of 4 financial years following the first 6 financial years:
  - (i) overall investment likely to be made in the land transport sector over a period of 10 financial years and the likely or proposed funding sources:
  - (j) allowable reasons for varying the expenditure target identified in paragraph (d) when making funding allocation decisions:
  - (k) a statement of the Minister's expectations of how the Agency gives effect to the GPS.
- (3) The GPS may include the following:
- (a) background, including any relevant transport outcomes and objectives and any relevant land transport policies:
  - (b) any relevant funding policy:
  - (c) subject to the Public Finance Act 1989, any additional expected funding for land transport activities, including

(but not limited to) any money that Parliament may appropriate for the purpose:

- (d) any other relevant matters.

Section 88: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**89 Agency to give effect to GPS in respect of funding of land transport system**

- (1) The Agency must give effect to the GPS when performing its functions under subpart 1 of Part 2 in respect of land transport planning and funding.
- (2) To avoid doubt, the GPS may not impose an obligation on the Agency to approve or decline funding for a particular activity or any combinations of activities under section 20.

Section 89: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Amendments and repeals*  
*[Repealed]*

Heading: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**90 Amending current GPS**

- (1) The Minister may amend the current GPS at any time.
- (2) The provisions of this Act regarding the preparation and availability of a GPS—
  - (a) apply with the necessary modifications to an amendment to the current GPS; but
  - (b) do not apply if the amendment to the current GPS is not significant.
- (3) An amendment forms part of the GPS it amends.
- (4) For the purposes of this section, **current GPS** means the GPS that is in effect over the same period as the current national land transport programme.

Section 90: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**91 Availability of GPS**

As soon as practicable after issuing a GPS, the Minister must—

- (a) present a copy of the GPS to the House of Representatives; and
- (b) arrange for a copy of the GPS to be given to each of the following:
  - (i) the Secretary:
  - (ii) the Agency:
  - (iii) the Commissioner:
  - (iv) every approved organisation; and
- (c) make a copy of the GPS publicly available in accordance with section 108.

Section 91: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**Part 4****New Zealand Transport Agency, regional transport committees, and miscellaneous provisions**

Part 4 heading: inserted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**Subpart 1—New Zealand Transport Agency**

Subpart 1 heading: inserted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

*Savings provisions*  
*[Repealed]*

Heading: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**92 Overview**

- (1) This subpart establishes the New Zealand Transport Agency and sets out the objective and functions of the Agency, its operating principles, and related provisions.
- (2) This Act contains a range of accountability provisions relevant to the Agency's functions, duties, and powers under this Act, including the following:

- (a) section 11, which concerns the annual report on the national land transport fund; and
  - (b) sections 16 and 17, which concern the form and content of regional land transport programmes, and include procedures for the Agency to propose activities or combinations of activities for inclusion in a programme; and
  - (c) section 19D, which concerns notification by the Agency about decisions not to include activities or combinations of activities in a national land transport programme; and
  - (d) section 20D, which concerns the giving of reasons by the Agency for any decision to approve or decline funding for an activity or combination of activities under section 20; and
  - (e) section 89, which concerns the requirement for the Agency to give effect to the GPS when exercising its functions under subpart 1 of Part 2; and
  - (f) section 96, which concerns the Agency's operating principles, systems, and procedures; and
  - (g) section 100, which concerns the Agency's statement of intent; and
  - (h) section 101, which concerns monitoring and review of specified activities and procedures of the Agency by the Secretary; and
  - (i) section 109, which concerns the making of regulations requiring the Agency to disclose specified information or report in specified ways.
- (3) This section is by way of explanation only, and if a provision of this or any other Act is inconsistent with this section, the other provision prevails.

Section 92: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### **93 Establishment of New Zealand Transport Agency**

- (1) This section establishes the New Zealand Transport Agency.
- (2) The Agency is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to the Agency except to the extent that this Act expressly provides otherwise.

Section 93: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **94 Objective of Agency**

The objective of the Agency is to undertake its functions in a way that contributes to an affordable, integrated, safe, responsive, and sustainable land transport system.

Section 94: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **95 Functions of Agency**

(1) The Agency has the following functions:

- (a) to promote an affordable, integrated, safe, responsive, and sustainable land transport system:
- (b) to investigate and review accidents and incidents involving transport on land in its capacity as the responsible safety authority, subject to any limitations set out in the Transport Accident Investigation Commission Act 1990:
- (c) to manage the State highway system, including planning, funding, design, supervision, construction, and maintenance and operations, in accordance with this Act and the Government Roding Powers Act 1989:
- (d) to deliver or manage the delivery of its other activities and combinations of activities, including (but not limited to) those relating to research, education, training, and coastal shipping:
- (e) to manage funding of the land transport system, including (but not limited to)—
  - (i) administration of land transport revenue and regional fuel taxes; and
  - (ii) auditing the performance of approved organisations in relation to activities approved by the Agency and the operation of the land transport disbursement accounts of approved organisations:
- (f) to manage regulatory requirements for transport on land, including (but not limited to) maintaining and preserving records and documents concerning activ-



- ities within the land transport system, and maintaining registers:
- (g) to assist, advise, and co-operate with approved organisations:
  - (h) 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 Agency are satisfied that the performance of the Agency's functions and duties will not be compromised:
  - (i) to provide the Minister with any advice relating to the Agency's functions that the Minister may request:
  - (ia) to issue guidelines for, and monitor the development of, regional public transport plans:
  - (j) to carry out any other functions relating to land transport that the Minister directs in accordance with section 112 of the Crown Entities Act 2004:
  - (k) to carry out those functions conferred on the Agency by other provisions in this Act or under any other Act.
- (2) The Agency's statutorily independent functions are to—
- (a) issue, endorse, alter, replace, renew, suspend, or revoke any land transport document or other authorisation under any enactment; and
  - (b) grant exemptions under any enactment; and
  - (c) enforce the provisions of any enactment conferring functions or duties on the Agency; and
  - (d) determine whether particular activities should be included in a national land transport programme; and
  - (e) approve activities or combinations of activities under section 20; and
  - (f) approve procurement procedures.
- (3) In this section, **land transport document** includes—
- (a) a land transport document as defined in section 2(1) of the Land Transport Act 1998; and
  - (b) a rail document as defined in section 4(1) of the Railways Act 2005.

Section 95: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 95(1)(ia): inserted, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

**96 Operating principles**

- (1) In meeting its objective and undertaking its functions, the Agency must—
- (a) exhibit a sense of social and environmental responsibility, which includes—
    - (i) avoiding, to the extent reasonable in the circumstances, adverse effects on the environment; and
    - (ii) ensuring, in relation to its functions under section 95, and to the extent practicable, that persons or organisations preparing regional land transport programmes—
      - (A) take into account the views of affected communities; and
      - (B) give land transport options and alternatives an early and full consideration in a manner that contributes to the matters in subparagraph (i) and subsubparagraph (A); and
      - (C) provide early and full opportunities to the persons and organisations who are required to be consulted in order to contribute to the development of regional land transport programmes; and
    - (iii) meeting the requirements of section 18H (Māori contribution to decision making); and
  - (b) use its revenue in a manner that seeks value for money, and,—
    - (i) if the revenue is part of the national land transport fund, in accordance with section 10(3); and
    - (ii) in all other cases, for the purpose for which it is collected; and
  - (c) ensure that its revenue and expenditure are accounted for in a transparent manner; and
  - (d) ensure that—
    - (i) it acts in a transparent manner in its decision making under this Act; and
    - (ii) it gives, when making decisions in respect of land transport planning and funding under subpart 1 of Part 2, the same level of scrutiny to its own pro-

posed activities and combinations of activities as it would give to those proposed by approved organisations.

- (2) The Agency must have systems and procedures to enable it to give effect to the principle set out in subsection (1)(d)(ii), and must—
  - (a) make information about those systems and procedures available on its Internet site; and
  - (b) include in its annual report under section 150 of the Crown Entities Act 2004 a report on its implementation of those systems and procedures.
- (3) The Auditor-General must, when carrying out the annual audit of the Agency under section 15 of the Public Audit Act 2001, report on the Agency's implementation of the systems and procedures referred to in subsection (2).

Section 96: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**97 Agency must consider delegating or contracting out functions and powers**

In the course of performing its functions and exercising its powers, the Agency must consider whether it could most efficiently and effectively perform those functions and exercise those powers by means of its own operations, or by delegating or contracting out those operations to appropriate persons.

Section 97: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**98 Agency's board**

- (1) The Agency's board must have at least 6, but no more than 8, board members appointed in accordance with section 28(1)(a) of the Crown Entities Act 2004.
- (2) The responsible Minister must not appoint a board member unless he or she has consulted with the persons, representative groups within the land transport sector or elsewhere, government departments, and Crown entities that he or she considers appropriate.

- (3) The Agency's board must not delegate any functions or powers delegated to the board by the Minister without the written consent of the Minister.

Section 98: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **99 Use of certain words**

- (1) No person other than the Agency may, either alone or with another person, be incorporated or registered under another enactment, trade or carry on business, or perform the functions for which it was formed—
- (a) under a name that contains the words New Zealand Transport Agency; or
  - (b) under a name that so resembles the words New Zealand Transport Agency as to be likely to mislead.
- (2) On or from the commencement of this Act until 31 December 2011, no person other than the Agency may, either alone or with another person, be incorporated or registered under another enactment, trade or carry on business, or perform the functions for which it was formed—
- (a) under a name that contains the words Land Transport New Zealand or the words Transit New Zealand; or
  - (b) under a name that so resembles the words Land Transport New Zealand or the words Transit New Zealand as to be likely to mislead.
- (3) Nothing in subsection (1) or (2) applies to the Agency or to any person who is appropriately authorised by the Agency.

Section 99: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **100 Statement of intent**

- (1) The Agency must, if so required by the Minister, include 1 or more of the following matters in its statement of intent under section 139 of the Crown Entities Act 2004:
- (a) the basis on which the Agency will prepare the national land transport programme and how that programme will give effect to the GPS:

- (b) any requirement to review or revise the national land transport programme and the basis on which that review or revision is to be carried out;
  - (c) the basis on which the Agency will approve procurement procedures under section 25;
  - (d) any directions under section 95(1)(j) or under Part 3 of the Crown Entities Act 2004;
  - (e) a statement as to how the Agency will implement the principles, systems, and procedures in section 96;
  - (f) any steps that the Agency intends to take, having considered ways in which it might foster the development of Māori capacity to contribute to the Agency's land transport decision-making processes, over the period covered by the statement of intent;
  - (g) any other matters that the Agency and the Minister agree or the Minister requires.
- (2) The Minister may direct the Agency to amend any provision that is included in its statement of intent under this section, and section 147 of the Crown Entities Act 2004 applies accordingly.

Section 100: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **101 Secretary must monitor and review specified activities and procedures**

- (1) The Secretary, for the purpose of evaluating the performance of the land transport funding and planning system, must monitor and review—
- (a) samples of activities or combinations of activities approved under section 20; and
  - (b) the Agency's evaluation procedures under sections 18J, 19A, 19B, and 20; and
  - (c) the Agency's process for determining and applying design standards to roads; and
  - (d) the Agency's application of procurement procedures under sections 25 and 26.
- (2) The Secretary may, in writing, request the Agency to provide any information that is reasonably required and relevant to en-

- able the Secretary to carry out the monitoring specified in subsection (1).
- (3) The Agency must provide the Secretary with the information that the Secretary requests under subsection (2).
  - (4) Despite subsection (3), the Agency may refuse a request for information from the Secretary if—
    - (a) the withholding of the information is not contrary to the Official Information Act 1982; and
    - (b) the withholding of the information is necessary to protect the privacy of a person (whether or not a natural person or a deceased person).
  - (5) To avoid doubt, this section does not—
    - (a) limit sections 132 to 134 of the Crown Entities Act 2004; or
    - (b) affect the responsible Minister's functions, duties, or powers under the Crown Entities Act 2004.

Section 101: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **102 Monitoring and reporting on delivery of approved Police activities or combinations of Police activities**

- (1) The Secretary, or the Agency if designated for the purpose by the Secretary, must monitor the delivery of Police activities or combinations of Police activities that the responsible Minister has approved under section 18L.
- (2) With respect to the matters approved under section 18L, the Commissioner must, as agreed in writing by the responsible Minister and the Minister of Police, provide information relevant to those matters to any or all of the following:
  - (a) the responsible Minister;
  - (b) the Minister of Police;
  - (c) the Secretary;
  - (d) the Agency.
- (3) The Secretary must provide the Minister and the Agency with a report on the performance of the Police in relation to the matters that the responsible Minister has approved under section 18L.

- (4) If the Agency carries out the monitoring required under subsection (1), the Agency must assist the Secretary with the production of the report required under subsection (3).
- (5) The Secretary must provide the Agency with a copy of the report referred to in subsection (3) before the Agency prepares its annual report on the national land transport fund under section 11.
- (6) An agreement entered into by the responsible Minister and the Minister of Police under subsection (2) must be published or made available to the public in the manner that those Ministers jointly consider appropriate.

Section 102: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### **103 Secretary may declare State highways**

- (1) After considering the recommendations of the Agency, the Secretary—
  - (a) may, by notice in the *Gazette*, declare a road to be a State highway; and
  - (b) must, by the same or a subsequent notice, define the route of the State highway by town, road name, or route position.
- (2) A road declared to be a State highway may include land that was not previously constituted as part of the road.
- (3) In determining the route of a State highway, the Secretary—
  - (a) is not constrained to accept the route of an existing road; and
  - (b) may, if the Secretary thinks fit, declare, either permanently or temporarily, more than 1 State highway between any 2 places.
- (4) The Secretary may vary or revoke a declaration made under subsection (1) in the manner that a declaration is made under subsection (1).
- (5) A revocation of a State highway constitutes the road as a local road for the purposes of this or any other Act.
- (6) A declaration, variation, or revocation that affects or is likely to affect Māori land, land registered in the name of Pootatau Te Wherowhero under section 19 of the Waikato Raupatu Claims

Settlement Act 1995, land subject to any other Māori claims settlement Act, or Māori historical, cultural, or spiritual interests, may not be made or revoked unless the Agency—

- (a) has consulted,—
    - (i) in the case of land registered in the name of Pootatau Te Wherowhero or interests relating to that land, the land holding trustee (as defined in section 7 of the Waikato Raupatu Claims Settlement Act 1995):
    - (ii) if any other Māori claims settlement Act requires consultation about the declaration, variation, or revocation, in accordance with that Act:
    - (iii) in any other case, every iwi or hapū that in the opinion of the Agency will or may be affected by the declaration, variation, or revocation; and
  - (b) is satisfied that the declaration, variation, or revocation should be made.
- (7) Subsection (6) does not limit the ability of the Agency to take similar action in respect of any other population group.
  - (8) Before making a recommendation under subsection (1), the Agency must consult with any regional council or territorial authority that may be affected by the proposed declaration or revocation.
  - (9) A declaration, variation, or revocation made under this section comes into force on a date to be specified in the relevant *Gazette* notice.
  - (10) A road declared to be a State highway under section 11 of the National Roads Act 1953 or section 60 of the Government Roding Powers Act 1989 (formerly known as the Transit New Zealand Act 1989), and having that status under either Act immediately before the commencement of this section, is to be treated as having been declared to be a State highway under this section.

Section 103: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **104 Government Superannuation Fund**

- (1) Despite anything in this Act, a person who, immediately before becoming an employee of the Agency, was a contributor



to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, to be treated as if he or she were employed in the Government service so long as the person continues to be an employee of the Agency.

- (2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the Agency were Government service.
- (3) A person employed by the Agency who ceases to be a contributor to the Government Superannuation Fund is not subsequently entitled to become a contributor.
- (4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subsection (2), **controlling authority**, in relation to that employee, means the Agency.

Section 104: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## Subpart 2—Regional transport committees

Subpart 2 heading: inserted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### 105 Regional transport committees

- (1) As soon as practicable after each triennial election, every regional council must establish a regional transport committee under this section for its region.
- (2) Each regional council must appoint to its regional transport committee—
  - (a) 2 persons to represent the regional council; and
  - (b) 1 person from each territorial authority in the region to represent that territorial authority; and
  - (c) 1 person to represent the Agency; and
  - (d) 1 person to represent the objective of economic development; and
  - (e) 1 person to represent the objective of safety and personal security; and
  - (f) 1 person to represent the objective of public health; and
  - (g) 1 person to represent the objective of access and mobility; and

- (h) 1 person to represent the objective of environmental sustainability; and
  - (i) 1 person to represent cultural interests.
- (3) Each regional council that is a unitary authority, or a combination of unitary authorities (as the case may be), must appoint to its regional transport committee—
  - (a) 5 persons to represent the unitary authority; and
  - (b) 1 person to represent the Agency; and
  - (c) 1 person to represent the objective of economic development; and
  - (d) 1 person to represent the objective of safety and personal security; and
  - (e) 1 person to represent the objective of public health; and
  - (f) 1 person to represent the objective of access and mobility; and
  - (g) 1 person to represent the objective of environmental sustainability; and
  - (h) 1 person to represent cultural interests.
- (4) A person specified in subsection (2)(a) to (c) and (3)(a) and (b) may only be appointed on the nomination of the relevant entity.
- (5) A person appointed under subsection (2)(d) to (i) or (3)(c) to (h)—
  - (a) must be from the wider regional community; and
  - (b) must not be a member or employee of that regional council, any other territorial authority in that region, or the Agency.
- (6) Each regional council must appoint from its representatives the chair and deputy chair of the committee.
- (7) At any meeting of a regional transport committee, the chair, or any other person presiding at the meeting,—
  - (a) has a deliberative vote; and
  - (b) in the case of an equality of votes, does not have a casting vote (and therefore the act or question is defeated and the status quo is preserved).
- (8) The Minister may issue guidelines to regional councils concerning the requisite knowledge and skills of those persons to be appointed under subsections (2)(d) to (i) and (3)(c) to (h).

- (9) Despite subsection (1), 2 or more adjoining regional councils may establish a single regional transport committee under this section, in which case, subsections (2) to (8) apply with all necessary modifications.
- (10) If a regional transport committee is established under subsection (9), any reference in Part 2 to a regional council is to be read as a reference to each of the regional councils that have established the committee.
- (11) If the area of a territorial authority (other than a territorial authority in the Auckland Region) falls into the regions of more than 1 regional council, the territorial authority must decide (after consulting the relevant regional councils) which regional transport committee to join.
- (12) If subsection (11) applies, and a territorial authority fails to decide to join a regional transport committee, the Minister must direct the territorial authority to be represented by a particular regional transport committee.
- (13) If subsection (11) applies, the regional land transport programme and regional land transport strategy prepared by the regional transport committee that it joins applies to the entire area of the territorial authority.
- (14) For the purposes of subsection (11), **region**—
  - (a) has the same meaning as in the Local Government Act 2002; but
  - (b) means, in relation to Auckland, the Auckland Region as defined in the Local Government (Auckland) Amendment Act 2004.
- (15) Nothing in this section or in sections 106 and 107 applies to the Auckland Regional Council or to Auckland's regional transport committee.

Section 105: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

## **106 Functions of regional transport committee**

- (1) The functions of each regional transport committee are to prepare for approval by the relevant regional council—
  - (a) a regional land transport strategy for its region, or any variations to the strategy, or any reports on the strategy prepared under subpart 1 of this Part; and

- (b) a regional land transport programme for its region, or any variations to the programme prepared under subpart 1 of Part 2; and
  - (c) a regional fuel tax scheme for its region if the regional transport committee decides to recommend a scheme; and
  - (d) to provide the regional council with any advice and assistance the regional council may request in relation to its transport responsibilities.
- (2) Each regional transport committee and ARTA must adopt a policy that determines significance in respect of variations made to regional land transport programmes and regional land transport strategies under sections 18D and 81 (as the case may require).

Section 106: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **107 Procedure of committee**

- (1) The persons appointed under section 105(2)(d) to (i) and (3)(c) to (h) have full speaking rights but are not entitled to vote on matters related to regional land transport programmes.
- (2) The provisions of the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 concerning the meetings of committees of regional councils, so far as they are applicable and with the necessary modifications, apply in respect of meetings of the regional transport committees.
- (3) The Agency is not, as a result of being represented on a regional transport committee, bound to—
- (a) include any matter in a national land transport programme under section 19C; or
  - (b) approve an activity or a combination of activities under section 20.

Section 107: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

### Subpart 3—Miscellaneous

Subpart 3 heading: inserted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

#### **108 Public availability of documents**

- (1) Subsection (2) applies if the Minister or the Agency is required under this Act to make a document publicly available.
- (2) If this subsection applies, the Minister or the Agency must give notice in—
  - (a) the *Gazette*; and
  - (b) 1 or more daily newspapers published in Whangarei, Auckland, Hamilton, Rotorua, Tauranga, Hawke's Bay, New Plymouth, Palmerston North, Wellington, Nelson, Christchurch, Dunedin, and Invercargill.
- (3) Subsection (4) applies if a regional council, ARTA, or the Auckland regional transport committee is required under this Act to make a document publicly available.
- (4) If this subsection applies, the relevant regional council, ARTA, or the Auckland regional transport committee (as the case may be) must give notice in the relevant local and regional newspapers.
- (5) A notice given under subsection (2) or (4) must state—
  - (a) where the document may be inspected; and
  - (b) where the document may be purchased.
- (6) A person who gives notice of a document under subsection (2) or (4) must make the document available—
  - (a) for inspection, free of charge; and
  - (b) for purchase at a reasonable price; and
  - (c) on the relevant person's Internet site in a format that is—
    - (i) readily accessible; and
    - (ii) if practicable, capable of being utilised by the visually impaired.

Compare: 1989 No 75 s 105

Section 108: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**109 Regulations**

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

- (a) requiring the Agency to—
  - (i) disclose specified information to the Minister or the public;
  - (ii) report in specified ways;
- (b) specifying—
  - (i) how funding under section 9(1) is to be apportioned; and
  - (ii) the process by which that funding can be allocated.

Section 109: substituted, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**110 Determinations under section 32(b) of Transit New Zealand Act 1989**

*[Repealed]*

Section 110: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**111 Matters continued by this Part have effect until replaced or revoked under this Part**

*[Repealed]*

Section 111: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

**112 Transitional regulations**

*[Expired]*

Section 112: expired, on 2 July 2005, by section 113.

**113 Expiry of section 112**

*[Repealed]*

Section 113: repealed, on 1 August 2008, by section 43 of the Land Transport Management Amendment Act 2008 (2008 No 47).

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**Schedule 1**

ss 12(2), 19(2)

**Provisions relating to programmes**

*[Repealed]*

Schedule 1: repealed, on 1 August 2008, by section 44 of the Land Transport Management Amendment Act 2008 (2008 No 47).

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**Schedule 2**

ss 16, 17, 18

**Provisions relating to consultation under  
this Act**

*[Repealed]*

Schedule 2: repealed, on 1 August 2008, by section 44 of the Land Transport Management Amendment Act 2008 (2008 No 47).

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**Schedule 3**

s 28(2)

**Provisions relating to safety  
administration programme**

*[Repealed]*

Schedule 3: repealed, on 1 December 2004, by section 17(d) of the Land Transport Management Amendment Act 2004 (2004 No 97).

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**Schedule 4**

ss 73, 82

**Provisions relating to Authority and  
Transit**

*[Repealed]*

Schedule 4: repealed, on 1 August 2008, by section 45 of the Land Transport Management Amendment Act 2008 (2008 No 47).

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**Schedule 5**

s 84

**Matters to be included in statement of  
intent***[Repealed]*

Schedule 5: repealed, on 1 August 2008, by section 45 of the Land Transport Management Amendment Act 2008 (2008 No 47).

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**Schedule 6**

s 90

**Consequential amendments to other Acts***[Repealed]*

Schedule 6: repealed, on 1 August 2008, by section 45 of the Land Transport Management Amendment Act 2008 (2008 No 47).

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## Schedule 7

s 74(4)

### **Auckland regional land transport strategy and regional transport committee**

Schedule 7: added, on 1 August 2008, by section 46 of the Land Transport Management Amendment Act 2008 (2008 No 47).

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- 
- 1 Overview of Auckland's regional land transport strategy**
- (1) Auckland's regional land transport strategy, which is prepared by the Auckland regional transport committee on behalf of the Auckland Regional Council every 6 financial years and covers a period of at least 30 financial years, enables the Auckland Regional Council to provide guidance on the land transport outcomes sought by the Auckland Region.
- (2) This clause is intended by way of explanation only, and if this clause is inconsistent with another provision of this Act or any other Act, then the other provision prevails.
- 2 Responsibility for preparing and approving Auckland's regional land transport strategy**
- (1) At least once in every 6 financial years, the Auckland Regional Council must—

- (a) ensure that the Auckland regional transport committee, which is established under clause 11, prepares, on the regional council's behalf, a regional land transport strategy for the Auckland Region that covers a period of at least 30 financial years; and
  - (b) after considering the strategy prepared by the regional transport committee, approve Auckland's regional land transport strategy.
- (2) For the purposes of this schedule, that part of the district of the Franklin District Council that is within the region of the Waikato Regional Council is to be treated—
  - (a) as not being part of the region of the Waikato Regional Council; but
  - (b) as being part of the region of the Auckland Regional Council.

Compare: 1998 No 110 s 175(5)

### **3 Core requirements for Auckland's regional land transport strategy**

The Auckland regional transport committee must, in preparing Auckland's regional land transport strategy on behalf of the Auckland Regional Council,—

- (a) be satisfied that Auckland's regional land transport strategy—
  - (i) contributes to the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system; and
  - (ii) contributes to each of the following:
    - (A) assisting economic development:
    - (B) assisting safety and personal security:
    - (C) improving access and mobility:
    - (D) protecting and promoting public health:
    - (E) ensuring environmental sustainability; and
  - (iii) is consistent with any—
    - (A) national land transport strategy; and
    - (B) relevant national policy statement or relevant regional policy statement or regional plan that is for the time being in force

under the Resource Management Act 1991; and

- (iv) avoids, to the extent reasonable in the circumstances, adverse effects on the environment; and
- (b) take into account—
  - (i) the relevant GPS; and
  - (ii) any national energy efficiency and conservation strategy; and
  - (iii) any relevant district plans.

Compare: 1998 No 110 s 175(2)(e), (3), (4)

#### **4 Other matters that must be taken into account**

When preparing Auckland's regional land transport strategy on behalf of the Auckland Regional Council, the Auckland regional transport committee must also take into account—

- (a) any guidelines issued by the Minister for regional land transport strategies; and
- (b) the land transport funding likely to be available within the region during the period covered by the strategy; and
- (c) the views of affected communities; and
- (d) the views of land transport network providers; and
- (e) the need to give early and full consideration to land transport options and alternatives in a way that contributes to the matters referred to in clause 3(a)(iv) and paragraph (c); and
- (f) the need to provide early and full opportunities for persons and organisations listed in clause 6(1) to contribute to the development of its regional land transport strategy.

Compare: 1998 No 110 s 175(2)(b)–(d), (f)–(i), (q)

#### **5 Contents of Auckland's regional land transport strategy**

- (1) Subject to subclause (2), Auckland's land transport strategy must contain the following matters:

- (a) inter-regional and intra-regional transport outcomes relevant to the region; and
- (b) the strategic options for achieving those outcomes; and
- (c) an assessment as to how the regional land transport strategy complies with clauses 3 and 4; and

- (d) a statement of any relevant regional economic or land-use considerations, and the likely funding of any land transport infrastructure associated with those considerations; and
  - (e) a demand management strategy; and
  - (f) an assessment of the appropriate role for each land transport mode in the region; and
  - (g) an assessment of the role of education and enforcement in contributing to land transport outcomes; and
  - (h) a statement that identifies any strategic option for which co-operation is required with other regions; and
  - (i) a statement that identifies persons or organisations who should be involved in the further development of strategic options; and
  - (j) measurable targets to be achieved to meet the outcomes of the regional land transport strategy; and
  - (k) a statement provided by an independent auditor of how the process followed by the regional transport committee complied with the requirements of this Act; and
  - (l) a summary of the policy relating to significance adopted by the regional transport committee in the Auckland Region under clause 11(6).
- (2) Despite subclause (1), Auckland's regional land transport strategy must not—
- (a) include reference to activities or their prioritisation unless those activities have high regional significance; or
  - (b) include any matters other than those specified in subclause (1); and
  - (c) include any regional public transport plan.

Compare: 1998 No 110 s 175(2)(j)–(p); 2004 No 57 s 36

Schedule 7 clause 5(2)(c): amended, on 1 January 2009, by section 63(2) of the Public Transport Management Act 2008 (2008 No 87).

## **6 Consultation requirements for preparation of Auckland's regional land transport strategy**

- (1) When preparing a proposed regional land transport strategy on behalf of the Auckland Regional Council, the Auckland regional transport committee must consult—

- (a) the approved organisations in the region (which, for the avoidance of doubt, includes ARTA); and
  - (b) the adjoining regional councils and territorial authorities; and
  - (c) the Secretary; and
  - (d) the Agency; and
  - (e) the Commissioner; and
  - (f) the New Zealand Historic Places Trust; and
  - (g) the New Zealand Railways Corporation; and
  - (h) representative groups of land transport users and providers (including representative groups of coastal shipping users and providers); and
  - (i) the Ministry of Health; and
  - (j) the Accident Compensation Corporation; and
  - (k) the district health boards in the region; and
  - (l) affected communities; and
  - (m) Māori of the region; and
  - (n) the public in the region; and
  - (o) every affected approved public organisation in the region.
- (2) In carrying out the consultation required by subclause (1), the Auckland regional transport committee must—
  - (a) act in accordance with the consultation principles set out in section 82 of the Local Government Act 2002; and
  - (b) use the special consultative procedure under sections 83, 87(2)(a), and 89 of the Local Government Act 2002.
- (3) The Auckland regional transport committee complies with subclause (2) if the required consultation on the regional land transport strategy is carried out in conjunction with the Auckland Regional Council's consultation on its long-term council community plan or its annual plan under the Local Government Act 2002.
- (4) When preparing a regional land transport strategy, the Auckland regional transport committee may require from any territorial authority within its region such information as the committee considers it requires in order to properly perform its functions under this Act in relation to that strategy, and the

territorial authority must promptly comply with that requirement.

Compare: 1998 No 110 s 179

**7 Availability of Auckland's regional land transport strategy**

As soon as practicable after it has approved Auckland's regional land transport strategy, the Auckland Regional Council must—

- (a) forward copies of it to—
  - (i) the Secretary; and
  - (ii) the Agency; and
  - (iii) the Commissioner; and
  - (iv) the approved organisations in the region; and
- (b) make it publicly available in accordance with section 108.

Compare: 1998 No 110 s 177

**8 Variation of regional land transport strategy**

- (1) The Auckland Regional Council may vary Auckland's regional land transport strategy at any time.
- (2) The provisions of this schedule that apply to the preparation and approval of Auckland's regional land transport strategy apply, with the necessary modifications, to a variation of Auckland's regional land transport strategy.
- (3) A variation forms part of the Auckland regional land transport strategy that it varies.
- (4) Subclause (2) does not apply to any variations that are not significant.
- (5) The Auckland Regional Council must—
  - (a) monitor its regional land transport strategy; and
  - (b) promptly vary its regional land transport strategy if necessary to ensure that it is consistent with the national land transport strategy.

Compare: 1998 No 110 s 176

**9 Effect of Auckland's regional land transport strategy**

- (1) The Secretary must ensure that the actions of the Ministry take into account Auckland's regional land transport strategy.
- (2) In exercising its powers or performing its functions and duties, the Agency must ensure that it takes into account Auckland's regional land transport strategy.
- (3) The Commissioner must, except to the extent that his or her statutory functions or duties or common law obligations in any particular case otherwise require, ensure that in exercising or performing his or her functions, duties, and powers he or she takes into account Auckland's regional land transport strategies.

Compare: 1998 No 110 s 181

**10 Three-year reports on regional land transport strategy**

- (1) Every 3 financial years, the Auckland regional transport committee must prepare a progress report on the implementation of the Auckland regional land transport strategy in place during the previous 3 financial years.
- (2) The Secretary, the Agency, the Commissioner, and approved organisations in the region must supply to the regional transport committee such information within its or his or her possession or control as may be reasonably requested by the Auckland regional transport committee for the purposes of preparing its progress report.
- (3) Within 3 months after the close of the third financial year to which its 3-year report relates, the Auckland regional transport committee on behalf of the Auckland Regional Council must—
  - (a) forward copies of the report to—
    - (i) the Secretary; and
    - (ii) the Agency; and
    - (iii) the Commissioner; and
    - (iv) approved organisations in the region; and
  - (b) make a copy of the report publicly available in accordance with section 108.

Compare: 1998 No 110 s 182

**11 Regional transport committee**

- (1) The Auckland Regional Council must establish a regional transport committee under this clause for the Auckland Region.
- (2) The Auckland regional transport committee consists of suitable persons appointed by the Auckland Regional Council to represent—
  - (a) the objectives of economic development, safety and personal security, public health, access and mobility, and environmental sustainability; and
  - (b) cultural interests; and
  - (c) the Auckland Regional Council; and
  - (d) other territorial authorities in the region; and
  - (e) the Agency.
- (3) The Auckland Regional Council must appoint a sufficient number of persons to enable all of the objectives specified in subclause (2)(a) to be adequately represented.
- (4) A person appointed with respect to subclause (2)(a) or (b)—
  - (a) must be from the wider regional community; and
  - (b) must not be a representative of the Auckland Regional Council, any other territorial authority in the Auckland Region, or the Agency.
- (5) The functions of the regional transport committee in the Auckland Region are to—
  - (a) prepare a regional land transport strategy for the Auckland Region for approval by the Auckland Regional Council, and to prepare any variations to, and reports on, the strategy;
  - (b) carry out the responsibilities of the committee set out in section 65E(3) and (4) in respect of the regional fuel tax scheme for the Auckland Region.
- (6) The regional transport committee in the Auckland Region must adopt a policy that determines significance in respect of variations made to regional land transport strategies under clause 8.
- (7) The provisions of the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 concerning the meetings of committees of regional



councils, so far as they are applicable and with the necessary modifications, apply in respect of meetings of the Auckland regional transport committee.

Compare: 1998 No 110 s 178

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## **Land Transport Management Amendment Act 2008**

Public Act 2008 No 47  
Date of assent 14 July 2008  
Commencement see section 2

### **1 Title**

This Act is the Land Transport Management Amendment Act 2008.

### **2 Commencement**

This Act comes into force on 1 August 2008.

## **Part 2**

### **Miscellaneous provisions**

#### **47 Consequences of establishment of New Zealand Transport Agency**

(1) On 1 July 2008,—

- (a) Land Transport New Zealand and Transit New Zealand are dissolved; and
- (b) the office of the Director of Land Transport ceases to exist; and
- (c) the Transit New Zealand Act 1989 is called the Government Roding Powers Act 1989.

(2) Schedule 2 applies to this section.

#### **48 Transitional and savings provisions**

Other transitional and savings provisions relating to the coming into force of this Act are set out in Schedule 2.

#### **52 Existing rights under Government Superannuation Fund Act 1956 unaffected**

(1) Despite any thing in any other Act or any change in the majority shareholding of the company, any person who, immediately before 30 June 2008, is employed by the company and is a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is,

for the purposes of that Act, deemed to be an employee in the Government service so long as that person continues to be an employee of the company.

- (2) The Government Superannuation Fund Act 1956 applies to that person in all respects as if that person's service as an employee of the company is Government service.
  - (3) Nothing in subsections (1) and (2) entitles any person to become a contributor to the Government Superannuation Fund after that person has ceased to be a contributor.
  - (4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with this section, to all employees of the company who are contributors to the Government Superannuation Fund, **controlling authority**, in relation to the those employees, means the company's board.
  - (5) For the purposes of this section, **company** means Toll NZ Consolidated Limited; and includes any successor company into which all or some of its assets, liabilities, and employees are transferred or merged, provided the Crown wholly owns (either directly or indirectly) the successor company or companies.
-

## Schedule 2

### Transitional and savings provisions

ss 47, 48

#### Interpretation

#### 1 Interpretation

- (1) In this schedule, unless the context otherwise requires,—

**Authority** has the same meaning as in section 5 of the Land Transport Management Act 2003 as in force immediately before 1 August 2008

**board**, in relation to the new Agency, means the board specified in section 98 of the Land Transport Management Act 2003

**Director** means the Director of Land Transport

**former agency** means (as the case may require)—

- (a) Land Transport New Zealand;
- (b) Transit New Zealand

**land transport programme** has the same meaning as in section 5 of the Land Transport Management Act 2003 as in force immediately before 1 August 2008

**new Agency** means the New Zealand Transport Agency established under section 93 of the Land Transport Management Act 2003

**property**—

- (a) means every type of property; and
- (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—

- (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

**transferred employee** means a person who,—

- (a) immediately before 1 August 2008, is employed by a former agency; and
- (b) is transferred to the new Agency under clause 26(1)(h).

- (2) Any term or expression that is defined in the Land Transport Management Act 2003 and used, but not defined, in this schedule has, unless the context otherwise requires, the same meaning as in that Act.

Compare: 2004 No 97 Schedule 2 cl 1

### National land transport fund

## **2 Treatment of certain land transport revenue**

- (1) This clause applies to—
- (a) all land transport revenue referred to in section 9(6) of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008) and held in the national land transport fund immediately before that date; and
  - (b) all amounts referred to in section 10(3)(a) of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008) and held by the Authority in the national land transport account immediately before that date.
- (2) On 1 August 2008, all land transport revenue and all amounts to which this clause applies must be treated as being part of the national land transport fund referred to in section 10(1) of the Land Transport Management Act 2003 (as in force on and from that date).

## **3 Crown may pay new Agency for certain liabilities incurred before 1 August 2008**

- (1) This clause applies to all land transport revenue referred to in section 9(6) of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008) that has not been paid to the Authority before that date, in respect of the 2007/08 financial year.
- (2) Without limiting clause 26(1)(d), the Crown may, without further appropriation than this clause, pay to the new Agency an amount equal to the land transport revenue to which this clause applies, as if the 2007/08 financial year ended on 31 July 2008.

#### **4 Crown's authority to pay for certain expenditure using land transport revenue**

- (1) The Crown may use land transport revenue to pay to—
- (a) the Secretary the following amount in each of the following financial years for the purposes of Waikato rail works:

<b>Financial year</b>	<b>Amount (\$)</b>
2008/09	5,000,000
2009/10	5,000,000

- (b) the Secretary to the Treasury the following amount in each of the following financial years for the purposes of upgrades and renewal of the below track Auckland rail infrastructure:

<b>Financial year</b>	<b>Amount (\$)</b>
2008/09	155,000,000
2009/10	130,000,000

- (2) In respect of the 2008/09 and 2009/10 financial years, the amount referred to in section 9(3) of the Land Transport Management Act 2003 is an amount equal to the land transport revenue for the relevant financial year less—
- (a) any amounts that have been paid in respect of that year under subclause (1); and
- (b) the amounts for that year that are referred to in section 9(1) and (2) of the Land Transport Management Act 2003.
- (3) In each of the 2008/09 and 2009/10 financial years, the amounts paid under subclause (1) must be deducted from the amount of land transport revenue that constitutes an inflow of the national land transport fund for the relevant financial year under section 10(2)(a) of the Land Transport Management Act 2003.
- (4) The Governor-General may, by Order in Council, reduce or increase any or all amounts or financial years specified in subclause (1), and this clause will apply or continue to apply (as the case may be), with the necessary modifications, in respect of any amended amount or financial year.

Land transport programmes

**5 Completed land transport programmes for 2008/09 financial year to have effect until 1 July 2009**

- (1) This clause applies to the following land transport programmes (as defined immediately before 1 August 2008):
  - (a) the land transport programme completed by an approved organisation for the 2008/09 financial year under section 12 of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008);
  - (b) the land transport programme completed by the Authority for the 2008/09 financial year under section 12A of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008).
- (2) A land transport programme to which this clause applies has effect until 1 July 2009.
- (3) Subject to clause 6, the relevant provisions of the Land Transport Management Act 2003 that were in force immediately before 1 August 2008 continue to apply, with all necessary modifications, to a land transport programme that is continued in effect by subclause (2) as if—
  - (a) a reference to the Authority were a reference to the new Agency; and
  - (b) the land transport programme completed by each of the former agencies for the 2008/09 financial year were completed by the new Agency.

**6 Treatment of Police activities and combinations of Police activities in Authority's completed land transport programme for 2008/09 financial year**

- (1) This clause applies to the land transport programme referred to in clause 5(1)(b).
- (2) Police activities and combinations of Police activities that are included in the land transport programme to which this clause applies are to be treated as if they were recommendations of the new Agency that had been approved by the responsible Minister under section 18L(1) of the Land Transport Management Act 2003.

- (3) However, to avoid doubt, the Police activities and combinations of Police activities referred to in subclause (2) are not to be treated as if they were the first approval referred to in clause 9.

**7 Completion of draft land transport programmes for 2008/09 financial year**

- (1) This clause applies to any draft land transport programme under section 12 or 12A of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008) that was in existence (but not completed) immediately before 1 August 2008.
- (2) Approved organisations must, unless it is impracticable to do so, comply with the relevant provisions of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008) when completing their land transport programmes for the 2008/09 financial year.
- (3) The new Agency must, unless it is impracticable to do so, comply with the relevant provisions of the Land Transport Management Act 2003 (as in force immediately before 1 July 2008) when completing the land transport programme for each former agency for the 2008/09 financial year.
- (4) A land transport programme that is completed under this clause continues to have effect until 30 June 2009.
- (5) Subject to clause 6, the relevant provisions of the Land Transport Management Act 2003 that were in force immediately before 1 August 2008 continue to apply, with all necessary modifications, to a land transport programme that is continued in effect by subclause (4) as if—
  - (a) a reference to the Authority were a reference to the new Agency; and
  - (b) the land transport programme completed by each of the former agencies for the 2008/09 financial year were completed by the new Agency.



First regional land transport programmes

**8 First regional land transport programmes**

Each regional council and ARTA must ensure that their first regional land transport programmes are in place for the 3 financial years commencing on and from 1 July 2009.

Police activities or combinations of Police activities

**9 First approval of recommendations**

The Minister must ensure that the first approval under section 18L(1) is for the 3 financial years commencing on and from 1 July 2009.

National land transport programme

**10 National land transport programme for 2008/09 financial year to have effect until 1 July 2009**

- (1) This clause applies to the national land transport programme that has been prepared and adopted by the Authority for the 2008/09 financial year under section 19 of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008).
- (2) The national land transport programme to which this clause applies has effect until 1 July 2009.
- (3) The relevant provisions of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008) continue to apply, with all necessary modifications, to a national land transport programme that is continued in effect by sub-clause (2) as if—
  - (a) a reference to the Authority were a reference to the new Agency; and
  - (b) the national land transport programme prepared and adopted by Land Transport New Zealand for the 2008/09 financial year were prepared and adopted by the new Agency.

**11 First national land transport programme of new Agency**

The new Agency must ensure that its first national land transport programme is in place for the 3 financial years commencing on and from 1 July 2009.

Approval of activities or combinations of  
activities

**12 Approvals in effect immediately before 1 August 2008**

Subject to clause 42, approvals in effect under sections 20 and 21 of the Land Transport Management Act 2003 immediately before 1 August 2008 continue to have effect.

Compare: 2004 No 97 Schedule 2 cl 16

**13 Approval of activities and combinations of activities for 2008/09 financial year**

Subject to clauses 12 and 14 to 17, the new Agency must, unless it is impracticable to do so (for example, because there is no GPS), comply with the relevant provisions of the Land Transport Management Act 2003 when approving activities and combinations of activities for the 2008/09 financial year.

**14 Approval of certain activities or combinations of activities**

- (1) The new Agency must approve activities and combinations of activities as qualifying for payment from the national land transport fund up to the amount, which is subject to subclause (2), and by the financial year specified in the second column of the following table in order to fulfil the Crown's commitment described in the first column of that table opposite that amount and financial year:

<b>The Crown's commitment</b>	<b>Amount (which is subject to subclause (2)) and financial year by which amount is to be approved (\$)</b>
Auckland Land Transport—contribution to implementing Auckland's regional land transport strategy: the Crown's commitment was originally \$898,000,000 over 2004/05–2014/15, including rail funding	130,000,000 by 2012/13

The Crown's commitment	Amount (which is subject to subclause (2)) and financial year by which amount is to be approved (\$)
Bay of Plenty—to address congestion and improve access and safety through investment in strategic roading, passenger transport, transport demand management, and walking and cycling: the Crown's commitment was originally \$150,000,000 over 2006/07–2014/15	135,000,000 by 2015/16
Waikato Land Transport—contribution to implementing Waikato's regional land transport strategy: the Crown's commitment was originally \$215,000,000 over 2007/08–2016/17, including rail funding	188,000,000 by 2017/18
Wellington Land Transport—contribution to implementing Wellington's regional land transport strategy: the Crown's commitment was originally \$225,000,000 over 2005/06–2014/15	163,000,000 by 2015/16
Wellington Land Transport (Western Corridor)—contribution to improve safety and access reliability of the Wellington Western Corridor: the Crown's commitment was originally \$660,000,000 over 2006/07–2015/16	640,000,000 by 2016/17 made up as follows: (a) up to 405,000,000 to be applied to advance a long-term solution to address access reliability for State Highway 1 between Kapiti and Wellington (b) up to 235,000,000 to be applied to passenger transport and roading to address congestion and to improve safety and access reliability of the Wellington Western Corridor.
(2) The Governor-General may, by Order in Council, increase any or all of the amounts or periods specified in the second column of the table in subclause (1).	
(3) The new Agency must include in its annual report on the national land transport fund under section 11 of the Land Transport Management Act 2003 a statement of the total expenses or capital expenditure incurred from the 2008/09 financial year to date in fulfilling each of the Crown's commitments listed in subclause (1).	
(4) The reporting requirement in subclause (3) applies until all of the Crown's commitments listed in subclause (1) have been fulfilled.	

- (5) To avoid doubt, compliance by the new Agency with this clause does not constitute a breach of section 95(2) of the Land Transport Management Act 2003.

**15 Approval of new Agency's activities and combinations of activities (excluding those relating to State highways) for 2008/09 financial year**

- (1) This clause applies to activities and combinations of activities (excluding those relating to State highways)—
  - (a) that the new Agency proposes to deliver, or to manage the delivery of, in the 2008/09 financial year; and
  - (b) for which funding is sought from the national land transport fund; and
  - (c) whether or not those activities or combinations of activities have been included in a land transport programme for the 2008/09 financial year that has been completed by the Authority under section 12A of the Land Transport Management Act 2003 (as in force immediately before 1 August 2008).
- (2) Despite section 20(2)(a), (b), (e), and (f) of the Land Transport Management Act 2003, the new Agency may approve any activities or combinations of activities to which this clause applies as qualifying for payment from the national land transport fund.

**16 Treatment of certain costs and expenses of new Agency for 2008/09 financial year**

- (1) This clause applies to costs and expenses of the new Agency for the 2008/09 financial year that arise out of the performance of its functions and duties under subpart 1 of Part 2 of the Land Transport Management Act 2003.
- (2) Despite section 20(2)(a), (b), (e), and (f) of the Land Transport Management Act 2003, the new Agency may approve any costs and expenses of the new Agency to which this clause applies as qualifying for payment from the national land transport fund.

**17 No Ministerial approval required for costs and expenses of new Agency for 2008/09 financial year**

- (1) This clause applies despite anything to the contrary in the Land Transport Management Act 2003 (as in force immediately before 1 August 2008 and as in force on and from that date).
- (2) The Minister's approval of the costs and expenses of the new Agency for the 2008/09 financial year is not required.

**18 Approved procurement procedures**

Subject to clause 42, approved procurement procedures in effect under section 25 or 95(1) of the Land Transport Management Act 2003 immediately before 1 August 2008 continue to have effect as approved procurement procedures under that Act.

Compare: 2004 No 97 Schedule 2 cl 21

**19 Reporting requirements for new Agency in 2008/09 and 2009/10 financial years**

Despite section 26(2)(a), the new Agency is required to report on the statement of inflows and expenses and capital expenditure of the national land transport fund as follows:

- (a) for the 2008/09 financial year, for that financial year:
- (b) for the 2009/10 financial year, for that financial year and the 2008/09 financial year.

Regional land transport committees and first  
regional transport committees

**20 Temporary continuation of regional land transport committees (other than Auckland regional transport committee)**

- (1) This clause applies to any regional land transport committee (other than the Auckland regional transport committee) that—
  - (a) was established under section 178 of the Land Transport Act 1998 (as in force immediately before 1 August 2008); and
  - (b) was in existence immediately before that date.

- (2) A regional land transport committee to which this clause applies continues in existence until whichever is the earlier of the following:
- (a) a regional transport committee for the region concerned is established under section 105 of the Land Transport Management Act 2003;
  - (b) the close of 30 September 2008 or on a date, no later than 31 December 2008, that the Minister agrees.

**21 Establishment of first regional transport committees for each region (excluding Auckland Region)**

- (1) Every regional council, or unitary authority, must establish a regional transport committee, under section 105 of the Land Transport Management Act 2003, for its region before 1 October 2008 or on a date, no later than 31 December 2008, that the Minister agrees.
- (2) If section 105(11) of the Land Transport Management Act 2003 applies, the relevant territorial authority must decide which regional transport committee to join before 1 October 2008.

**22 Continuation of Auckland regional land transport committee**

The Auckland regional land transport committee established under section 178 of the Land Transport Act 1998 (as in force immediately before 1 August 2008), and in existence immediately before that date, continues in existence as the Auckland regional transport committee under clause 11 of Schedule 7 (as in force from 1 August 2008).

Regional land transport strategies

**23 Existing regional land transport strategies**

- (1) This clause applies to regional land transport strategies in force under Part 13 of the Land Transport Act 1998 immediately before the commencement of Part 3 of the Land Transport Management Act 2003.
- (2) Subject to subclause (3) and clause 42, a regional land transport strategy to which this clause applies continues to have ef-

fect until it would have ceased to be current under section 176 of the Land Transport Act 1998 (as in force immediately before the commencement of Part 3 of the Land Transport Management Act 2003).

- (3) The Minister may approve the extension of a regional land transport strategy to which this clause applies by a period of up to 18 months.

**24 First progress reports on regional land transport strategy**

Each regional transport committee must ensure that its first progress report on its regional land transport strategy is for the 3 consecutive financial years ending on 30 June 2011.

**First GPS**

**25 First GPS**

- (1) Despite section 86 of the Land Transport Management Act 2003, the first GPS must be issued with effect on and from 1 July 2009.
- (2) Despite section 87(1)(c) and (2) of the Land Transport Management Act 2003, in preparing the first GPS, the Minister may, but need not,—
- (a) have regard to the views of Local Government New Zealand and representative groups of land transport users and providers (including representative groups of coastal shipping users and providers);
  - (b) consult with the new Agency.

**Dissolution of Land Transport New Zealand and  
Transit New Zealand**

**26 Consequences of dissolution**

- (1) On 1 August 2008,—
- (a) the functions, duties, and powers of the former agencies under any enactment vest in the new Agency; and
  - (b) all property belonging to the former agencies vests in the new Agency; and
  - (c) all information held by the former agencies is held by the new Agency; and

- (d) all money payable to or by the former agencies becomes payable to or by the new Agency; and
  - (e) all rights, liabilities, contracts, entitlements, and engagements of the former agencies become the rights, liabilities, contracts, entitlements, and engagements of the new Agency; and
  - (f) all directions to the former agencies in effect immediately before 1 August 2008 become directions to the new Agency; and
  - (g) any delegation by Transit under section 62 of the Transit New Zealand Act 1989 has effect as if it were a delegation by the new Agency; and
  - (h) subject to clause 31, every employee of the former agencies becomes an employee of the new Agency on the same terms and conditions as applied immediately before becoming an employee of the new Agency; and
  - (i) anything done, or omitted to be done, or that is to be done, by, or in relation to, the former agencies is to be treated as having been done, or having been omitted to be done, or to be done, by, or in relation to, the new Agency; and
  - (j) the commencement, continuation, or enforcement of proceedings by or against the former agencies may instead be commenced, continued, or enforced by or against the new Agency without amendment to the proceedings; and
  - (k) the completion of a matter or thing that would, but for this clause, have been completed by the former agencies, may be completed by the new Agency.
- (2) Despite anything in subclause (1), the board of the new Agency may appoint a new chief executive after 1 August 2008.
- (3) The transfer of information from the former agencies to the new Agency under subclause (1)(c) does not constitute an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993.
- (4) The dissolution of the former agencies does not, by itself, affect any of the following matters:



- (a) any decision made, or anything done or omitted to be done, by a former agency in relation to the performance or the exercise of the former agency's functions, duties, or powers under any enactment:
- (b) any proceedings commenced by or against a former agency:
- (c) any other matter or thing arising out of a former agency's performance or exercise, or purported performance or exercise, of the former agency's functions, duties, or powers under any enactment.

Compare: 2004 No 97 Schedule 2 cl 2

## **27 Operating principles**

- (1) Despite section 96(1)(b)(ii) of the Land Transport Management Act 2003, for the 2008/09 and 2009/10 financial years the new Agency must, but only if and to the extent that it is practicable and reasonable to do so, comply with the operating principle set out in that provision.
- (2) However, the Minister may extend the application of subclause (1) to the new Agency for the 2010/11 financial year.
- (3) Despite section 96(2) of the Land Transport Management Act 2003, the new Agency is only required to comply with that provision after 30 September 2008 or on a date, no later than 31 October 2008, that the Minister agrees.

## **28 References to former agency**

- (1) This clause applies to—
  - (a) things that are in force or existing on 1 August 2008 (whether coming into force, entered into, or created before or after the commencement of this clause); and
  - (b) references in any thing, including (without limitation) enactments, rules, bylaws, deeds, agreements, proceedings, instruments, documents and notices.
- (2) If this clause applies, every reference in any thing specified in subclause (1) to a former agency is, on or after 1 August 2008, to be read as a reference to the new Agency unless the context otherwise requires.

Compare: 2004 No 97 Schedule 2 cl 3

**29 New Agency replaces Transit New Zealand as requiring authority**

- (1) This clause applies to any Order in Council, notice, or other instrument that approves of Transit New Zealand as a requiring authority and that was in effect immediately before 1 August 2008, including (without limitation)—
  - (a) the Resource Management (Approval of Transit New Zealand as Requiring Authority) Order 1992; and
  - (b) the Resource Management (Approval of Transit as Requiring Authority) Notice 1994.
- (2) Without limiting clauses 26 and 28, on 1 August 2008,—
  - (a) the new Agency replaces Transit New Zealand as a requiring authority under any Order in Council, notice, or other instrument to which this clause applies; and
  - (b) every reference to Transit New Zealand in any Order in Council, notice, or other instrument to which this clause applies, is, unless the context otherwise requires, to be read as a reference to the new Agency; and
  - (c) anything done, or omitted to be done, or that is to be or may be done (under or in relation to an Order in Council, notice, or other instrument to which this clause applies) by Transit New Zealand is to be treated as having been done, or having been omitted to be done, or to be or may be done, by the new Agency; and
  - (d) every notice of requirement and designation of Transit New Zealand is transferred to and held by the new Agency, with the same status and priority as if Transit New Zealand and the new Agency were the same entity.

**30 First members of new Agency**

In appointing the first members of the new Agency, the Minister may, but need not, consult in accordance with section 98(2) of the Land Transport Management Act 2003.

Compare: 2004 No 97 Schedule 2 cl 4

**31 Transferred employees**

- (1) The terms and conditions of employment of a transferred employee immediately before 1 August 2008 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 Agency; or
  - (b) the transferred employee accepts a subsequent appointment with the new Agency.
- (2) For the purposes of every enactment, law, determination, contract, and agreement relating to the employment of a transferred employee,—
  - (a) the employment agreement of that employee is to be treated as unbroken; and
  - (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 Agency.
- (3) To avoid doubt, the employment of a transferred employee by the new Agency does not constitute new employment for the purposes of the KiwiSaver Act 2006.
- (4) 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
  - (b) the employee has ceased (as a result of the transfer to the new Agency) to be an employee of a former agency; or
  - (c) the employee has been transferred to a suitable alternative position.

Compare: 2004 No 97 Schedule 2 cls 5–8

### **32 Government Superannuation Fund**

- (1) This clause applies to every person who, immediately before 1 August 2008, 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 clause applies.
- (3) This clause is for the avoidance of doubt.

Compare: 2004 No 97 Schedule 2 cl 9

**33 Final reports and accounts**

- (1) As soon as practicable after the commencement of this Act, the new Agency must arrange for the final report of each former agency to be delivered to the Minister.
- (2) The report must—
  - (a) describe the former agency's operation for the period beginning on 1 July 2007 and ending with 30 June 2008; and
  - (b) include—
    - (i) financial statements of that agency prepared, in accordance with Part 4 of the Crown Entities Act 2004, for that period; and
    - (ii) an audit report prepared by the Auditor-General and a statement of responsibility relating to those financial statements.
- (3) The Minister must present a copy of the final report of each former agency to the House of Representatives as soon as is reasonably practicable after receiving it from the new Agency.  
Compare: 2004 No 97 Schedule 2 cl 10

**34 Responsibility for reports and accounts of former agencies from 1 July 2008**

- (1) The new Agency must include in its initial annual report the information in respect of each former agency for the period commencing 1 July 2008 and ending on 31 July 2008 that each former agency would have had to include in the former agency's annual report under section 151 of the Crown Entities Act 2004 had it continued in existence.
- (2) To avoid doubt, the new Agency may, if it so decides, present the information referred to in subclause (1) in a combined form for the whole of the financial year ended 30 June 2009.
- (3) For the purposes of subclause (1), section 45J(1) of the Public Finance Act 1989 does not apply to each former agency in respect of the period commencing 1 July 2008 and ending on 31 July 2008.

**35 Statements of intent**

A former agency is not required to produce a statement of intent for the financial year commencing 1 July 2008.

Compare: 2004 No 97 Schedule 2 cl 12

**36 Directions to former agencies continue to have effect as directions to new Agency**

Subject to clause 42, directions to any former agency in effect immediately before 1 August 2008 under any enactment continue to have effect as directions to the new Agency.

Compare: 2004 No 97 Schedule 2 cl 13

**37 Delegations**

Subject to clause 42, delegations in effect immediately before 1 August 2008 under the Crown Entities Act 2004 or any other Act continue to have effect despite the dissolution of Land Transport New Zealand or Transit New Zealand or the disestablishment of the office of the Director of Land Transport.

Compare: 2004 No 97 Schedule 2 cl 14

**38 Continuation of certain appointments**

A person who holds office as an enforcement officer or a dangerous goods enforcement officer under section 208 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.

Compare: 2004 No 97 Schedule 2 cl 15(2)

Disestablishment of office of Director of Land  
Transport

**39 Consequences of disestablishing office of Director of Land Transport**

(1) On 1 August 2008,—

- (a) the functions, duties, and powers of the Director under any enactment vest in the new Agency; and
- (b) all property belonging to the Director vests in the new Agency; and

- (c) all information held by the Director is held by the new Agency; and
  - (d) all money payable to or by the Director becomes payable to or by the new Agency; and
  - (e) all rights, liabilities, contracts, entitlements, and engagements of the Director become the rights, liabilities, contracts, entitlements, and engagements of the new Agency; and
  - (f) anything done, or omitted to be done, or that is to be done, by, or in relation to, the Director is to be treated as having been done, or having been omitted to be done, or to be done, by, or in relation to, the new Agency; and
  - (g) the commencement, continuation, or enforcement of proceedings by or against the Director may instead be commenced, continued, or enforced by or against the new Agency without amendment to the proceedings; and
  - (h) the completion of a matter or thing that would, but for this clause, have been completed by the Director, may be completed by the new Agency.
- (2) The transfer of information from the Director to the new Agency under subclause (1)(c) does not constitute an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993.
- (3) The disestablishment of the office of the Director of Land Transport does not, by itself, affect any of the following matters:
- (a) any decision made, or anything done, or omitted to be done, by the Director in relation to the performance or the exercise of the Director's functions, duties, or powers under any enactment:
  - (b) any proceedings commenced by or against the Director:
  - (c) any other matter or thing arising out of the Director's performance or exercise, or purported performance or exercise, of the Director's functions, duties, or powers under any enactment.

**40 References to Director**

- (1) This clause applies to—
- (a) things that are in force or existing on 1 August 2008 (whether coming into force, entered into, or created before or after the commencement of this clause); and
  - (b) references in any thing, including (without limitation) enactments, rules, bylaws, deeds, agreements, proceedings, instruments, documents, and notices.
- (2) If this clause applies, every reference in any thing specified in subclause (1) to the Director (or to the Director of Land Transport) is, on and after 1 August 2008, to be read as a reference to the new Agency unless the context otherwise requires.

Miscellaneous

**41 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, liability, contract, entitlement, interest, title, immunity, or duty.

Compare: 2004 No 97 s 20

**42 Matters continued by this Act have effect until replaced or revoked**

If a matter or thing is continued with a specified effect by this Act, the matter or thing continues to have that effect until revoked or replaced under the relevant empowering enactment.

Compare: 2003 No 118 s 111

**43 Transitional regulations**

- (1) 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:

- 
- (b) providing that, subject to such conditions as may be specified in the regulations, during a specified transitional period,—
    - (i) specified provisions of this Act (including definitions) do not apply:
    - (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.
  - (2) This clause expires on 1 January 2012.
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## **Public Transport Management Act 2008**

Public Act 2008 No 87  
Date of assent 25 September 2008  
Commencement see section 2

### **1 Title**

This Act is the Public Transport Management Act 2008.

### **2 Commencement**

This Act comes into force on 1 January 2009.

## **Part 2**

### **Regulation of public transport**

#### **Subpart 3—Miscellaneous**

##### *Transitional and savings provisions*

### **64 Transitional provision for existing registered services**

- (1) A passenger service (or any part of a passenger service) that, before the commencement of this Act, was not a contracted service under Part 2 of the Transport Services Licensing Act 1989 but was registered under section 49 of the Transport Services Licensing Act 1989 is to be treated as a registered commercial public transport service under this Act.
- (2) Subsection (1) does not apply to the following services:
  - (a) taxi services; and
  - (b) shuttle services; and
  - (c) private hire services.
- (3) A passenger service that, before the commencement of this Act, was a contracted service under Part 2 of the Transport Services Licensing Act 1989, and a registered service under that Act, is to be treated as a contracted public transport service that is a registered service under this Act.
- (4) For the purposes of this section, **passenger service** means a passenger service as defined in section 47 of the Transport Services Licensing Act 1989, as if that Act were still in force.

**65 Transitional provision for notifications received but not processed before commencement of Act**

A notification received under the Transport Services Licensing Act 1989 but not processed before the commencement of this Act is to be treated as a notification received under section 32, 36, or 46, as the case may require.

**66 Transitional provision for existing regional passenger transport plans**

- (1) Except in the Auckland Region, a regional council must adopt a regional public transport plan under section 9 at the same time or as soon as is reasonably practicable after the regional council has approved a regional land transport strategy for the first time after the commencement of this Act but in any case not later than 3 years after the commencement of this Act, if section 9(1) applies.
- (2) In the Auckland Region, ARTA must adopt a regional public transport plan under section 9 as soon as is reasonably practicable after the Auckland Regional Council has approved a regional land transport strategy for the first time after the commencement of this Act but in any case not later than 3 years after the commencement of this Act, if section 9(1) applies.
- (3) A regional passenger transport plan prepared by a regional council under the Transport Services Licensing Act 1989 expires when the regional council adopts a regional public transport plan in accordance with subsection (1) or (2) or 3 years after the commencement of this Act, whichever is earlier.
- (4) Subject to subsection (5) or (6), until a regional council's regional passenger transport plan prepared under the Transport Services Licensing Act 1989 expires under subsection (3), that regional passenger transport plan remains in effect as if that Act (immediately before the commencement of this Act) was still in force.
- (5) If a regional passenger transport plan remains in effect under subsection (4), a regional council may not vary the plan to include a control under section 13.
- (6) Sections 14(a)(iii)(B), 18J(2)(c)(ii), 19B(b)(ii), 20(3)(c), 48(1)(c)(i), 58(1)(c), 65J(b)(iii), 82, 105(13) of the Land

Transport Management Act 2003 apply as if section 77(h) of that Act were not repealed under section 63(2) if a regional passenger transport plan (other than a plan that relates to the Auckland Region) continues in effect under subsection (4) and—

- (a) is or, immediately before the commencement of this Act, was contained in a regional land transport strategy that has been approved or continued in accordance with the Land Transport Management Act 2003; or
- (b) would have been required to be contained in a regional land transport strategy but for the repeal of section 77(h) of the Land Transport Management Act 2003.

**67 Transitional provisions for register of services**

- (1) Subject to subsection (2), the register of services established under Part 2 of the Transport Services Licensing Act 1989 is to be treated as the register of services established under this Act.
- (2) All entries in the register of services established under Part 2 of the Transport Services Licensing Act 1989 in relation to taxi services, shuttle services, and private hire services are to be treated as expunged and deleted.

**68 Transitional provisions for regional councils and ARTA**

- (1) Except in the Auckland Region, a regional council may adopt a regional public transport plan for the first time under this Act at the same time as it approves a regional land transport programme under the Land Transport Management Act 2003.
  - (2) ARTA may prepare and adopt a regional public transport plan for the first time under this Act at the same time as it prepares and approves a regional land transport programme under the Land Transport Management Act 2003.
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**Contents**

- 1 General
  - 2 Status of reprints
  - 3 How reprints are prepared
  - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
  - 5 List of amendments incorporated in this reprint (most recent first)
- 

**Notes****1 General**

This is a reprint of the Land Transport Management Act 2003. The reprint incorporates all the amendments to the Act as at 1 January 2010, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

**2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, *see* <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

**4     *Changes made under section 17C of the Acts and Regulations Publication Act 1989***

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5**     ***List of amendments incorporated in this reprint  
(most recent first)***

Customs and Excise Amendment Act 2009 (2009 No 61): section 11(4)

Public Transport Management Act 2008 (2008 No 87): section 63(2)

Policing Act 2008 (2008 No 72): sections 130(4), 116(a)(vii), (d)

Land Transport Management Amendment Act 2008 (2008 No 47)

Crown Entities Act 2004 (2004 No 115): section 200

Land Transport Management Amendment Act 2004 (2004 No 97)

Land Transport Management Act Commencement Order 2004 (SR 2004/237)

Local Government (Auckland) Amendment Act 2004 (2004 No 57): section 45

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Reprinted as at  
1 January 2010

**Land Transport Management Act 2003**

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