

# Transit New Zealand Amendment Act 1995

Public Act 1995 No 42  
Date of assent 29 July 1995

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**An Act to amend the Transit New Zealand Act 1989**

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

**1 Short Title and commencement**

- (1) This Act may be cited as the Transit New Zealand Amendment Act 1995, and shall be read together with and deemed part of the Transit New Zealand Act 1989 (hereinafter referred to as the principal Act).
- (2) Except as provided in subsection (3) of this section, this Act shall come into force on the day on which it receives the Royal assent.

- (3) Sections 13 to 40 (except section 37(1)) of this Act, and the Schedules to this Act, shall come into force on the 1st day of July 1996.

### **Provisions Coming into Force on Royal Assent**

2

*This section amended the definition of **Traffic Officer** in the principal Act*

3

Sections 3 to 5 were repealed, as from 1 July 1996, by section 18(2)(e) Transit New Zealand Amendment Act 1995 (1995 No 42).

4

Sections 3 to 5 were repealed, as from 1 July 1996, by section 18(2)(e) Transit New Zealand Amendment Act 1995 (1995 No 42).

5

Sections 3 to 5 were repealed, as from 1 July 1996, by section 18(2)(e) Transit New Zealand Amendment Act 1995 (1995 No 42).

6

*This section amended s 51(2), and substituted s 51(4) of the principal Act*

7

*This section inserted s 61(2A) and (2B) of the principal Act*

8

*This section inserted s 61A of the principal Act and repealed s 45(2) to (4) of the Public Works Act 1981*

9

*This section repealed s 62(4) to (6) of the principal Act*

10

*This section amended s 73(k) of the principal Act*

11

*This section inserted s 91(2) to (6) of the principal Act*

12 **Saving**

Without limiting any provision of the Acts Interpretation Act 1924, it is hereby declared that the repeal of the Transit New Zealand Amendment Act (No 2) 1992 by section 34 of the

Land Transport Act 1993 does not affect, and has never affected, any provision incorporated in the principal Act by the Transit New Zealand Amendment Act (No 2) 1992.

### **Provisions Coming into Force on 1 July 1996**

**13**

*This section substituted, as from 1 July 1996, s 2 of the principal Act*

**14**

*This section inserted, as from 1 July 1996, a new Part 1A of the principal Act*

**15**

*This section substituted, as from 1 July 1996, s 5 of the principal Act*

#### **16 Functions of Authority**

(1) The principal Act is hereby amended by repealing section 6, and substituting the following section:

##### **“6 Functions of Authority**

The functions of the Authority shall be—

- “(a) To prepare a State highways programme in accordance with section 42D of this Act:
- “(b) To make payments from the State Highways Account as authorised by this Act:
- “(c) To control the State highway system, including planning, design, supervision, construction, and maintenance, in accordance with this Act:
- “(d) To provide the Minister with such information and advice as the Minister may from time to time require:
- “(e) To carry out such other land transport functions, and such duties, as the Minister may from time to time prescribe by notice in the *Gazette*.”

(2) The Land Transport Act 1993 is hereby consequentially amended by repealing so much of Part 1 of Schedule 2 as relates to section 6 of the principal Act.

**17**

*This section inserted sections 7A to 7E of the principal Act*

**18 New Parts 2 and 3 substituted**

- (1) The principal Act is hereby amended by repealing Parts 2 and 3, and substituting the following Parts:

**“PartII****“Funding of Capital Projects and Outputs***“Land Transport Funding***“8 Interpretation**

In this Part of this Act, unless the context otherwise requires, **roading revenue** means—

- “(a) All excise duty payable under section 100 of this Act; and
- “(b) All fees and charges payable under the Road User Charges Act 1977; and
- “(c) All fees and charges payable under Part I of the Transport (Vehicle and Driver Registration and Licensing) Act 1986; and
- “(d) All money receivable by the Crown from the sale of land acquired under the Public Works Act 1981 (or any enactment repealed by that Act) for the purposes of a State highway or any proposed State highway; and
- “(e) An amount equal to the goods and services tax payable on expenses, costs, and refunds payable under section 10 of this Act; and
- “(f) The proportion of the interest earned, or interest saved, from the investment of public money that relates to roading revenue; and
- “(g) Such amounts of public money as Parliament appropriates for the purpose from time to time; and
- “(h) All other public money that is required by any enactment to be treated as roading revenue for the purposes of this Act.

**“9 Payment of roading revenue to Crown Bank Account**

All roading revenue shall be lodged into the Crown Bank Account.

**“10 Crown’s authority to incur certain land transport expenditure**

- “(1) In each year, the Crown shall incur a liability to purchase outputs and to fund capital projects.
- “(2) The liability of the Crown under subsection (1) of this section shall be equal to the amount of roading revenue earned in that year and there shall be payable by the Crown—
- “(a) To the relevant collecting body, the negotiated amount for the outputs delivered in that year in—
    - “(i) Collecting roading revenue; and
    - “(ii) Administering and enforcing the Road User Charges Act 1977; and
  - “(b) To the relevant collecting body, refunds paid or payable in that year of—
    - “(i) Road user charges and additional charges in accordance with section 22(2) of the Road User Charges Act 1977; and
    - “(ii) Fuel excise duty in accordance with section 101 of this Act; and
    - “(iii) Fees and charges in accordance with Part I of the Transport (Vehicle and Driver Registration and Licensing Act 1986; and
  - “(c) To the Land Transport Safety Authority, the negotiated amount for the outputs delivered in relation to the safety (administration) outputs contained in an approved safety (administration) programme for that year less any revenue received or receivable by that Authority from other sources applicable to outputs in the programme; and
  - “(d) To the Commissioner, the negotiated amount for the outputs delivered in relation to the safety (administration) outputs contained in an approved safety (administration) programme for that year less any revenue received or receivable by the Commissioner from other sources applicable to outputs in the programme; and
  - “(e) To Transfund New Zealand, an amount equal to the roading revenue for that year less the amount of the liabilities incurred for that year under paragraphs (a) to (d) of this subsection.



“(3) The liability of the Crown under subsection (1) of this section shall in each year be payable by the Crown without further appropriation than this section.

“**11 Payment of roading revenue into Crown Bank Account**

All roading revenue shall be paid into the Crown Bank Account as soon as practicable after its receipt by the relevant collecting body.

“**12 Payment of roading revenue from Crown Bank Account**

There shall be paid from the Crown Bank Account in each year—

“(a) To the relevant collecting body, in such instalments and on such terms and conditions as are from time to time agreed between the Secretary and that collecting body, the negotiated amount for the outputs delivered and the capital expenditure incurred in collecting the roading revenue or in administering and in enforcing the Road User Charges Act 1977; and

“(b) To the relevant collecting body, as soon as reasonably practicable after request by that body, any refunds of—

“(i) Road user charges and additional charges under section 22(2) of the Road User Charges Act 1977; and

“(ii) Excise duty under section 101 of this Act; and

“(iii) Fees and charges in accordance with Part I of the Transport (Vehicle and Driver Registration and Licensing) Act 1986; and

“(c) To the Land Transport Safety Authority, in such instalments and on such terms and conditions as are from time to time agreed between the Minister of Finance and the Minister of Transport, the negotiated amount for the outputs delivered under the approved safety (administration) programmes for that year (net of revenue received by the Land Transport Safety Authority from other sources applicable to projects in that programme); and

“(d) To the Commissioner, in such instalments and on such terms and conditions as are from time to time agreed

between the Minister of Finance and the Minister of Police, the negotiated amount for the outputs delivered under the approved safety (administration) programme for that year (net of revenue received by the Commissioner from other sources applicable to outputs in that programme); and

- “(e) To the National Roads Account of the Board, in such instalments and on such terms and conditions as are from time to time agreed between the Minister of Finance and the Minister of Transport, the amount for the outputs delivered and the capital expenditure incurred in the national roading programme for that year.

*“National Roads Account*

**“13 Board to operate National Roads Account**

- “(1) The Board shall establish, maintain, and operate an account or accounts with such bank or banks as the Board resolves, and such account or accounts shall collectively be known as the National Roads Account.
- “(2) Each year, in addition to the amount paid into the Account under section 11 of this Act, there shall be paid into the Account the following amounts:
- “(a) All income derived from the investment from time to time of money in the Account, including any gains made on the sale of any investment of money of the Account, and interest or gains on that investment:
- “(b) All financial assistance refunded to the Account by a local authority under section 23(3) of this Act:
- “(c) All receipts relating to the trading revenue of the Board:
- “(d) All other money that should lawfully be paid into the Account.

“Compare: 1989 No 75 s 11

**“14 Management and investment of National Roads Account**

- “(1) The Board shall manage the National Roads Account in accordance with the provisions of this Act and shall exercise the care, diligence, and skill that a prudent person of business would exercise in managing the affairs of others.

“(2) The Board may invest any money held in the Account in accordance with section 25 of the Public Finance Act 1989.

“Compare: 1989 No 75 s 12

“**15 Payments from National Roads Account**

Payments from the National Roads Account shall be made only by or on behalf of the Board and such payments shall be made only in accordance with the provisions of this Act.

“Compare: 1989 No 75 s 13

“**16 Payments by Board**

Each year there shall be payable out of the National Roads Account—

“(a) All costs and expenses of the Board arising out of the performance of its functions and duties and the exercise of its powers under this Act or any other Act:

“(b) All compensation or damages payable by the Board.

“Compare: 1989 No 75 s 17

“**17 Board may approve outputs and capital projects**

“(1) The Board may approve any output or capital project as qualifying for payments from the National Roads Account if—

“(a) The output or capital project has been evaluated to the satisfaction of the Board in accordance with the relevant provisions of the most recent approved performance agreement; and

“(b) The Board considers that the budgeted expenditure on approved outputs and capital projects included in the national roading programme for the year concerned will not exceed—

“(i) The sum of—

“(A) The roading revenue for that year; and

“(B) Such other money as may be owing to the Board (including any liability of the Crown to the Board under section 10 of this Act); less

“(ii) The minimum balance of the Account for that year as provided in the performance agreement.

- “(2) In considering whether or not to approve any output or capital project, the Board shall ensure that the granting of such approval will not be inconsistent with any national land transport strategy or any relevant regional land transport strategies.
- “(3) Where the Board decides not to approve under this section an output or capital project contained in a State highways programme, a regional programme, or a district roading programme, the Board shall—
- “(a) So advise in writing the Authority or the regional council or territorial authority submitting that programme; and
- “(b) Give reasons for its decision.
- “(4) Notwithstanding subsection (1) of this section, the Board may approve any output or capital project where in the opinion of the Board the output or capital project is—
- “(a) In the urgent interests of public safety; or
- “(b) Necessary to effect immediate or temporary repair of damage caused by a sudden and unexpected event.
- “Compare: 1989 No 75 s 14; 1992 No 70 s 4

“**18 Approved projects to form part of national roading programme**

- “(1) Every approved output or capital project, until completed, suspended, or abandoned, shall be incorporated in and form part of the national roading programme.
- “(2) No approved output or capital project shall be suspended or abandoned without the prior written approval of the Board.

*“Payments from National Roads Account to Authority*

“**19 Payments to Authority**

- “(1) The Board shall pay to the Authority, out of the National Roads Account, the negotiated amount or the interim payments for the approved outputs and capital projects in accordance with the actual payment profiles of the State Highways Account.
- “(2) The Board shall make such adjustments as it thinks appropriate to the amount to be paid to the Authority under subsection (1) of this section to take account of the amounts paid into the

State Highways Account under paragraphs (a), (b), and (h) of section 20(3) of this Act.

- “(3) Notwithstanding anything to the contrary in this section, whenever the Board is satisfied that the amount of payments requested from the Board in respect of any approved output or capital project in any year is based upon a factor which is incorrect for any reason, the Board may, if it thinks fit, make such adjustments to the amounts to be paid under subsection (1) of this section as it thinks reasonable.
- “(4) If any payment received by the Authority under subsection (1) of this section is not paid or not fully paid in the year in which it is received, the unpaid portion shall, unless the Board otherwise agrees, be refunded to the Account.

“Compare: 1989 No 75 s 16

**“20 Authority to operate State Highways Account**

- “(1) The Authority shall establish, maintain, and operate an account or accounts with such bank or banks as the Authority resolves, and such accounts shall be collectively known as the State Highways Account.
- “(2) All money received by the Authority from the National Roads Account shall be paid into the State Highways Account.
- “(3) Each year, in addition to the amount paid into the account under section 19 of this Act, the following money shall be paid into the State Highways Account:
- “(a) All income derived from the investment from time to time of money in the State Highways Account, including any gains made on the sale of any investment of money of the Account, and interest or gains on that investment:
- “(b) All money received by the Authority for or from its management of Crown lands under section 61(4) of this Act:
- “(c) All money received by the Authority from the issue of permits under the Heavy Motor Vehicle Regulations 1974:
- “(d) All money derived from the provision of advisory and related services:

- “(e) All contributions made by developers to outputs and capital projects for which the Authority is responsible:
- “(f) All money received by the Authority under an order made by a Court under section 51(3) of this Act:
- “(g) All money recovered by the Authority under section 55(8) or section 57(4) of this Act:
- “(h) All other money that is required by law to be paid into the Account.

**“21 Management and investment of State Highways Account**

- “(1) The Authority shall manage the State Highways Account in accordance with the provisions of this Act and shall exercise the care, diligence, and skill that a prudent person of business would exercise in managing the affairs of others.
- “(2) The Authority may invest any money held in the Account in accordance with section 25 of the Public Finance Act 1989.

**“22 Payments from State Highways Account**

Each year there shall be payable out of the State Highways Account—

- “(a) All costs and expenses of the Authority arising out of the performance of its functions and duties and the exercise of its powers under this Act or any other Act:
- “(b) All compensation or damages payable by the Authority:
- “(c) All compensation payable by the Crown under the Public Works Act 1981 in respect of the acquisition of any land for any of the purposes authorised by this Act.

*“Payments from National Roads Account to  
Local Authorities*

**“23 Payments to local authorities**

- “(1) The Board shall pay to a local authority, out of the National Roads Account, the costs or the interim payments for any approved outputs or capital projects for which the local authority is responsible.
- “(2) Notwithstanding anything to the contrary in this section, whenever the Board is satisfied that the amount of the interim payments requested from the Board in respect of any

approved output or capital project in any year is based upon a factor which is proved to the satisfaction of the Board to be incorrect for any reason, the Board may, if it thinks fit, make such adjustments to the amount to be paid under subsection (1) of this section as it thinks reasonable.

- “(3) If any payment received by a local authority under subsection (1) of this section is not paid or not fully paid by the local authority in the year in which it is received, the unpaid portion shall, unless the Board otherwise agrees, be refunded to the Account.

“**24 Local authorities to operate Land Transport Disbursement Accounts**

- “(1) All money received by any local authority from the National Roads Account shall be paid into a separate account of the local authority to be known as the Land Transport Disbursement Account, and shall be expended only on approved outputs and capital projects.
- “(2) All expenditure from a Land Transport Disbursement Account shall be recorded in that account in a form that contains such details as are prescribed by the Board from time to time after consultation with the Controller and Auditor-General.

*“Restrictions on Payments from State Highways Account and Land Transport Disbursement Accounts*

“**25 Interpretation**

- “(1) In this section, and in sections 26 to 32 of this Act, unless the context otherwise requires,—
- “**In-house professional services—**
- “(a) Means services carried out by a local authority—
- “(i) Using its own staff and assets; and
  - “(ii) Associated with a local road; and
  - “(iii) Determined by the Board to be in-house professional services; but
- “(b) Does not include minor and ancillary works or services associated with a State highway:

**“Minor and ancillary works—**

“(a) Means works associated with a local road that are determined by the Board to be minor and ancillary roading works; but

“(b) Does not include in-house professional services or works associated with a State highway:

**“1996 financial year** means the period commencing on the 1st day of July 1995 and ending with the close of the 30th day of June 1996

**“1997 financial year** means the period commencing on the 1st day of July 1996 and ending with the close of the 30th day of June 1997

**“1998 financial year** means the period commencing on the 1st day of July 1997 and ending with the close of the 30th day of June 1998.

“(2) If there is any dispute or difference between a local authority and the Board as to whether any services are in house professional services or whether any works are minor and ancillary works, the question shall be determined by a single arbitrator appointed by the Minister, and the following provisions shall apply:

“(a) No member or employee of the local authority or the Board shall be qualified to be an arbitrator under this subsection:

“(b) The local authority and the Board shall be the parties to the arbitration:

“(c) Sections 13 and 22 of the Arbitration Act 1908 (which relate to enforcement and remuneration respectively) shall apply in relation to an arbitration under this subsection as if this subsection were a submission to arbitration within the meaning of that Act, but no other provisions of that Act shall apply in relation to an arbitration under this subsection.

“Compare: 1989 No 75 s 20A(6); 1991 No 57 s 3

**“26 Competitive pricing procedure**

“(1) For the purposes of section 27 of this Act the Board shall from time to time approve a competitive pricing procedure for each output or capital project or class of output or capital project.



- “(2) In approving a competitive pricing procedure the Board may—
- “(a) Specify particular terms and conditions which shall be included in any contract formed under that procedure:
  - “(b) Specify particular terms and conditions which shall be excluded from any contract formed under that procedure.
- “(3) In exercising its powers under subsection (1) or subsection (2) of this section, the Board shall have regard to—
- “(a) The efficient application of the State Highways Account and Land Transport Disbursement Accounts:
  - “(b) The safety and other interests of the public in respect of the output or capital project or the class of output or capital project:
  - “(c) The desirability of encouraging competition in the sector of industry likely to supply goods or services in relation to the output or capital project or the class of output or capital project:
  - “(d) The undesirability of excluding from competition for the output or capital project or the class of output or capital project any party who might otherwise be willing and able to compete:
  - “(e) The costs of administration associated with the pricing procedure or of any contract formed under that procedure.
- “Compare: 1989 No 75 s 19

**“27 Expenditure subject to competitive pricing procedure**

- “(1) No payment,—
- “(a) In respect of any output or capital project carried out by the Authority under this Act, shall be made from the State Highways Account; or
  - “(b) In respect of any output or capital project, shall be made from the Land Transport Disbursement Account of any local authority,—  
unless the payment relates to an approved output or capital project, the price of which has been determined by a competitive pricing procedure, and no such payment shall be made to any local authority.

- “(2) Without limiting subsection (1) of this section, no payment from any source shall be made by any local authority in respect of any passenger service unless the amount of the payment has been determined by a competitive pricing procedure, and no such payment shall be made to any local authority.
- “(3) Without limiting subsection (1) or subsection (2) of this section,—
- “(a) No payment in respect of any output or capital project shall be made from the State Highways Account, or the Land Transport Disbursement Account of a local authority, to any local authority trading enterprise; and
  - “(b) No payment in respect of a passenger service shall be made by a local authority from any source to a passenger transport company—  
unless—
  - “(c) The amount of the payment has been determined by a competitive pricing procedure; and
  - “(d) The local authority trading enterprise, or the passenger transport company, is a company that has no fewer than 3 directors, of whom—
    - “(i) Where there are fewer than 6 directors, not more than 1 is a member or employee of any local authority;
    - “(ii) Where there are 6 or more directors, not more than 2 are members or employees of any local authority; and
  - “(e) No equity securities or debt securities in the local authority trading enterprise, or the passenger transport company, are held directly or indirectly by any regional council (other than the Chatham Islands County Council or any regional council that is also a district council); and
  - “(f) The Board is satisfied that—
    - “(i) The local authority trading enterprise, or the passenger transport company, has been established, and an undertaking of a local authority has been transferred to it, in accordance with the requirements of Part XXXIVA of the Local Government Act 1974; and

- “(ii) The local authority trading enterprise, or the passenger transport company, is being operated in accordance with the requirements of the Local Government Act 1974; and
  - “(iii) The local authority trading enterprise is being operated in accordance with the requirements of any determination under section 32 of this Act.
- “(4) Nothing in subsection (1) or subsection (2) or subsection (3) of this section applies in relation to any payment made in respect of—
- “(a) Any approved output of administration; or
  - “(b) Any special purpose road (within the meaning of section 104 of this Act) that is under the control of the Department of Conservation; or
  - “(c) Any registered service of any operator in relation to any 2-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
  - “(d) Any expenditure that is necessary in the urgent interests of public safety; or
  - “(e) Any expenditure that is necessary for the immediate or temporary repair of damage caused by a sudden and unexpected event.
- “(5) Nothing in subsection (1) of this section prevents a local authority making payments from its Land Transport Disbursement Account in respect of minor and ancillary works carried out by any business unit established by it or any other local authority if that business unit has been formed and is operated in accordance with the requirements of a determination under section 32 of this Act.
- “(6) In the case of an output referred to in section 3D of this Act that is not an output in respect of a passenger service, the output shall be subject to the competitive pricing procedure for the time being determined by the Board as being appropriate in the circumstances.

“Compare: 1989 No 75 s 20; 1990 No 122 s 2; 1991 No 57 s 2(1)

**“28 Special provisions relating to in-house professional services**

- “(1) Notwithstanding any other provision of this Act,—
- “(a) Payments may be made from the Land Transport Disbursement Account of a territorial authority in respect of in-house professional services and such payments may be made to that territorial authority; and
  - “(b) Nothing in section 27 of this Act shall be read as requiring the price of any in-house professional services to be determined by a competitive pricing procedure.
- “(2) After the 30th day of June 1997, no payment in respect of the provision of a territorial authority’s in-house professional services shall be made from its Land Transport Disbursement Account unless it has complied with subsection (3) of this section.
- “(3) Before performing, by using its own employees and in-house resources, any in-house professional services funded in whole or in part from its Land Transport Disbursement Account, the territorial authority shall give due consideration to the advantages and disadvantages of contracting out those services to any person or organisation.
- “(4) Without limiting subsection (3) of this section, due consideration under that subsection requires due consideration of—
- “(a) The benefits of separating the functions of a purchaser and a supplier; and
  - “(b) The desirability for work to be properly specified and monitored; and
  - “(c) The desirability of transferring risk and accountability; and
  - “(d) The cost effectiveness of each option; and
  - “(e) The benefits of ensuring contestability of services; and
  - “(f) The availability of resources to undertake the work; and
  - “(g) Any other matters determined for the purpose by the Board after consultation with the Audit Office and territorial authorities (or any person or organisation representing territorial authorities) and notified by the Board to territorial authorities.
- “(5) If professional services are performed by individuals other than employees of the territorial authority or by persons or organisations other than the authority, such services shall be

subject to the competitive pricing procedure for the time being determined for the purpose by the Board.

**“29 Special provisions relating to minor and ancillary works during 1997 and 1998**

“(1) A local authority may, during the 1997 financial year, make payments from its Land Transport Disbursement Account that are not in accordance with section 27(1) of this Act if—

“(a) Those payments are in respect of minor and ancillary works; and

“(b) The local authority ensures that during the 1997 financial year it makes payments in respect of minor and ancillary works that—

“(i) Are in accordance with section 27(1) of this Act; and

“(ii) Total not less than one-third of the total amount of payments made by it in respect of minor and ancillary works from its Land Transport Disbursement Account during the 1996 financial year.

“(2) A local authority may, during the 1998 financial year, make payments from its Land Transport Disbursement Account that are not in accordance with section 27(1) of this Act if—

“(a) Those payments are in respect of minor and ancillary works; and

“(b) The local authority ensures that during the 1998 financial year it makes payments in respect of minor and ancillary works that—

“(i) Are in accordance with section 27(1) of this Act; and

“(ii) Total not less than two-thirds of the total amount of payments made by it in respect of minor and ancillary works from its Land Transport Disbursement Account during the 1997 financial year.

**“30 Certain payments for minor and ancillary works deemed to comply with section 27**

Every payment in respect of minor and ancillary works that has been made by a local authority from its Land Transport Dis-

bursement Account under a legally enforceable written contract—

- “(a) Shall, if the contract was signed before the 13th day of May 1994 and the payment was made during the minimum period of the contract (as expressed in the contract at the date of its execution), be deemed for the purposes of sections 27 and 29 of this Act to have been made in accordance with the provisions of section 27 of this Act; and
- “(b) Shall, if the contract was signed on or after the 13th day of May 1994 but before the commencement of this section, and the payment is made before the 30th day of June 1999, be deemed for the purposes of sections 27 and 29 of this Act to have been made in accordance with the provisions of section 27 of this Act.

**“31 Information to be provided by local authority in respect of certain payments**

If a local authority uses in any year its own staff or assets in providing in-house professional services, or performing minor and ancillary works, for which payments are made from its Land Transport Disbursement Account, the local authority shall report on those services and works in accordance with the requirements of any determination under section 32 of this Act in the local authority’s annual report and audited financial statements under sections 223D and 223E of the Local Government Act 1974.

**“32 Determinations by Minister**

The Minister may from time to time, after consultation with the Board, by notice in writing,—

- “(a) Determine the requirements for the operation of local authority trading enterprises to which payments may be made under section 27(3) of this Act from the State Highways Account or from the Land Transport Disbursement Account of a local authority; and
- “(b) Determine the requirements for the formation and operation of business units of local authorities to which

payments may be made under section 27(5) of this Act for minor and ancillary works; and

- “(c) Determine the requirements for reporting under section 31 of this Act by a local authority in its annual report and audited financial statements on—
  - “(i) Its use of staff and assets in providing in-house professional services; or
  - “(ii) The provision of minor and ancillary works,— for which payments have been made from its Land Transport Disbursement Account; and
- “(d) Vary or revoke those requirements.

**“33 Board may reduce payments in certain cases**

- “(1) The Board may from time to time reduce the amount of any payments made by it—
  - “(a) To the Authority, by such amount as it considers appropriate, if the Board considers that—
    - “(i) The Authority has been or is, or will be likely to be, in breach of any of the provisions of this Act with respect to payments by the Authority from the State Highways Account; or
    - “(ii) The Authority is in breach of the provisions of section 27 of this Act; or
  - “(b) To a local authority, by such amount as it considers appropriate, if the Board considers that—
    - “(i) The local authority has been or is, or will be likely to be, in breach of any of the provisions of this Act with respect to payments by the local authority from its Land Transport Disbursement Account; or
    - “(ii) The local authority is in breach of the provisions of section 27 or section 31 or section 34 of this Act.
- “(2) Subsection (1) of this section does not limit the provisions of section 35 of this Act.

**“34 Board may require certain information from Authority and local authorities**

- “(1) The Board may from time to time require the Authority or a local authority to provide such information as the Board considers appropriate to enable the Board to determine whether the Authority or the local authority, as the case may be, is complying, and will continue to comply, with the provisions of this Act relating to payments made by the Authority from the State Highways Account or by the local authority from its Land Transport Disbursement Account.
- “(2) The Authority and a local authority shall promptly satisfy any requirement of the Board under subsection (1) of this section.
- “(3) Subsections (1) and (2) of this section do not limit the provisions of section 108 of this Act.

**“35 Payments may be conditional on projects being carried out to satisfactory standard**

Notwithstanding anything to the contrary in this Act, the Board, after consultation with the Authority or the local authority concerned, as the case may be, may refuse or withhold any payments or part of any payment to the Authority, or the local authority, for any approved output or capital project that has been constructed or undertaken or is proposed to be constructed or undertaken to standards that in the opinion of the Board are excessively high or unsatisfactory.

“Compare: 1989 No 75 s 21

**“36 Certain payments prohibited**

Payments for an output referred to in section 3D of this Act may be made to any regional council or to any territorial authority that has any functions, duties, or powers of both a regional council and a territorial authority, but such payments shall not be made to any other person or body.



**“Part III**  
**“Safety (Administration) and Roading**  
**Programmes**

*“Safety (Administration) Programme*

**“37 Safety (administration) programme**

- “(1)** The Land Transport Safety Authority shall each year prepare for the Secretary, by a date appointed by the Minister, a safety (administration) programme that shall—
- “(a)** List, in order of priority,—
    - “(i)** The outputs recommended by that Authority; and
    - “(ii)** The estimated cost of each output; and
    - “(iii)** The total budgeted cost of all safety (administration) outputs for that year; and
    - “(iv)** An estimate of the revenue to be received by that Authority and the Police, respectively, from sources (other than the National Roads Account) applicable to those outputs; and
  - “(b)** State—
    - “(i)** The objective or objectives to be achieved by each output:
    - “(ii)** The options considered as being available to achieve the objective or objectives:
    - “(iii)** Such evaluation of each output and each option as is for the time being required by the last approved safety (administration) programme; and
  - “(c)** State the measure by which the performance of each output should be judged; and
  - “(d)** State how each output will assist the implementation of any national land transport strategy that is in force; and
  - “(e)** Include a statement setting out—
    - “(i)** The basis upon which the Land Transport Safety Authority will evaluate individual outputs for inclusion in the next safety (administration) programme; and
    - “(ii)** The objectives of the Land Transport Safety Authority in respect of safety (administration) for the next 5 years; and

- “(iii) The Land Transport Safety Authority’s evaluation of the safety (administration) needs and safety (administration) issues that are likely to arise during the next 5 years and the proposed response to those needs and issues; and
  - “(iv) The measures by which safety (administration) should be judged; and
  - “(f) Be in such form, and contain such other matters and such details, as the Minister may from time to time require.
- “(2) The Land Transport Safety Authority—
- “(a) Shall consult the Commissioner before including any matter in a safety (administration) programme; and
  - “(b) Shall ensure that a safety (administration) programme prepared by it under subsection (1) of this section is not inconsistent with any national land transport strategy that is in force at the time of the preparation of the programme; and
  - “(c) Shall ensure that any output recommended in any safety (administration) programme is not inconsistent with any relevant regional land transport strategy; and
  - “(d) Shall, where the Land Transport Safety Authority decides not to recommend any output,—
    - “(i) So advise in writing the Authority, or the regional council or territorial authority concerned, as the case may require; and
    - “(ii) Give reasons for its decision.
- “(3) Each year, by a date set by the Minister, the Secretary shall submit to the Minister and copy to the Board, the Authority, the Land Transport Safety Authority, and the Commissioner—
- “(a) The safety (administration) programme prepared under subsection (1) of this section; and
  - “(b) The Secretary’s recommendations concerning the safety (administration) programme for that year; and
  - “(c) The Secretary’s evaluation of safety (administration) needs and safety (administration) issues that are likely to arise during the next years; and
  - “(d) Such other matters as the Minister may from time to time require.

“(4) The Secretary shall consult the Land Transport Safety Authority and the Commissioner before making any recommendation under subsection (3)(b) of this section.

“Compare: 1989 No 75 s 28; 1992 No 70 s 8; 1993 No 88 s 35(1)

“**38 Approval of safety (administration) programme**

“(1) Subject to subsection (2) of this section, as soon as is practicable after receiving a safety (administration) programme under section 37 of this Act, and in any event not later than the 31st day of July in each year,—

“(a) The Minister shall approve the programme by notice in writing to the Secretary; and

“(b) The Secretary shall forthwith advise the Board in writing of such approval.

“(2) If the Minister considers that a safety (administration) programme should be varied—

“(a) The Minister may amend the programme, and approve the programme as amended, by notice in writing to the Secretary, and, in that case, the Secretary shall forthwith provide to the Board a copy of the programme as approved; or

“(b) The Minister may decline to approve the programme, return it to the Secretary, and advise the Secretary of the reasons for so declining to approve the programme.

“(3) If the Minister declines to approve the programme,—

“(a) The Secretary shall request the Land Transport Safety Authority to make such amendments to the programme as are necessary to obtain the approval of the Minister; and

“(b) The Secretary shall submit the amended programme to the Minister and the Minister shall approve it by notice in writing to the Secretary; and

“(c) The Secretary shall forthwith provide to the Board a copy of the programme as approved.

“(4) The Secretary shall forward to the Authority, the Land Transport Safety Authority, and the Commissioner a copy of every safety (administration) programme approved under this section.

“Compare: 1989 No 75 s 34; 1992 No 70 s 12; 1993 No 88 s 35(1)

**“39 Agencies to adhere to safety (administration) programme**

- “(1) The Board, the Authority, the Land Transport Safety Authority, the Commissioner, the Secretary, and every local authority shall give effect to, observe, and enforce the observance of the requirements and provisions of the approved safety (administration) programme to the extent of its or his or her functions, duties (including common law obligations), and powers.
- “(2) The Board, the Authority, the Land Transport Safety Authority, the Commissioner, the Secretary, and every local authority shall from time to time consult each other as appropriate about how to comply with the obligations imposed on him or her or it by subsection (1) of this section.
- “(3) Where the approved safety (administration) programme includes—
- “(a) An output that requires a level of expenditure by the Authority in respect of the output that is greater than that provided in its State highways programme; or
  - “(b) An output that requires a level of expenditure by a regional council in respect of the output that is greater than that provided in its regional programme; or
  - “(c) An output that requires a level of expenditure by a territorial authority in respect of the output that is greater than that provided in its district roading programme,—the duty imposed by subsection (1) of this section on the Authority, the regional council, or the territorial authority, need be complied with only so far as its financial resources reasonably permit.

**“40 Secretary to make safety (administration) programme available to public**

Each year the Secretary shall make available to the public the safety (administration) programme as soon as reasonably practicable after its approval by the Minister under section 38 of this Act.

**“41 Secretary may submit supplementary safety (administration) programme**

- “(1) The Secretary may from time to time submit to the Minister, and shall copy to the Board, a supplementary safety (administration) programme for that year.
- “(2) Every supplementary safety (administration) programme shall, with the necessary modifications, be prepared as if it were a safety (administration) programme under section 37 of this Act, and be in such form and contain such matters and details as the Minister may from time to time require for such programmes under that section.
- “(3) The Secretary shall copy to the Board, the Land Transport Safety Authority, and the Commissioner every supplementary safety (administration) programme submitted to the Minister.

**“42 Minister may approve supplementary safety (administration) programme**

- “(1) As soon as is practicable after receiving a supplementary safety (administration) programme under section 41 of this Act, the Minister may—
- “(a) Approve the supplementary programme in whole or in part by notice in writing to the Board and to the Secretary, and, to the extent it is approved in part only, advise the Board and the Secretary of the reasons for doing so; or
- “(b) Amend and approve the supplementary programme, as amended, by notice in writing to the Board and the Secretary and advise the Board and the Secretary of the amendment and reasons for doing so; or
- “(c) Decline to approve the supplementary programme and in writing advise the Board and the Secretary of the reasons or doing so.
- “(2) Every supplementary safety (administration) programme approved by the Minister under subsection (1) of this section shall, in the form in which it is approved, be deemed to be incorporated in and form part of the approved safety (administration) programme to which it relates.
- “(3) The Secretary shall copy to the Board, the Authority, the Land Transport Safety Authority, and the Commissioner every

supplementary safety (administration) programme approved under this section.

*“National Roding Programme*

**“42A National roding programme**

- “(1) In each year, the Board shall approve a national roding programme for the next year, which shall include—
- “(a) Those outputs and capital projects recommended in the State highways programme, the regional programmes, and the distinct roding programmes forwarded to the Board under this Act that the Board considers should be included in the national roding programme; and
  - “(b) The proposed funding of those outputs and capital projects for that financial year.
- “(2) Subject to subsections (3) and (4) of this section, a national roding programme shall be in accordance with the requirements of the performance agreement that is in force at the time of approval of that roding programme.
- “(3) The national roding programme shall not be inconsistent with any national land transport strategy that is in force at the time of the preparation of the programme.
- “(4) The Board shall ensure that only outputs and capital projects that are not inconsistent with any relevant regional land transport strategy are included in a national roding programme.
- “(5) In complying with the requirements of this section, the Board shall have regard to the State highways programme, the regional programmes, and distinct roding programmes, that have been forwarded to it under this Act but shall not be bound to adopt in whole or in part any outputs or capital projects recommended in such programmes.
- “(6) The Board shall forward to the Authority, the Land Transport Safety Authority, the Commissioner, the Secretary, and every local authority a copy of each national roding programme approved by it.

**“42B Agencies to adhere to national roding programme**

- “(1) The Board, the Authority, the Land Transport Safety Authority, the Commissioner, the Secretary, and every local author-

ity shall give effect to, observe, and enforce the observance of the requirements and provisions of the national roading programme to the extent of its or his or her functions, duties (including common law obligations), and powers.

- “(2) The Board, the Authority, the Land Transport Safety Authority, the Commissioner, the Secretary, and every local authority shall from time to time consult each other as appropriate about how to comply with the obligations imposed on it or him or her by subsection (1) of this section.
- “(3) Where the national roading programme includes—
- “(a) An approved output or capital project that requires a level of expenditure by the Authority in respect of the output or capital project that is greater than that provided in its State highways programme; or
  - “(b) An approved output that requires a level of expenditure by a regional council in respect of the output that is greater than that provided in its regional programme; or
  - “(c) An approved output or capital project that requires a level of expenditure by a territorial authority in respect of the output or capital project that is greater than that approved in its district roading programme,—  
the duty imposed by subsection (1) of this section on the Authority, the regional council, or the territorial authority, need be complied with only so far as its financial resources reasonably permit.

“**42C Board to make national roading programme available to public**

As soon as is reasonably practicable after the approval of outputs and capital projects under section 17 of this Act in each year, the Board shall make available to the public the national roading programme.

*“State Highways, Regional, and District  
Roothing Programmes*

**“42D State highways programme**

- “(1) In each year, the Authority shall prepare after consultation with the Land Transport Safety Authority, by a date appointed by the Board, a State highways programme for the next year.
- “(2) Every State highways programme shall—
- “(a) List each approved output and capital project included in any earlier approved national roading programme or safety (administration) programme for which any payments due from the Board or the Land Transport Safety Authority are outstanding and the amount outstanding, and, if it is proposed that the approved output or capital project be suspended or abandoned, give an explanation of the proposed suspension or abandonment; and
  - “(b) List all outputs and capital projects for which any payment is sought from the Board or the Land Transport Safety Authority in order of the priority that the Authority thinks should be given to those outputs and capital projects and, for each output and capital project, indicate its total cost, its proposed starting date, and its duration; and
  - “(c) State the objective or objectives to be achieved by each output and capital project, the options considered as being available to achieve that objective or those objectives, and such evaluation of each output and capital project and each option as the Board or the Land Transport Safety Authority may from time to time require; and
  - “(d) State how each output and capital project assists the implementation of any national land transport strategy that is in force; and
  - “(e) Be in such form and contain such other details as the Board and the Land Transport Safety Authority may jointly or separately prescribe.
- “(3) Every State highways programme shall include any output that the Authority considers should be recommended to the Land Transport Safety Authority for inclusion in the safety (administration) programme.



- “(4) Every State highways programme shall include the outputs and capital projects that the Authority considers should be recommended for inclusion in the national roading programme.
- “(5) No State highways programme shall include provision for any output referred to in section 3D of this Act.
- “(6) The Authority shall ensure that the State highways programme is not inconsistent with any national land transport strategy, or any relevant regional land transport strategy, that is in force at the time of the preparation of the programme.
- “(7) The Authority shall, by a date appointed by the Board, forward the State highways programme to the Board, and forward copies to the Land Transport Safety Authority, the Commissioner, and the Secretary.

**“42E Consultation concerning State highways programme**

Before finalising any State highways programme, the Authority shall consult—

- “(a) The Board; and
- “(b) The Land Transport Safety Authority; and
- “(c) The Commissioner; and
- “(d) Every affected local authority; and
- “(e) Representatives of road users.

**“42F Regional programmes**

- “(1) Each financial year, a regional council or a territorial authority that has the functions, duties, and powers of a regional council under this Act may prepare a regional programme for the next year in relation to its region or district and in respect of outputs for which the regional council or territorial authority is responsible.
- “(2) Every regional programme shall—
- “(a) List each approved output included in any earlier approved regional programme for which payments due from the Board or the Land Transport Safety Authority are outstanding and the amount outstanding, and, if it is proposed that the approved output be suspended or abandoned, give an explanation of the proposed suspension or abandonment; and

- “(b) List all outputs for which financial assistance is sought from the Board or the Land Transport safety Authority in order of the priority that the regional council or territorial authority, as the case may be, considers should be given to those outputs and, for each output, indicate its total cost, its proposed starting date, and its duration; and
  - “(c) State the objective or objectives to be achieved by each output, the options considered as being available to achieve that objective or those objectives, and such evaluation of each output and each option as the Board or the Land Transport Safety Authority may from time to time require; and
  - “(d) State how each output assists with the relevant regional land transport strategy; and
  - “(e) State how each output assists the implementation of any national land transport strategy that is in force at the time of the preparation of the programme; and
  - “(f) Be in such form, and contain such other details, as may from time to time be prescribed by the Board and the Land Transport Safety Authority.
- “(3) Every regional programme shall include any outputs for the relevant region that the regional council or territorial authority considers should be recommended to the Land Transport Safety Authority for inclusion in the safety (administration) programme.
- “(4) Every regional programme shall include the outputs for the relevant region that the regional council or territorial authority considers should be recommended to the Board for inclusion in the national roading programme.
- “(5) A regional programme may include bids for one or more of the following:
- “(a) Outputs referred to in section 3D of this Act:
  - “(b) Outputs relating to administration:
  - “(c) Outputs relating to any aspect of safety (administration) that are outputs agreed by all the territorial authorities affected by that regional programme.
- “(6) No regional programme shall include provision for any output for roading.

- “(7) A regional programme shall not be inconsistent with any national land transport strategy, or any relevant regional land transport strategy, that is for the time being in force at the time of the preparation of the programme.
- “(8) A regional programme shall implement any regional land transport strategy having effect in respect of that region, unless the implementation of that strategy is clearly impracticable.
- “(9) The regional council or territorial authority shall, by a date appointed by the Board, forward a copy of the regional programme approved by the council or authority to the Board, the Authority, the Land Transport Safety Authority, the Commissioner, and the Secretary.
- “(10) A regional land transport committee established under section 29I of the Land Transport Act 1993 shall prepare for approval by the relevant regional council a regional programme for its region.

**“42G Consultation concerning regional programmes**

- “(1) Before completing a regional programme, the relevant regional council or territorial authority shall consult—
- “(a) The Board; and
  - “(b) The Authority; and
  - “(c) The Land Transport Safety Authority; and
  - “(d) The Commissioner; and
  - “(e) The territorial authorities in the region; and
  - “(f) The adjoining regional councils and territorial authorities; and
  - “(g) The public in the region or district.
- “(2) It shall be sufficient compliance with the provisions of subsection (1) of this section if, before completing a regional programme, the regional council or territorial authority has completed the consultation (if any) required by the Local Government Act 1974 for its current annual programme of business.

**“42H District roading programmes**

- “(1) Each financial year, every territorial authority shall prepare a district roading programme for the next year in relation to its district.

- “(2) Every district roading programme shall—
- “(a) List each approved output and capital project included in any earlier approved district roading programme for which payments due from the Board or the Land Transport Safety Authority are outstanding and the amount outstanding, and, if it is proposed that the approved output or capital project be suspended or abandoned, give an explanation of the proposed suspension or abandonment; and
  - “(b) List—
    - “(i) All outputs and capital projects that the Board or the Land Transport Safety Authority or the Commissioner is recommended to undertake; or
    - “(ii) All outputs and capital projects for which any payment is sought from the Board that the territorial authority proposes to undertake,—  
each in order of the priority that the territorial authority considers should be given to those outputs and capital projects and, for each output and capital project, indicate its total cost, its proposed starting date, and its duration; and
  - “(c) State the objective or objectives to be achieved by each output and capital project the options considered as being available to achieve that objective or those objectives, and such evaluation of each output and capital project and each option as the Board or the Land Transport Safety Authority may from time to time require; and
  - “(d) State how each output and capital project complies with the relevant regional land transport strategy; and
  - “(e) State how each output and capital project assists the implementation of any national land transport strategy that is in force at the time of the preparation of the programme; and
  - “(f) Be in such form, and contain such other details, as may be prescribed by the Board and the Land Transport Safety Authority from time to time.
- “(3) Every district roading programme shall include any outputs for the relevant district that the territorial authority considers

should be recommended to the Land Transport Safety Authority for inclusion in the safety (administration) programme.

- “(4) Every district roading programme shall include the outputs and capital projects for the relevant district that the territorial authority considers should be recommended to the Board for inclusion in the national roading programme.
- “(5) No district roading programme shall include provision for any output referred to in section 3D of this Act.
- “(6) A district roading programme shall not be inconsistent with any national land transport strategy, or any relevant regional land transport strategy, that is in force at the time of preparation of the programme.
- “(7) A district roading programme shall implement any regional land transport strategy having effect in respect of that district, unless the implementation of that strategy is clearly impracticable.
- “(8) Every territorial authority shall, by a date appointed by the Board after consultation with the Minister, forward a copy of the district roading programme completed by the territorial authority to the Board, the Authority, the Land Transport Safety Authority, the Commissioner, and the Secretary.

**“42I Consultation concerning district roading programmes**

- “(1) Before finalising any district roading programme, the relevant territorial authority shall consult—
- “(a) The Board; and
  - “(b) The Authority; and
  - “(c) The Land Transport Safety Authority; and
  - “(d) The Commissioner; and
  - “(e) The regional council in the region; and
  - “(f) The public in the district.
- “(2) It shall be sufficient compliance with the provisions of subsection (1) of this section if, before completing a district roading programme, the territorial authority has completed the consultation (if any) required by the Local Government Act 1974 for its current annual programme of business.

**“42J Provision of information**

“(1) Every—

“(a) Territorial authority within the relevant region, in the case of a regional programme; and

“(b) Regional council, in the case of a district roading programme,—  
shall provide to the regional council or territorial authority, as the case may require, sufficient information as the council or authority considers it requires in order to perform properly its functions in relation to such programmes under this Act.

“(2) The Authority shall provide to the Board sufficient information as the Board considers it requires in order to perform properly its functions in relation to the national roading programme under this Act.

“Compare: 1989 No 75 s 108

**“42K Needs of transport disadvantaged to be considered**

In preparing any programme under this Act, the Board, the Authority, the Land Transport Safety Authority, the Commissioner, the Secretary, every local authority, and every regional land transport committee shall consider the needs of persons who are transport disadvantaged.

“Compare: 1989 No 75 s 32; 1992 No 70 s 11

**“42L Maori interests to be considered**

No output or capital project which affects or is likely to affect Maori land or Maori historical, cultural, or spiritual interests shall be included in a national roading programme, a safety (administration) programme, State highways programme, a regional programme, or a district roading programme unless the Board, the Land Transport Safety Authority, the Authority, regional council, or territorial authority preparing the programme—

“(a) Has consulted every iwi or hapu that, in its opinion, will or may be affected by the output or capital project; and

“(b) Is satisfied, after such consultation, that the output or capital project should proceed.

“Compare: 1989 No 75 s 27

*“Miscellaneous Provisions***“42M Agreements regarding passenger transport operations**

- “(1) Subject to section 27 of this Act, a regional council may make payments from its Land Transport Disbursement Account for any approved output to any body or person for the provision of any passenger service, and may enter into agreements in respect of such payments.
- “(2) Subject to section 27 of this Act and subsection (3) of this section, a territorial authority may make payments from its Land Transport Disbursement Account for any approved output to any body or person for the provision of any passenger service that is an approved output, and may enter into agreements in respect of such payments.
- “(3) A territorial authority may enter into an agreement or make a payment under subsection (2) of this section only if—
- “(a) A regional council has transferred its functions, duties, and powers under this Act to the territorial authority, in accordance with section 37SC of the Local Government Act 1974; and
  - “(b) The territorial authority does not, whether directly or indirectly, have any interest in any passenger service; and
  - “(c) That agreement or payment is not inconsistent with any relevant regional land transport strategy prepared under section 29F of the Land Transport Act 1993.

**“42N Reports on projects and programmes**

- “(1) The Secretary shall include in every annual report to be given by him or her to the Minister under section 30 of the State Sector Act 1988—
- “(a) A statement comparing the performance of the Land Transport Safety Authority in relation to the safety (administration) outputs in that year (other than those delivered by the Police) with the relevant performance measures agreed under section 37(1)(C) of this Act for that year; and
  - “(b) A statement comparing the performance of the Police in relation to the safety (administration) outputs delivered by the Police in that year with the relevant perform-

ance measures agreed under section 37(1)(c) of this Act for that year, which statement shall be prepared by the Commissioner in such form as may be agreed in writing by the Minister and the Minister of Police.

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

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

(2) The following enactments are hereby consequentially repealed:

- (a) Sections 2 and 3 of the Transit New Zealand Amendment Act 1990:
- (b) The Transit New Zealand Amendment Act 1991:
- (c) The Transit New Zealand Amendment Act 1992:
- (d) So much of Part 1 of Schedule 2 to the Land Transport Act 1993 as relates to sections 2, 8, 10, 18, 25, 26, 27A, 28, 29, 31, 32, 33, 34, 37, 39 and 42A of the principal Act
- (e) Sections 3 to 5 of this Act.

**19**

*This section amended, as from 1 July 1996, s 48(5) of the principal Act and Schedule 2 to the Land Transport Act 1993*

**20**

*This section amended, as from 1 July 1996, s 50(4) of the principal Act and Schedule 2 to the Land Transport Act 1993*

**21**

*This section amended, as from 1 July 1996, s 67 of the principal Act*

**22**

*This section amended, as from 1 July 1996, s 100 of the principal Act*



**23**

*This section amended, as from 1 July 1996, s 101(3) of the principal Act*

**24**

*This section amended, as from 1 July 1996, s 105 of the principal Act*

**25**

*This section substituted, as from 1 July 1996, s 106 of the principal Act*

**26**

*This section amended, as from 1 July 1996, s 108 of the principal Act*

**27 Schedule 1 amended**

- (1) *These subsections amended Schedule 1 to the principal Act*
- (2) *These subsections amended Schedule 1 to the principal Act*
- (3) The person who, immediately before the date of commencement of this section, held office as the General Manager of the Authority shall, as from that date, continue to hold office on the same terms and conditions as the chief executive of the Authority.
- (4) Every reference to the General Manager in any Act, regulation, or other enactment, or any contract, agreement, deed, instrument, application, licence, notice, or other document that is in force at the commencement of this section shall hereafter be read as a reference to the chief executive of the Authority.

**28**

*This section substituted, as from 1 July 1996, new Schedules 1A and 1B into the principal Act*

**29**

*This section amended as from 1 July 1996, Schedule 3 to the principal Act*

**30 Transfer of certain assets of Authority to Board**

- (1) The Authority shall from time to time, by notice in writing to Transfund New Zealand, transfer a financial asset of the Authority to the Board if that financial asset—

- (a) Did not arise in relation to its control of the State highway system; and
  - (b) Arose on or before the 30th day of June 1996.
- (2) Any notice in writing under subsection (1) of this section shall state—
  - (a) The Authority's estimate of the amount of the financial asset; and
  - (b) The person or persons who owe the financial asset to the Authority; and
  - (c) How it arose.
- (3) Any financial asset of the Authority that is the subject of a notice from the Authority under this section shall vest, by virtue of this Act, in the Board from the date of execution of the notice by the Authority.
- (4) The Authority shall give the Board promptly any information in relation to a financial asset transferred under this section that the Board may from time to time reasonably require.
- (5) The Authority shall give the Minister as soon as practicable a copy of a notice in writing under subsection (1) of this section.
- (6) The Minister shall lay before the House of Representatives a copy of a notice in writing received by him or her under subsection (5) of this section within 12 sitting days of his or her receipt of that notice.
- (7) In this section, and in section 33 of this Act, unless the context otherwise requires,—
  - Financial asset** includes—
    - (a) Any debt security within the meaning of the Securities Act 1978; and
    - (b) Any right or claim to money; and
    - (c) Any cause of action:
  - Transfer** includes assign and convey.

### **31 Transfer of certain liabilities of Authority to Board**

- (1) Subject to section 32 of this Act, the Authority may from time to time, by notice in writing to Transfund New Zealand, transfer a liability of the Authority to the Board if that liability—
  - (a) Was not incurred in relation to its control of the State highway system; and

- (b) Was incurred on or before the 30th day of June 1996.
- (2) Any notice in writing under subsection (1) of this section shall state—
  - (a) The Authority's estimate of the amount of the liability or potential liability, as the case may require; and
  - (b) The person or persons to whom it is owed or who allege the liability, as the case may require; and
  - (c) How it was incurred.
- (3) Any liability of the Authority that is the subject of a notice from the Authority under this section shall vest, by virtue of this Act, in the Board from the date of execution of the notice by the Authority.
- (4) The Authority shall give the Board promptly any information in relation to a liability transferred under this section that the Board may from time to time reasonably require.
- (5) The Authority shall give the Minister as soon as practicable a copy of a notice in writing given under subsection (1) of this section.
- (6) The Minister shall lay before the House of Representatives a copy of a notice in writing received by him or her under subsection (5) of this section within 12 sitting days of his or her receipt of that notice.
- (7) In this section and in sections 32 and 33 of this Act, unless the context otherwise requires,—

**Liability** includes—

- (a) Any liability under any Act or agreement; and
- (b) Contingent liabilities; and
- (c) Interests of any kind in any liability referred to in paragraph (a) or paragraph (b) of this definition:

**Transfer** includes the assumption of the relevant liability by the Board.

### **32 Preconditions for transfer of liabilities**

The Authority shall not give notice to Transfund New Zealand under section 31 of this Act transferring a liability of the Authority to the Board—

- (a) Until it has given a draft of the notice it proposes to send under that section to the Board and the Minister; and

- (b) If—
  - (i) The Board, within 28 days after the Authority has given the Board the draft of the notice, gives the Authority and the Minister notice in writing that it considers the liability should not be transferred to it as it is not in accordance with the requirements of subsection (1) of that section; and
  - (ii) The Minister determines that it is not in accordance with the requirements of subsection (1) of that section.

### **33 Application of transfer to third parties**

- (1) Nothing effected under section 30 or section 31 of this Act—
  - (a) Shall be regarded as placing the Authority or any other person in breach of, or default under, any agreement, or in breach of confidence, or as otherwise making any of them guilty of a civil wrong;
  - (b) Shall be regarded as giving rise to a right for any person to—
    - (i) Terminate, cancel, or modify an agreement; or
    - (ii) Enforce or accelerate the performance of an obligation; or
    - (iii) Require the performance of an obligation not otherwise arising for performance:
  - (c) Shall be regarded as placing the Authority or any other person in breach of any enactment, rule of law, or provision of an agreement prohibiting, restricting, or regulating the transfer of any liabilities or the disclosure of any information;
  - (d) Shall release any surety from any obligation;
  - (e) Shall invalidate or discharge any agreement or security.
- (2) Where a financial asset or a liability of the Authority is transferred to Transfund New Zealand under section 30 or section 31 of this Act,—
  - (a) The laying before the House of Representatives of any notice relating to the transfer shall be deemed to be notice of the transfer, and any third party shall with effect from the date of execution of the notice by the Authority deal with the Board in place of the Authority:

- (b) Any satisfaction or performance by the Board in respect of a liability shall be deemed to be also satisfaction or performance by the Authority:
- (c) Any satisfaction or performance in respect of a liability by any third party to the benefit of the Board shall be deemed to be also to the benefit of the Authority.

**34 Saving**

Every reference in any other Act or in any regulation, order, or bylaw, or in any agreement, deed, instrument, application, notice, or document whatever to the National Roads Fund or the Land Transport Fund or the Land Transport Account shall, unless the context otherwise requires, hereafter be read as a reference to the National Roads Account.

**35 Transitional provision relating to performance agreement**

Notwithstanding section 7B of the principal Act (as inserted by section 17 of this Act), in respect of the financial year commencing on the 1st day of July 1996, Transfund New Zealand shall give to the Minister a draft performance agreement by the 31st day of July 1996.

**36 Transitional provision relating to competitive pricing procedures**

Competitive pricing procedures approved by the Authority before the 30th day of June 1996 shall be deemed to be competitive pricing procedures approved by Transfund New Zealand under section 26 of the principal Act (as inserted by section 18(1) of this Act).

**37 Transitional provisions relating to national land transport programme**

- (1) Notwithstanding section 33(1) of the principal Act (as it read immediately before the commencement of this section), the Minister shall not approve any national land transport programme received by him or her under section 29 of that Act in respect of the period of 12 months ending with the close of the 30th day of June 1997.

- (2) Notwithstanding section 42A of the principal Act (as inserted by section 18(1) of this Act), in respect of the financial year commencing on the 1st day of July 1996, Transfund New Zealand shall approve a national roading programme for that year by the 31st day of July 1996.

**38 Transitional provision relating to land transport strategies**  
Every land transport strategy prepared under the principal Act (as it read immediately before the commencement of this section) shall be deemed to be a regional land transport strategy prepared under the Land Transport Act 1993.

**39 Transitional provision relating to approved projects**  
All projects approved by the Authority before the 30th day of June 1996 for the purposes of Part 2 of the principal Act (as it read immediately before the commencement of this section) shall be deemed to have been outputs approved by Transfund New Zealand under section 17 of the principal Act (as inserted by section 18(1) of this Act).

**40 Transitional provisions relating to Land Transport Account**

- (1) The credit balance of the Land Transport Fund as at the 30th day of June 1996 shall be paid into the Crown Bank Account and be treated as money paid under section 8(g) of the principal Act (as it read immediately before the commencement of this section) for the purpose of funding land transport outputs.
- (2) The money payable under subsection (1) of this section shall be paid in such instalments as the Minister of Finance and the Minister may from time to time agree.
- (3) All money payable under subsection (1) of this section shall be paid without further appropriation than this section.
- (4) All money held as at the 30th day of June 1996 to the credit of the Land Transport Account operated by the Authority shall,—
- (a) If the money is held for the purposes of State highways, be transferred to the State Highways Account:

- (b) If that money is held for any other purpose, be transferred to the National Roads Account.

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**Schedule 1** Section 28(1)  
**New Schedule 1A inserted into Transit  
New Zealand Act 1989**

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**Schedule 2** Section 28(2)  
**New Schedule 1B inserted into principal  
Act**

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**Schedule 3** Section 29  
**Enactments amended**

An item relating to section 549QA(2) Local Government Act 1974 was repealed, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.