

Public Transport Management Bill

Government Bill

Explanatory note

General policy statement

This Bill—

- clarifies and extends the functions and powers of regional councils with respect to public transport planning and regulation; and
- repeals the Transport Services Licensing Act 1989.

For the purpose of this Bill, the term regional council includes the Auckland Regional Transport Authority (**ARTA**).

The Bill will give regional councils greater powers to regulate the public transport services provided in their regions, while retaining the ability of operators to register such services on a commercial basis. The aim is to help regions obtain the best value for money in achieving an integrated, safe, responsive, and sustainable public transport system that also enables fair competition and a competitive and efficient market for public transport services.

Regional councils plan for the public transport services that they wish to have in their region. Under Part 2 of the Transport Services Licensing Act 1989, operators may register the services they will provide on a commercial basis (that is, without being contracted by the regional council to supply the service). Regional councils may decline such registrations but only on limited grounds, namely, material adverse effect on the financial viability and costs of existing contracted services, or on traffic management or other environmental grounds. If a desired service is not provided on a commercial basis, the regional council may contract with an operator to provide it. These contracted services receive financial assistance from rates

and funding from the national land transport account allocated by Land Transport New Zealand (the **Authority**).

The ability to register services commercially provides opportunities for operators to establish innovative public transport services that would not otherwise be provided. On the other hand, the limited ability of regional councils to regulate commercial services has created barriers to planning and developing integrated, safe, responsive, and sustainable regional public transport systems in an efficient and effective manner.

The Bill contains provisions that are based on existing provisions of Part 2 of the Transport Services Licensing Act 1989 concerning the registration of passenger services. It clarifies the objectives of, and process for developing, regional public transport plans, and empowers regional councils to include in these plans controls on commercial public transport services that—

- set notice periods for commencing, varying, and withdrawing commercial services; and
- set minimum periods of operation for commercial services; and
- set a maximum period between the registration of a commercial service and when it starts; and
- require commercial services to operate according to the frequency, capacity, and times specified in a regional plan; and
- are permitted by regulations made under the Bill.

The Bill will also enable regional councils to adopt controls to implement, in respect of commercial public transport services, any policies specified in their regional public transport plans concerning—

- the information that regional councils will seek from public transport operators for planning and monitoring purposes;
- quality and performance standards (for example, vehicle quality, vehicle accessibility, and service reliability);
- the provision of integrated public transport systems, including policies on integrated services, ticketing, fares, and technology;
- services that are to be contracted or registered collectively rather than separately;
- special provisions for users of a specified class or description of a public transport service.

A control on a commercial service may not impose greater requirements than conditions in a contract intended to implement the same policy in respect of a contracted public transport service.

Regional councils will be able to decline registration of a commercial service if there are reasonable grounds to believe the service will not meet the controls specified in the regional public transport plan. Regional councils will also have the power to deregister a commercial public transport service that is not complying with the controls. Public transport operators will have a right of appeal to the District Court against decisions made by regional councils to decline registration of, or to deregister, commercial public transport services.

To help safeguard against the imposition of controls that do not contribute to the purpose of regional public transport plans, the Bill proposes detailed consultation provisions and a new function for the Authority to publish guidelines that regional councils must take into account in preparing plans. The Bill also includes a power to make regulations to limit the scope of controls or impose conditions upon them.

The Bill will enable regulations to be made to exclude specified services from the application of controls. This will include urban rail services, since these are predominantly provided as contracted services through which regional councils have the ability to specify the terms and conditions upon which they are provided.

The Bill focuses on scheduled services available in a region to the public generally (thus, for example, bus and harbour ferry services operated in a region would be subject to planning and controls by the regional council while general taxi services and inter-regional passenger services would not). For this reason, the Bill proposes replacing the passenger service term used currently in provisions addressing the planning and registration of services with the term public transport service.

Finally, the Bill will repeal the Transport Services Licensing Act 1989.

Clause by clause analysis

Clause 1 relates to the Title.

Clause 2 relates to commencement.

Part 1 Preliminary provisions

Clause 3 sets out the purpose of the Bill.

Clause 4 relates to interpretation.

Clause 5 provides that the Bill binds the Crown.

Part 2 Regulation of public transport

Clause 6 provides for the application of certain provisions of the Local Government Act 2002 to ARTA.

Subpart 1—Regional public transport plan

Clause 7 sets out the purpose of regional public transport plans.

Clause 8 provides that the validity of regional public transport plans is not affected by certain events.

General requirements

Clause 9 provides that a regional council must adopt a regional public transport plan if it intends to enter into a contract to pay for the supply of, public transport services, impose controls on commercial public transport services, or provide financial assistance to the operators or users of a taxi service or a shuttle service. *Clause 9(2)* provides that no person is entitled to require a regional council to implement the provisions of a regional public transport plan. *Clause 9(3)* provides that, if a regional land transport strategy is amended, the regional council must take the steps necessary to ensure that the regional public transport plan continues to give effect to the public transport service components of the strategy.

Clause 10 sets out the required contents of a regional public transport plan.

Clause 11 provides for when a regional public transport plan takes effect and when controls may take effect.

Clause 12 provides for the controls that regional councils may adopt with respect to commercial public transport services.

Clause 13 provides for the implementation of controls on commercial public transport services.

Clause 14 sets out the matters that a regional council must take into account when preparing or adopting a regional public transport plan.

Clause 15 sets out the consultation requirements a regional council must meet before adopting a regional public transport plan.

Clause 16 provides that regional public transport plans must be kept current and sets out the relevant requirements.

Clause 17 provides that a regional council must make copies of an adopted regional public transport plan or an amendment available to certain persons. It also provides that the regional council must make a copy of the regional public transport plan or the amendment available to the public in a printed or electronic form during its usual business hours.

Clause 18 provides that the Authority may require a regional council to provide any information relevant to the preparation of a regional public transport plan. The regional council must supply that information as soon as is reasonably practicable.

Incorporation by reference

Clause 19 provides for the incorporation of documents by reference in regional public transport plans. *Clause 19(4)* provides that a control may incorporate material by reference if, and only if, referring to or incorporating, in whole or in part, with or without modification, a standard requirement, or rule of the New Zealand Standards Council, or of another jurisdiction, related to the subject.

Clause 20 provides that an amendment to, or replacement of, material incorporated by reference in a regional public transport plan has legal effect as part of the plan only if the plan is amended to state that the amendment or replacement has that effect.

Clause 21 sets out the proof requirements for material incorporated by reference.

Clause 22 provides that material incorporated by reference in a regional public transport plan and that expires, is revoked, or ceases to have effect, ceases to have legal effect as part of the plan only if the plan is amended to state that the material ceases to have effect.

Clause 23 sets out the consultation requirements with respect to material to be incorporated by reference.

Clause 24 sets out the requirements regarding access to material incorporated by reference.

Subpart 2—Registration of public transport services

Register of public transport services

Clause 25 provides that a regional council must keep a current register of all commercial public transport services registered under subpart 2. It also sets out details that must be recorded in the register and the manner in which the register may be kept.

Clause 26 provides that the contents of the register must be made available to the public.

Registration of commercial public transport services

Clause 27 provides that all commercial public transport services must be registered.

Clause 28 sets out the notification requirements with respect to a proposal to operate a commercial public transport service.

Clause 29 provides that a regional council may decline to register a commercial public transport service for certain reasons.

Clause 30 sets out the process for declining to register a commercial public transport service.

Clause 31 provides for the registration of commercial public transport services.

Registration of variation to registered commercial public transport services

Clause 32 sets out the notification requirements with respect to a proposed variation to a registered commercial public transport service.

Clause 33 provides that a regional council may decline to register a variation to a commercial public transport service for certain reasons.

Clause 34 sets out the process for declining to register a variation to a commercial public transport service.

Clause 35 provides for the registration of a variation to a commercial public transport service.

Deregistration of commercial public transport services

Clause 36 provides that a regional council may deregister all or part of a commercial public transport service in certain circumstances.

Clause 37 sets out the circumstances in which a regional council may not deregister a commercial public transport service.

Clause 38 provides that a regional council may issue a notice to comply with a control to a commercial public transport service in certain circumstances.

Clause 39 sets out the process for withdrawing a commercial public transport service.

Subpart 3—Miscellaneous

Notices

Clause 40 sets out the way in which notice may be given.

Appeals

Clause 41 provides that a person may appeal to a District Court against an adverse decision relating to that person if the person is an operator of a public transport service that is the subject of the decision.

Clause 42 sets out the procedure for an appeal under *clause 41*.

Clause 43 provides that a decision of a regional council that is appealed against under *clause 41, 44, or 45* continues in force pending the determination of the appeal.

Clause 44 provides that a person may appeal a decision of the District Court to the High Court on the ground that it is erroneous in law.

Clause 45 provides that a person may, under certain conditions, appeal a decision of the High Court to the Court of Appeal.

Offences

Clause 46 provides that a person who operates, within any region, a commercial public transport service that is not registered within that region commits an offence and is liable on summary conviction to a fine not exceeding \$30,000, in the case of a first offence under this clause, and \$60,000, in the case of a second or subsequent offence under this clause.

Clause 47 provides that an operator of a registered commercial public transport service who, without reasonable excuse, varies certain details of that service without complying with the notice

requirement in *clause 32* commits an offence and is liable on summary conviction to a fine not exceeding \$30,000.

Clause 48 provides that an operator of a registered commercial public transport service who, without reasonable excuse, withdraws that service without complying with the notice requirement in *clause 39* commits an offence and is liable on summary conviction to a fine not exceeding \$30,000.

Clause 49 provides that an operator of a registered commercial public transport service who, without reasonable excuse, withdraws that service before the expiry of the minimum duration specified in the regional public transport plan commits an offence and is liable on summary conviction to a fine not exceeding \$30,000.

Clause 50 provides that a regional council that fails to comply with *clause 18* commits an offence and is liable on summary conviction to a fine not exceeding \$3,000.

Clause 51 provides that, for the purpose of ascertaining compliance with this Bill, any enforcement officer may require a person to produce for inspection any books or records in that person's possession or over which that person has control. The enforcement officer may take extracts from or make copies of any books or records so produced.

Regulations

Clause 52 relates to regulations.

Repeals and consequential amendments

Clause 53 repeals the Transport Services Licensing Act 1989 and makes consequential amendments.

Transitional and savings provisions

Clause 54 provides that certain passenger services registered under section 49 of the Transport Services Licensing Act 1989 are to be treated as registered commercial public transport services under this Bill.

Clause 55 provides that a notification received under the Transport Services Licensing Act 1989 but not processed before the commencement of this Bill is to be treated as a notification received under *clause 28, 32, or 39*, as the case may require.

Clause 56 provides that, until a regional council adopts a regional public transport plan under *clause 9*, the regional council's regional passenger transport plan prepared under the Transport Services Licensing Act 1989 remains in effect as if the Transport Services Licensing Act 1989 (immediately before the commencement of this Bill) were still in force.

Clause 57 provides that a contracted service given effect under Part 2 of the Transport Services Licensing Act 1989 is to be treated as a contracted public transport service given effect under this Bill.

Clause 58 provides that 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 Bill. 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.

Schedule 1 relates to Acts that are consequentially amended.

Schedule 2 relates to rules that are consequentially amended.

Regulatory impact statement

Statement of nature and magnitude of problem and need for government action

In New Zealand, particularly in urban areas, public transport provides a more environmentally sustainable travel mode than the private car, providing for approximately 122 million passenger trips annually. Buses are by far the most commonly used public transport mode: approximately 83% of public transport trips are on buses, while 14% are on trains, and 3% on ferries. Most public transport travel occurs in the major centres: approximately 51% of New Zealand's public transport trips occur in Auckland, 29% in Wellington, and 14% in Christchurch, collectively accounting for 94% of public transport trips in New Zealand.

Under the current regulatory arrangements of the Transport Services Licensing Act 1989, regional councils (including ARTA in the case of Auckland) are responsible for preparing a plan of the public transport services they propose to be provided in their regions. Two kinds of public transport services are provided for in the legislation—

- commercial services: public transport operators must register with the council any services they propose to provide commercially (that is, without being contracted by the regional council to supply the service). Public transport operators must give regional councils 21 days' notice if they wish to register a new commercial service or to vary or withdraw an existing commercial service. Regional councils have limited influence over or information about commercial services:
- contracted services: regional councils can contract public transport operators to provide the services the council wishes to provide and fund in their regions. These are often the services that are considered less commercially viable and that need financial assistance. Under the terms of the contracts they have with public transport operators, regional councils will be able to have control over and information on the services they contract and fund, and may impose sanctions for non-performance.

Passenger rail services are predominantly contracted, but in some regions a significant proportion of bus and ferry services are commercial. In Auckland, approximately 41% of bus patronage is on commercial services, while the figure for Wellington is 23%.

The lack of information on or control over scheduled urban commercial bus and ferry services is hindering the ability of some regions to obtain the best value for money in developing an integrated, safe, responsive, and sustainable land transport system that enables fair competition and encourages competitive and efficient markets, specifically,—

- regional councils have very limited influence over commercial services, making it difficult to achieve a fully integrated public transport system or to ensure that commercial services meet the same quality and performance standards (for example, vehicle accessibility standards) that contracted services do; and
- the lack of patronage information for commercial scheduled public transport services makes it difficult for regional councils to identify and respond to the current and long-term needs of the public for public transport; and
- the lack of information on costs and patronage of commercial services can make it difficult to predict deregistrations of commercial services and to plan and fund a continuous, sustainable public transport system. The most serious example

was in Auckland in June 2005, when the deregistration of commercially registered services on 12 bus corridors and 1 ferry corridor left ARTA and Land Transport New Zealand needing to find an unbudgeted \$6.7 million to pay for contracts to keep services operating on those corridors, albeit at a reduced level of service; and

- commercial service registrations by some bus and ferry operators can inhibit competition for contracted services. For example, operators can register some services as commercial if their tender for a contract is not successful or while tenders are still being sought. In a recent example, on the last day that tenders were being called for to operate a ferry service as a contracted service, 1 operator registered it as commercial. Contracting for the service was thus stopped, but within 12 months the commercial registration was withdrawn and a contract was subsequently awarded to the operator who had registered and then deregistered it as a commercial service. Also, registering part of a timetable of services as commercial can give an operator a financial advantage when seeking a contract for the remaining non-commercial services in the timetable. It is not clear that regions are getting the best value for money from contracted services when competition for contracts is inhibited.

Statement of public policy objective

The public policy objective is to enable regional councils to obtain the best value for money in contributing to achieving an integrated, safe, responsive, and sustainable land transport system, having regard to the desirability of encouraging fair competition and encouraging competitive and efficient markets. This objective aligns with the objective of the Government's New Zealand Transport Strategy and the objectives of land transport funding outlined in the Land Transport Management Act 2003.

Statement of feasible options (regulatory and non-regulatory) that may constitute viable means for achieving desired objective

Option A: Status quo

Under the status quo, bus and ferry services would continue to operate as a mix of contracted and commercial services. Regional councils would continue to have limited information on or control

over commercial services, and would have to negotiate with operators to implement desired improvements to commercial services.

The status quo would not facilitate integration, would not improve regional councils' ability to identify and respond to the current and long-term needs of the public for public transport, and would not provide sufficient surety around funding and planning for a sustainable, continuous public transport system. Under the status quo, registration of services as commercial could continue to have the effect of inhibiting competition for contracted services, and would not provide a competitive and efficient public transport system. For these reasons the status quo is not recommended.

Option B: Empower regions to impose controls on commercial services (preferred option)

Option B would continue to permit scheduled public transport services to be delivered on a commercial basis. Legislation would be changed to—

- clarify the objectives of, and process for, development of regional public transport plans:
- empower regional councils to impose controls on scheduled urban commercial bus and ferry services, where such controls are specified in their regional public transport plans. The legislation would allow such controls to include—
 - controls around the timing of commercial registrations:
 - requirements to provide information about commercial services:
 - controls around commercial service quality and performance:
 - controls requiring participation in integrated public transport schemes:
 - requirements for individual trips to be grouped in any commercial registration (for example, grouping all peak and off-peak services together):
 - controls requiring vehicle accessibility standards to be met:
 - any new type of control allowed for by regulations:
- provide regional councils with the discretion to decline or deregister commercial services that do not meet the controls specified in the regional public transport plan:

- establish a mechanism for enabling a degree of central government involvement and oversight of regional public transport plans.

Option B would facilitate integration, would improve regional councils' ability to identify and respond to the current and long-term needs of the public for public transport, and would improve surety around funding and planning for a sustainable, continuous public transport system. Controls introduced under option B could stop services being registered as commercial that have the effect of inhibiting competition for contracted services, thus providing a more competitive and efficient public transport system. Option B is recommended for these reasons, and is the basis of this proposal.

Option C: Empower regions to prohibit commercial services

Under option C, legislation would be changed to allow regional councils to decide how scheduled public transport services are provided, including retaining the status quo, adopting a regime as described in option B above, or prohibiting all commercial services in a region and requiring all services to be contracted.

Prohibiting all commercial services in a region would reduce opportunities for public transport operators to innovate and would reduce the control operators have over their businesses, thus potentially undermining business confidence. For these reasons option C is not preferred.

Statement of net benefit of proposal including total regulatory costs (administrative, compliance, and economic costs) and benefits (including non-quantifiable benefits) of proposal and other feasible options

Government

The benefit of the proposal is that it would enable regional councils to place controls on commercial bus and ferry services and so facilitate public transport systems that are more effectively planned and funded, integrated, and responsive to community needs, and facilitate fair competition and efficient markets for contracted bus and ferry services by controlling commercial registrations that have the effect of inhibiting competition. The proposal would also empower regions to access information on commercial services (for example, patronage and financial information). With this information, regions would have advance notice if commercial services

were becoming unprofitable (for example, if the costs of providing them were increasing but patronage were not) and could then work with Land Transport New Zealand and the operators to see how best to manage the situation.

The benefit of the proposal would vary from region to region, depending on the level of bus and ferry services operated in the region and the proportion of these services that are operated commercially. For example, the benefits of the proposal are likely to be greater in Auckland, where approximately 25% of services carrying 41% of patronage are commercial, than in Christchurch, where almost all services are contracted and thus under regional council control.

The proposed controls would not necessarily change the level of government funding for bus and ferry services for the following reasons:

- contracted services are already controlled by regional councils. Applying controls to commercial services might, at worst, mean that some services are no longer commercial and would be deregistered (for example, controls on service quality and performance might increase the costs of providing the service to the extent that the costs are no longer covered by fare-box revenue, and the service is no longer commercially viable). This would only require additional government funding if the regional council and Land Transport New Zealand agree to fund new contracts to retain these deregistered services; and
- any increase in compliance costs may be offset by the benefits of fairer competition and efficient markets for contracted services. Those cities in Australasia where virtually all services are contracted (Christchurch, Adelaide, Perth, and Brisbane) have costs that are comparable to or lower than Auckland where 41% of patronage is carried on commercial services.

Commercial bus and ferry public transport service operators

Placing performance thresholds on existing commercial scheduled public transport services could increase operating costs, depending upon the level of change required to comply with the control. The magnitude of business compliance costs will depend on the controls that regional councils place on commercial services in their region, however the legislation would also require any such controls to be no more onerous than the controls placed on comparable services

that the regional council contracts. Operators suggest that commercial services generally already meet the same standards as contracted services and that in fact commercial and contracted services are not operated as separate businesses with separate fleets of vehicles.

It is difficult to determine the financial impact of the proposed controls on bus and ferry service operators. The Bus and Coach Association New Zealand has suggested that the change will lead to services switching from being commercial to being contracted and that this could increase costs nationally by between \$5 million and \$20 million annually due to increases in business risk and therefore profit margins. Risk, however, is not an operating cost, and profit margins are in fact more likely to decrease overall, due to markets for contracted services becoming more efficient and competitive.

This is in line with a financial analysis undertaken for Land Transport New Zealand that found that, once differences in input prices are accounted for, there is no significant difference in the cost of operating bus services in Australia (where all services are contracted and thus under regional council controls) compared with New Zealand where there is currently a significant proportion of services operating commercially that are not subject to regional council controls.

Society

The benefit of the proposal to society is that it would enable regional councils to place controls on commercial bus and ferry services and so facilitate public transport systems that are more effectively planned and funded, integrated, and responsive to community needs.

There is a risk that the controls proposed by regional councils under option B may not contribute to the purpose of the regional public transport plan, for example, if the costs of complying with the control outweigh the benefits. This risk would be managed by Land Transport New Zealand providing guidelines about controls to regional councils, and by the new legislation empowering the Governor-General to make regulations to limit the scope of controls or impose conditions on them.

Statement of consultation undertaken

Stakeholder consultation

The Auckland Regional Council, ARTA, North Shore City Council, Local Government New Zealand, the Bus and Coach Association

New Zealand, and a number of Auckland public transport operators (Stagecoach Group Plc, Ritchies Transport Holdings Ltd, Howick and Eastern Buses Ltd, Fullers Group Ltd, and Veolia) were represented on the joint working group that undertook the review of current regulatory arrangements, developed the options for change, and have been briefed on and commented on the proposed changes to legislation. However, they have not been formally consulted in the preparation of this proposal.

The public transport industry, local and regional government, and public transport users were invited to make submissions on a consultation document released as part of this review. A total of 51 submissions were received, including a submission from Local Government New Zealand (which it consulted all its members upon and which was signed off by its National Council), and a submission from the Bus and Coach Association New Zealand.

The results of consultation showed support from local government for legislative change for increased control over commercial services, with a strong preference for change empowering regions to determine how they want public transport delivered in their region, including the adoption of a fully contracted system if desired (option C).

The majority of the public transport industry opposed legislative change to their ability to register and operate commercial services. They value the fact that registered commercial services provide them with some business certainty, and ongoing return on investment, should they be unsuccessful in the tendering process, and they favoured the status quo.

Although option B would address most local government concerns, and although most provisions in option B could be accepted by the public transport industry, consultation did not show strong stakeholder support for option B. However, discussion with stakeholders suggest that most provisions in option B would generally be an acceptable second choice for stakeholders. The exception in option B is the provision to allow regions to require trips to be grouped in a commercial registration. While supported by local government, this provision is strongly opposed by the industry, which is concerned it could be used as a way of abolishing commercial services.

All submissions were taken into account in making the recommendations. The preferred option is to empower regional councils to

impose controls on scheduled urban commercial bus and ferry services, while retaining the ability of the public transport industry to register and operate commercial services, provided those commercial services do not hinder the region from obtaining the best value for money in developing an integrated, safe, responsive, and sustainable land transport system.

Government departments and agencies consultation

The following government departments and entities have been consulted on this proposal, and their views, if any, have been taken into consideration: the Treasury, Ministry of Economic Development, Ministry of Health, Ministry of Education, Ministry of Social Development, Ministry for the Environment, Department of Internal Affairs, Office for Senior Citizens, Office for Disability Issues, Parliamentary Counsel Office, and Land Transport New Zealand. The Department of the Prime Minister and Cabinet has been informed.

No significant concerns were raised.

Business compliance cost statement

Compliance costs could arise from controls that a regional council might choose to impose on commercial bus and ferry services as follows:

- costs associated with collecting and providing patronage and financial information; and
- costs associated with meeting any quality standard (for example, vehicle cleanliness and accessibility) and performance standard (for example, service reliability) that the council might require of commercial services.

There may also be a reduction of profit for some bus and ferry operators if their commercial service registrations have had the effect of inhibiting competition for contracted services and this is no longer the case.

Some operators may lose business if an existing commercial service is deregistered and replaced by a contracted service that is awarded to another operator.

The operators most likely to be affected are those operators who currently operate significant numbers of commercial bus and ferry

services in regions where the regional council would wish to implement controls on those commercial services. This is particularly likely in—

- Auckland, which accounts for some 51% of national bus patronage and where some 41% of passengers are carried on commercial services; and
- Wellington, which accounts for some 24% of national bus patronage and where some 23% of passengers are carried on commercial services.

The operators potentially affected include NZ Bus Ltd (previously owned by Stagecoach Group Plc), Fullers Group Ltd, Ritchies Transport Holdings Ltd, Howick and Eastern Buses Ltd, Birkenhead Transport Ltd, and Mana Coach Services Ltd.

Placing performance thresholds on existing commercial scheduled public transport services could increase operating costs, depending upon the level of change required to comply with the control. The magnitude of business compliance costs will depend on the controls that regional councils place on commercial services in their region; however, the legislation would also require any such controls to be no more onerous than the controls placed on comparable services that the regional council contracts. Operators suggest that commercial services generally already meet the same standards as contracted services and that in fact commercial and contracted services are not operated as separate businesses with separate fleets of vehicles.

It is difficult to determine the financial impact of the proposed controls on bus and ferry service operators. The Bus and Coach Association New Zealand has suggested that the change will lead to services switching from being commercial to being contracted and that this could increase costs nationally by between \$5 million and \$20 million annually due to increases in business risk and therefore profit margins. Risk, however, is not an operating cost and profit margins are in fact more likely to decrease overall, due to markets for contracted services becoming more efficient and competitive.

This is in line with a financial analysis undertaken for Land Transport New Zealand that found that, once differences in input prices are accounted for, there is no significant difference in the cost of operating bus services in Australia (where all services are contracted and thus under regional council controls) compared with New Zealand where there is currently a significant proportion of services operating commercially that are not subject to regional council controls.

Land Transport New Zealand would assist and advise regional councils in the development of their regional public transport plans, including any proposed controls on commercial services.

It is proposed that regional councils would be required to consult Land Transport New Zealand and bus and ferry operators when such plans are developed.

It is also proposed that the new legislation empower the Governor-General to make regulations to limit the scope of controls or impose conditions on them.

Hon Annette King

Public Transport Management Bill

Government Bill

Contents

		Page
1	Title	4
2	Commencement	4
Part 1		
Preliminary provisions		
3	Purpose	4
4	Interpretation	4
5	Act binds the Crown	9
Part 2		
Regulation of public transport		
6	Application of certain provisions of Local Government Act 2002 to ARTA	10
Subpart 1—Regional public transport plan		
7	Purpose of regional public transport plans	10
8	Validity of regional public transport plans not affected by certain events	10
<i>General requirements</i>		
9	Adoption of regional public transport plans	11
10	Contents of regional public transport plans	11
11	Regional public transport plans take effect 20 working days after date adopted	13
12	Controls on commercial public transport services	13
13	Implementation of controls on commercial public transport services	16
14	Matters to take into account when preparing or adopting regional public transport plans	18
15	Consultation requirements	18
16	Currency of regional public transport plans	19
17	Copies of regional public transport plans to be made available to certain persons	20
18	Provision of information	21

<i>Incorporation by reference</i>		
19	Incorporation of documents by reference in regional public transport plans	21
20	Effect of amendments to, or replacement of, material incorporated by reference in regional public transport plans	22
21	Proof of material incorporated by reference	22
22	Effect of expiry of material incorporated by reference	22
23	Consultation on proposal to incorporate material by reference	22
24	Access to material incorporated by reference	23
Subpart 2—Registration of public transport services		
<i>Register of public transport services</i>		
25	Register of public transport services	24
26	Contents of register to be made available to public	25
<i>Registration of commercial public transport services</i>		
27	All commercial public transport services must be registered	25
28	Notification of proposal to operate commercial public transport services	25
29	Grounds for declining to register commercial public transport services	26
30	Process for declining to register commercial public transport services	27
31	Registration of commercial public transport services	27
<i>Registration of variation to registered commercial public transport services</i>		
32	Notification of proposed variation to registered commercial public transport services	28
33	Grounds for declining to register variation to registered commercial public transport services	29
34	Process for declining to register variation to registered commercial public transport services	30
35	Registration of variation to registered commercial public transport services	30
<i>Deregistration of commercial public transport services</i>		
36	Deregistration of commercial public transport services	31
37	Circumstances in which regional councils may not deregister commercial public transport services	31
38	Regional councils may issue notices to comply	32
39	Withdrawal of commercial public transport services	33

Public Transport Management

Subpart 3—Miscellaneous

Notices

40	Notices	34
----	---------	----

Appeals

41	Appeals to District Court	35
42	Procedure	35
43	Decisions of regional councils to continue in force pending appeals, etc	36
44	Appeals to High Court on questions of law	36
45	Further appeals to Court of Appeal	37

Offences

46	Operating unregistered commercial public transport services	37
47	Varying registered commercial public transport services without giving notice required by section 32	37
48	Withdrawing registered commercial public transport services without giving notice required by section 39	38
49	Withdrawing registered commercial public transport services before expiry of minimum duration specified in regional public transport plans	38
50	Failure to comply with section 25	38
51	Power to inspect records	38

Regulations

52	Regulations	39
----	-------------	----

Repeals and consequential amendments

53	Repeals and consequential amendments	39
----	--------------------------------------	----

Transitional and savings provisions

54	Transitional provision for existing registered commercial public transport services	40
55	Transitional provision for notifications received but not processed before commencement of Act	40
56	Transitional provision for existing regional passenger transport plans	40
57	Transitional provision for existing contracted services	41
58	Transitional provisions for register of services	41

	Schedule 1	42
--	-------------------	----

Acts consequentially amended

	Schedule 2	45
--	-------------------	----

**Land Transport Rule: Operator Licensing 2007
(81001) consequentially amended**

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Public Transport Management Act **2007**.

2 Commencement

This Act comes into force on **1 February 2008**.

5

**Part 1
Preliminary provisions**

3 Purpose

(1) The purpose of this Act is to contribute to the aim of achieving an integrated, safe, responsive, and sustainable land transport system.

10

(2) To contribute to this purpose, this Act—

(a) specifies the powers of regional councils to set standards for the public transport services provided in their regions; and

15

(b) regulates the registration of public transport services provided on a commercial basis; and

(c) helps regions and the Authority obtain the best value for money in achieving an integrated, safe, responsive, and sustainable public transport system, having regard to the desirability of encouraging fair competition and a competitive and efficient market for public transport services.

20

4 Interpretation

For the purposes of this Act, unless the context otherwise requires,—

25

affected community has the same meaning as in section 5 of the Land Transport Management Act 2003

approved organisation has the same meaning as in section 5 of the Land Transport Management Act 2003

30

ARTA has the same meaning as in section 5 of the Land Transport Management Act 2003

Auckland Regional Council has the same meaning as in section 5 of the Land Transport Management Act 2003

Authority has the same meaning as in section 5 of the Land Transport Management Act 2003

commercial public transport service—

- (a) means a public transport service for the supply of which the regional council has not contracted to pay; and 5
- (b) includes, to the extent that the regional council has not contracted to pay for the supply of only a part of the service, only that part

Commissioner has the same meaning as in section 5 of the Land Transport Management Act 2003 10

contracted public transport service—

- (a) means a public transport service—
 - (i) that is specified in the regional public transport plan of a regional council; and
 - (ii) the supply of which a regional council has contracted to pay; and 15
- (b) includes, to the extent that a regional council has contracted to pay for the supply of only a part of the service, only that part; but
- (c) to avoid doubt, does not include anything done under an agreement between a regional council and an operator for the purpose of reducing passenger fares or installing equipment 20

control—

- (a) means a control adopted under **section 12**; and 25
- (b) in relation to **sections 10, 11, 12, 13, and 38**, includes an amended control

dial-a-driver service—

- (a) means a passenger service in which—
 - (i) the carriage of passengers is made using the vehicle provided by one of the passengers or a vehicle accompanying that vehicle; and 30
 - (ii) the driver is paid for the carriage or vehicle transfer; but
- (b) does not include a service in which a vehicle is driven by a private chauffeur 35

district has the same meaning as in section 5 of the Land Transport Management Act 2003

enforcement officer has the same meaning as in section 2(1) of the Land Transport Act 1998 40

integrated fare means a single fare for a journey or journeys on public transport services that—

- (a) may apply regardless of—
 - (i) the mode or modes of transport used on the journey: 5
 - (ii) the number of—
 - (A) public transport services used on the journey:
 - (B) operators providing the public transport services; and 10
- (b) if there is more than 1 operator, is—
 - (i) collected by 1 operator on behalf of all operators providing the relevant public transport services; and
 - (ii) shared among all operators providing the relevant public transport services 15

integrated service means a public transport service that is scheduled to connect with 1 or more public transport services, whether or not the services are provided by the same operator

integrated technology means any integrated communication and transaction system that supports an integrated service, including (but not limited to)— 20

- (a) an interoperable electronic system that enables the standard processing of transactions between passengers, the operator, and the regional council by means of a central processing centre: 25
- (b) technology that enables communication between a public transport service and a real-time information system or bus priority system

integrated ticket means, in relation to any public transport service (whether or not integrated or provided by 1 or more operators), a ticket that allows a person to travel on— 30

- (a) more than 1 service:
- (b) a service more than once

large passenger-service vehicle has the same meaning as in section 2(1) of the Land Transport Act 1998 35

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

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 40

national land transport strategy has the same meaning as in section 2(1) of the Land Transport Act 1998

New Zealand Railways Corporation means the corporation constituted under section 4 of the New Zealand Railways Corporation Act 1981

5

notify means to notify in writing; and notification has a corresponding meaning

operate, in relation to a vehicle, boat, craft, or other mode of transport, means to cause or permit the vehicle, boat, craft, or other mode of transport to be driven, sailed, or used, whether or not the person who operates is present with the vehicle, boat, craft, or other mode of transport; and **operator** has a corresponding meaning

10

passenger service has the same meaning as in section 2(1) of the Land Transport Act 1998

15

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

private hire service means a passenger service that is carried on by means of a private hire vehicle or vehicles

private hire vehicle means a motor vehicle that—

20

- (a) is a small passenger service vehicle that is designed or adapted to carry 12 or fewer persons (including the driver); and
- (b) carries passengers for hire or reward; and
- (c) is pre-booked on an agreed fare basis

25

public transport service—

- (a) means the carriage of passengers for hire or reward by means of—
 - (i) a large passenger service vehicle; or
 - (ii) a small passenger service vehicle; or
 - (iii) a harbour ferry; or
 - (iv) a hovercraft; or
 - (v) a passenger rail service vehicle; or
 - (vi) a monorail; or
 - (vii) a tramway; or
 - (viii) a vehicle within the definition of rail vehicle in section 4(1) of the Railways Act 2005; or
 - (ix) any other vehicle, boat, craft, or other mode of transport available to the public generally; and

30

35

- (b) includes a service specified by the Governor-General by Order in Council as a public transport service for the purposes of this Part; but
- (c) does not include the following services:
 - (i) a taxi service: 5
 - (ii) a dial-a-driver service:
 - (iii) a shuttle service:
 - (iv) an ambulance service:
 - (v) a private hire service:
 - (vi) a service that uses a large passenger service vehicle that is chartered: 10
 - (vii) a service that is not available to the public generally

regional council has the same meaning as in section 5(1) of the Local Government Act 2002 and, in relation to this Act,— 15

- (a) includes—
 - (i) ARTA; and
 - (ii) any territorial authority that has the functions, powers, and duties of a regional council under this Act; but 20
- (b) does not include—
 - (i) the Auckland Regional Council; and
 - (ii) the Waikato Regional Council in relation to that part of its region that is within the district of the Franklin District Council 25

regional land transport committee has the same meaning as in section 5 of the Land Transport Management Act 2003

regional land transport strategy has the same meaning as in section 2(1) of the Land Transport Act 1998

regional public transport plan means a public transport plan adopted under **section 9** and includes any amendments or variations to the plan made under **section 16** 30

registered commercial public transport service—

- (a) means a commercial public transport service that is registered under **section 31**; but 35
- (b) excludes—
 - (i) a commercial public transport service that is varied after it has been registered under **section 31**, if the variation is not registered under **section 35**;
 - (ii) a commercial public transport service that is de-registered under **section 36(1) or 39(5)** 40

registered service—

- (a) means—
- (i) a registered commercial public transport service; and
 - (ii) in respect of a public transport service that is specified in a regional public transport plan, any part of the service that is a registered commercial public transport service; and
- (b) includes a contracted public transport service

Secretary means the chief executive of the Ministry 10

shuttle means a motor vehicle that is—

- (a) a small passenger service vehicle originally designed to carry no fewer than 8 persons and no more than 12 persons (including the driver); and
- (b) used for hire or reward for the carriage of passengers who must begin or end their journey at an airport, a bus or ferry terminal, or a railway station 15

shuttle service means a passenger service carried on by means of a shuttle or shuttles

small passenger service vehicle has the same meaning as in section 2(1) of the Land Transport Act 1998 20

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

taxi service has the same meaning as in section 2(1) of the Land Transport Act 1998 25

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

Transit has the same meaning as in section 5 of the Land Transport Management Act 2003.

5 Act binds the Crown 30
This Act binds the Crown.

Part 2

Regulation of public transport

- 6 Application of certain provisions of Local Government Act 2002 to ARTA** 5
- For the purposes of this Act, sections 76 to 83, 87, and 89 of the Local Government Act 2002 apply, with any necessary modifications, to ARTA as if it were a local authority.
- Subpart 1—Regional public transport plan
- 7 Purpose of regional public transport plans** 10
- The purpose of a regional public transport plan is to—
- (a) specify how the regional council intends to give effect to the public transport service components of the regional land transport strategy that applies to the region; and
 - (b) contribute to the purpose specified in **section 3** in an efficient and effective manner. 15
- 8 Validity of regional public transport plans not affected by certain events**
- The validity of a regional public transport plan is not affected by— 20
- (a) a change made to, or renewal of, a regional land transport strategy; or
 - (b) the failure of a regional council to complete the renewal of—
 - (i) a regional land transport strategy within the time required by section 176(1)(b) of the Land Transport Act 1998; or 25
 - (ii) the regional public transport plan within the time required by **section 16(1)(b)**; or
 - (c) the inclusion of any matter that— 30
 - (i) is not referred to in a regional land transport strategy; and
 - (ii) is not inconsistent with a provision in that strategy.

General requirements

- 9 Adoption of regional public transport plans**
- (1) A regional council must, by resolution, adopt a regional public transport plan if it intends to—
- (a) enter into a contract to pay for the supply of public transport services: 5
 - (b) impose controls on commercial public transport services:
 - (c) provide financial assistance to the operators or users of— 10
 - (i) a taxi service:
 - (ii) a shuttle service.
- (2) No person is entitled to require a regional council to implement the provisions of a regional public transport plan.
- (3) If a regional land transport strategy is amended, the regional council must take the necessary steps to ensure that the regional public transport plan continues to give effect to the public transport service components of the strategy. 15
- 10 Contents of regional public transport plans**
- (1) A regional public transport plan must— 20
- (a) state or describe, as appropriate,—
 - (i) the public transport services that the regional council proposes to be provided in its region, and may include (but is not limited to) a statement or description of routes, capacity, and times and frequency of services; and 25
 - (ii) any services under **section 9(1)(c)** that the regional council intends to provide financial assistance for; and
 - (iii) how the public transport services and any services referred to in **subparagraph (ii)** will assist the transport disadvantaged; and 30
 - (b) specify any policies that apply to the public transport services and the services described in **paragraph (a)(ii)** that operate in the region; and 35
 - (c) specify the methods for implementing these policies, including any controls adopted under **section 12**; and
 - (d) state why the regional council is satisfied that each control contributes to the purpose of the regional public transport plan; and 40

- (e) identify any control that the regional council considers likely to have a material adverse effect on the financial viability of any registered commercial public transport service; and
 - (f) specify the date or dates that any controls take effect; and 5
 - (g) describe the manner in which the regional council took into account the matters specified in **section 14** when preparing the regional public transport plan; and
 - (h) set out the regional council's general approach to determining whether a proposed amendment to the regional public transport plan is significant for the purpose of **section 16(4)**; and 10
 - (i) contain transitional arrangements (other than those provided under **section 13(2)**), if any control is adopted that the regional council considers likely to have a material adverse effect on a registered commercial public transport service; and 15
 - (j) specify any other matter prescribed by regulations made under this Act. 20
- (2) Without limiting **subsection (1)(b)**, the policies specified in the regional public transport plan may include (but are not limited to)—
- (a) policies on—
 - (i) the information that the regional council will seek from public transport operators for public transport planning and monitoring purposes: 25
 - (ii) quality standards and performance standards:
 - (iii) providing an integrated public transport system, which may include (without limitation) policies on integrated services, integrated ticketing, integrated fares, and integrated technology: 30
 - (iv) identifying services that are to be contracted for or registered collectively, and those not contracted for or registered separately: 35
 - (v) maximum fares for contracted public transport services in the region or the method or formula for setting those fares or other bases on which those fares may be set, for example, time, zone or stage, mode of travel, number of journeys, and the availability of concessions: 40

- (vi) the application of common colour schemes, emblems, signs, or designs to the vehicles, boats, craft, or other modes of transport used in public transport services in the region:
- (vii) fostering co-operation between the regional council and public transport operators in making timetables and journey-planning information available to the public in a specified format, for example, in electronic or printed form or on their respective Internet sites: 5
- (b) special policies and provisions for any users of any specified class or description of public transport services or any services referred to in **subsection (1)(a)(ii)**:
- (c) any other policies that the regional councils thinks fit. 10
- (3) For the purposes of **subsection (2)(a)(ii)**,— 15
 - performance standards** includes (but is not limited to) service reliability standards
 - quality standards** includes (but is not limited to) vehicle age, cleanliness, emissions, and accessibility standards.
- 11 Regional public transport plans take effect 20 working days after date adopted** 20
 - (1) A regional public transport plan takes effect on the day that is 20 working days after the date on which the regional council adopts a resolution that approves the plan.
 - (2) Despite **subsection (1)**, a control specified in a regional public transport plan takes effect on the date specified in the plan, which may be— 25
 - (a) the date on which the plan takes effect; or
 - (b) a later date.
- 12 Controls on commercial public transport services** 30
 - (1) Except as provided in **subsection (8)**, a regional council may, by resolution, adopt 1 or more controls, if—
 - (a) the regional council—
 - (i) has considered the impact of the control or controls on the financial viability of commercial public transport services in the region; and 35
 - (ii) is satisfied that the control or controls contribute to the purpose of the regional public transport plan; and

- (b) the control complies with any regulations made under **section 52(b)(ii)**.
- (2) A regional council may adopt a control that—
- (a) sets a minimum period of notice (which may not exceed 90 days) for— 5
- (i) commencing a commercial public transport service;
- (ii) varying a commercial public transport service;
- (iii) withdrawing a commercial public transport service: 10
- (b) sets a minimum period for the operation of a commercial public transport service (which must include any period of notice required for varying or withdrawing the service) immediately following the commencement of— 15
- (i) the registered commercial public transport service;
- (ii) a variation to the registered commercial public transport service:
- (c) sets a maximum period between the registration of a— 20
- (i) commercial public transport service and the date on which it starts;
- (ii) variation to a registered commercial public transport service and the date on which it starts:
- (d) requires a commercial public transport service on a specified route to operate according to the frequency, capacity, and times specified in the regional public transport plan for the operation of a public transport service on that route: 25
- (e) subject to **subsections (3), (4), and (5)**, is intended to implement in respect of commercial public transport services any policy specified in the regional public transport plan other than the implementation of policy under **section 10(2)(a)(v), (vi), (vii), and (2)(c)**, except where this is permitted by regulations made under this Act: 30 35
- (f) is permitted by regulations made under this Act.
- (3) A regional council may adopt a control that—
- (a) requires any commercial public transport service to be an integrated service;
- (b) requires the application of common colour schemes, emblems, signs, or designs to the vehicles, boats, craft, 40

- or other modes of transport used in integrated public transport services in the region:
- (c) requires the operator of any commercial public transport service to use integrated technology specified in the regional public transport plan: 5
 - (d) requires the operator of any commercial public transport service to issue, use, and accept an integrated ticket specified in the regional public transport plan:
 - (e) sets and apportions integrated fares, in accordance with 1 or more of the following factors: 10
 - (i) time:
 - (ii) zone:
 - (iii) mode of travel:
 - (iv) any concessionary fares policy:
 - (v) the number of journeys to be travelled: 15
 - (f) requires the operator of any commercial public transport service to collect an integrated fare that is set in accordance with a control made under **paragraph (e)**:
 - (g) requires the operator of any commercial public transport service to accept a portion of an integrated fare that is set in accordance with a control made under **paragraph (e)**, as payment for travel on the service. 20
- (4) A control may require the operator of any commercial public transport service to provide detailed patronage, financial, and operational information about the service— 25
- (a) to the regional council, its professional advisers, and those persons or organisations that the regional council has engaged to carry out public transport planning and monitoring; and
 - (b) for the purpose of assisting the regional council with public transport planning and monitoring and, in the case of patronage data and fare-box revenue, only for that purpose. 30
- (5) A control that is adopted under **subsections (2)(d), (e), (2)(f), (3), or (4)** may impose lesser, but not greater, requirements than a condition in a contract intended to implement the same policy in respect of a contracted public transport service. 35
- (6) If withholding any information provided in accordance with a control made under **subsection (4)** is necessary under section 7 of the Local Government Official Information and Meetings Act 1987 because of its commercial sensitivity, the regional 40

- council must not, without the consent of the person who provided the information, make the information available to any person other than—
- (a) a person specified in **subsection (4)**; or
 - (b) the Authority, in accordance with **section 18**. 5
- (7) Different types of controls in a regional public transport plan may be applied to different classes or descriptions of public transport services.
- (8) A regional council may not adopt a control that applies to a commercial public transport service that— 10
- (a) operates outside the region to which the regional public transport plan applies; or
 - (b) is specified by the Governor-General by Order in Council as an exempt commercial public transport service for the purposes of this section. 15
- (9) A control that is adopted by a regional council—
- (a) may, subject to **subsection (8)**, apply to any commercial public transport service serving its region, whether or not the service is stated or described in the regional public transport plan as a public transport service that the council proposes to be provided in its region; and 20
 - (b) to the extent that the control is inconsistent with any regulations made under **section 52(b)(ii)**, is subject to the regulation.
- (10) A control is not a regulation for the purposes of the Regulations (Disallowance) Act 1989. 25
- (11) For the purposes of this section,—
- financial and operational information** includes (but is not limited to) information about fare-box revenue, kilometres travelled, service quality, vehicles used, and service performance, including reports on individual trips that did not operate or that departed from their starting points early or late, together with reasons for such irregularities 30
- times** means any time of the week, day or night, including weekends. 35
- 13 Implementation of controls on commercial public transport services**
- (1) If a regional council adopts a control under **section 12**, the control—

- (a) takes effect on the date specified in the regional public transport plan for that control to take effect; and
- (b) subject to **subsection (2)**, applies to every commercial public transport service that is subject to the control from the date the control takes effect or the date the service is registered, whichever is the later. 5
- (2) A control adopted under **section 12(2)(d) to (f) or (3)** applies to a registered commercial public transport service from the date that the control takes effect or 18 months after the date that the control is adopted, whichever is the later, if— 10
- (a) the service is operating on or before the date that a control to which the service is subject takes effect; and
- (b) the control has been identified under **section 10(1)(e)** as likely to have a material adverse effect on the financial viability of any registered commercial public transport service. 15
- (3) Despite **section 12(2)(a)(ii) or 12(2)(c)(ii)**, the relevant regional council may require or allow a variation to commence on the date that a control applies to a registered commercial public transport service under **subsection (2)** if the variation is registered to enable the service to meet the control. 20
- (4) An operator of a registered commercial public transport service must, within 6 months after the date on which a regional council adopts a control referred to in **subsection (2)(b)**,— 25
- (a) notify the regional council about whether the operator intends to continue the service once the control applies to the service; and
- (b) if complying with the control requires a variation to the service, advise the regional council on whether the operator intends to notify a variation under **section 32**. 30
- (5) A regional council is not liable to pay compensation to any person in respect of any costs incurred or losses suffered by an operator of a registered commercial public transport service, or any other public transport service, that arise from the adoption of a control by the council. 35
- (6) An operator of a public transport service must ensure that its commercial public transport service is operated in accordance with every applicable control.

14 Matters to take into account when preparing or adopting regional public transport plans

A regional council must, when preparing or adopting a regional public transport plan,—

- (a) take into account— 5
 - (i) how the regional public transport plan—
 - (A) assists economic development; and
 - (B) assists safety and personal security; and
 - (C) improves access and mobility; and
 - (D) protects and promotes public health; and 10
 - (E) ensures environmental sustainability; and
 - (ii) any current national land transport strategy and national energy efficiency and conservation strategy (within the meaning of the Energy Efficiency and Conservation Act 2000); and 15
 - (iii) any guidelines issued by the Authority under the Land Transport Management Act 2003 for the purposes of developing regional public transport plans; and
 - (iv) the public transport funding likely to be available within the region during the period covered by the regional public transport plan; and 20
 - (v) the views of public transport providers; and
- (b) consider the needs of persons who are transport disadvantaged. 25

15 Consultation requirements

- (1) Before adopting a regional public transport plan, a regional council must consult—
 - (a) the relevant regional land transport committee; and
 - (b) Transit; and 30
 - (c) the Authority; and
 - (d) the Commissioner; and
 - (e) the Minister of Education; and
 - (f) the territorial authorities in the region; and
 - (g) the adjoining regional councils and territorial authorities; and 35
 - (h) public transport users and providers; and
 - (i) the public in the region; and
 - (j) the district health boards in the region; and
 - (k) every affected approved public organisation in the region; and 40

- (l) affected communities; and
- (m) Māori of the region; and
- (n) the Accident Compensation Corporation; and
- (o) groups that represent the interests of the transport disadvantaged; and 5
- (p) the New Zealand Railways Corporation.
- (2) In carrying out the consultation required by **subsection (1)**, a regional council must use the special consultative procedure specified in sections 83, 87, and 89 of the Local Government Act 2002, which applies for the purposes of this section with the necessary modifications. 10
- (3) If withholding any information provided in any written submission is necessary under section 7 of the Local Government Official Information and Meetings Act 1987 because of the information's commercial sensitivity, the regional council must not, without the consent of the person who provided the information, make the information available to any person other than— 15
- (a) the regional council, its professional advisers, and those persons or organisations that the regional council has engaged to carry out public transport planning and monitoring; or 20
- (b) the Authority, in accordance with **section 18**.
- (4) A regional council that is preparing a regional public transport plan may request any information from any territorial authority within its region that the council considers necessary to perform its functions under this Act in relation to that plan, and the territorial authority must promptly comply with that request. 25
- (5) For the purposes of this section, Part 7 of the Local Government Official Information and Meetings Act 1987 applies to ARTA as if it were a local authority. 30
- 16 Currency of regional public transport plans**
- (1) A regional public transport plan adopted under **section 9**— 35
- (a) must, at all times, be kept current for a period of not less than 3 years in advance, but not more than 10 years; and
- (b) may be renewed from time to time, but must be renewed—
- (i) at least once every 3 years:

- (ii) at the same time as, or as soon as practicable after, the relevant regional land transport strategy is renewed.
- (2) A regional council that adopts a regional public transport plan may amend it at any time while it is current. 5
- (3) Subject to **subsections (4) to (7)**, the provisions of this Act that apply to the adoption of a regional public transport plan apply with the necessary modifications to an amendment to a regional public transport plan.
- (4) A regional council that proposes to significantly amend a regional public transport plan must meet the consultation requirements specified in **section 15**, except where the regional council is satisfied that it is not necessary to consult any person or organisation other than those persons or organisations that it considers may be affected or have an interest in the proposed amendment. 10 15
- (5) If a regional council proposes a minor amendment to a regional public transport plan, or the exception in **subsection (4)** applies, then the regional council is only required to consult those persons or organisations likely to be affected by or have an interest in the proposed amendment. 20
- (6) The exception in **subsection (4)** does not apply to an amendment that would alter a regional council's general approach in determining whether a proposed amendment to a regional public transport plan is significant. 25
- (7) A regional council may, by resolution publicly notified, correct errors in a regional public transport plan but only if the correction does not affect an existing right, interest, or duty of any person or organisation that is affected by or has an interest in the regional public transport plan. 30

17 Copies of regional public transport plans to be made available to certain persons

Within 20 working days of adopting a regional public transport plan or an amendment to a regional public transport plan, the relevant regional council must—

- (a) forward a copy of the regional public transport plan or the amendment to each of the following: 35
 - (i) the Authority:
 - (ii) Transit:

- (iii) the Secretary:
- (iv) the Minister of Education:
- (v) territorial authorities in the region:
- (vi) every operator of a public transport service that is within the region to which the regional public transport plan applies: 5
- (vii) the relevant regional land transport committee; and
- (b) make a copy of the regional public transport plan or the amendment available to the public in a printed or electronic form during its usual business hours. 10

18 Provision of information

- (1) The Authority may require a regional council to provide any information related to the preparation of a regional public transport plan as is necessary to enable the Authority to perform its functions under the Land Transport Management Act 2003, including (but not limited to) information provided in accordance with a control made under **section 12**. 15
- (2) Despite **section 12(4) or 15(3)**, if the Authority requests any information relevant to the regional council's decision, the regional council must supply that information as soon as is reasonably practicable. 20

Incorporation by reference

19 Incorporation of documents by reference in regional public transport plans 25

- (1) The following written material may be incorporated by reference in a regional public transport plan:
 - (a) standards, requirements, or recommended practices of international or national organisations:
 - (b) standards, requirements, or recommended practices prescribed in any country or jurisdiction: 30
 - (c) any other written material that deals with technical matters and is too large or impractical to include in, or print as part of, the plan.
- (2) Material may be incorporated by reference in a plan— 35
 - (a) in whole or in part; and
 - (b) with modifications or additions specified in the plan.

- (3) Material incorporated by reference in a plan has legal effect as part of the plan.
- (4) A control may incorporate material by reference only if referring to or incorporating, in whole or in part, with or without modification, a standard, requirement, or rule (related to the subject matter of the control) of— 5
- (a) Standards New Zealand; or
 - (b) a comparable organisation in a jurisdiction other than New Zealand.
- 20 Effect of amendments to, or replacement of, material incorporated by reference in regional public transport plans** 10
- An amendment to, or replacement of, material incorporated by reference in a regional public transport plan has legal effect as part of the plan only if the plan is amended to state that the amendment or replacement has that effect. 15
- 21 Proof of material incorporated by reference**
- (1) A copy of material incorporated by reference in a regional public transport plan, including any amendment to, or replacement of, the material, must be— 20
- (a) certified by the regional council as a correct copy of the material; and
 - (b) retained by the regional council.
- (2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence that the material is incorporated by reference in the regional public transport plan. 25
- 22 Effect of expiry of material incorporated by reference**
- Material incorporated by reference in a regional public transport plan and that expires, is revoked, or ceases to have effect, ceases to have legal effect as part of the plan only if the plan is amended to state that the material ceases to have effect. 30
- 23 Consultation on proposal to incorporate material by reference**
- (1) During consultation on a proposed regional public transport plan, the regional council— 35

- (a) must make copies of any material proposed to be incorporated by reference (or the proposed amendment to, or replacement of, material incorporated by reference) available during working hours at the offices of the regional council for inspection by the public free of charge; and 5
- (b) may make copies of the proposed material available in any way that the chief executive of the regional council considers appropriate in the circumstances (for example, on an Internet website maintained by or on behalf of the regional council). 10
- (2) The reference in **subsection (1)** to the proposed material includes, if the material is not in an official New Zealand language, an accurate translation of that material in an official New Zealand language. 15
- (3) A failure to comply with this clause does not invalidate a regional public transport plan that incorporates material by reference.
- 24 Access to material incorporated by reference**
- (1) The regional council— 20
- (a) must make the material referred to in **subsection (2)** available for inspection during working hours at the offices of the regional council; and
- (b) may make copies of the material available in any other way that the chief executive of the regional council considers appropriate in the circumstances (for example, on an Internet website maintained by or on behalf of the regional council); and 25
- (c) must state—
- (i) that the material is incorporated in the regional public transport plan; and 30
- (ii) that the material is available for inspection during working hours free of charge and the place at which it can be inspected; and
- (iii) if copies of the material are available under **paragraph (b)**, how and where the copies may be obtained or accessed. 35
- (2) The material referred to in **subclause (1)** is—
- (a) material incorporated by reference in the regional public transport plan: 40

- (b) any amendment to, or replacement of, that material that is incorporated in the regional public transport plan or the material referred to in **paragraph (a)** with the amendments or replacement material incorporated;
- (c) if the material referred to in **paragraph (a)** is not in an official New Zealand language, as well as the material itself, an accurate translation of that material in an official New Zealand language. 5

Subpart 2—Registration of public transport services

Register of public transport services 10

25 Register of public transport services

- (1) A regional council must keep a current register of—
 - (a) all commercial public transport services registered by it under this subpart; and
 - (b) all public transport services contracted by it. 15
- (2) A regional council must record in the register—
 - (a) the name of the operator of the public transport service; and
 - (b) the contact details of the operator of the public transport service (including the operator’s business address, telephone number, fax number (if any), and email address (if any); and 20
 - (c) routes or areas of operation of the public transport service; and
 - (d) timetables or operating hours of the public transport service; and 25
 - (e) fares of the public transport service; and
 - (f) the date the public transport service commenced; and
 - (g) the intended duration of the public transport service (if applicable); and 30
 - (h) the expiry date of any contract between the regional council and the operator of a public transport service under which a contracted public transport service is supplied.
- (3) The register may be kept in the manner that the regional council thinks fit, including, either wholly or partly, by means of a device or facility that—
 - (a) records or stores information electronically or by other means; and 35

- (b) permits the information so recorded to be readily inspected or reproduced in usable form; and
- (c) permits the information in the register to be accessed by electronic means, including (without limitation) by means of remote logon access.

5

Compare: 1989 No 74 s 52(1)

26 Contents of register to be made available to public

A regional council that keeps a register of public transport services under this subpart must ensure that—

- (a) the information on the register is reasonably readily available for public inspection, free of charge, and during normal office hours; and
- (b) a copy of the information that is on the register can be made available for purchase by the public at a reasonable price.

10

15

Compare: 1989 No 74 s 53

Registration of commercial public transport services

27 All commercial public transport services must be registered

- (1) No person may operate a commercial public transport service in a region unless, at the time it is provided, the service is registered with the regional council of that region.
- (2) **Subsection (1)** does not apply if the commercial public transport service does not pick up or drop off passengers in the region.
- (3) A commercial public transport service may be registered whether or not it provides a service that is proposed in a regional council's regional public transport plan.

20

25

28 Notification of proposal to operate commercial public transport services

30

- (1) In accordance with the applicable period referred to in **subsection (3)**, a person who proposes to operate a commercial public transport service must notify every regional council in whose region the commercial public transport service is to operate of the details of that public transport service, which must include—
 - (a) the name of the operator; and

35

- (b) the contact details of the operator (including the operator's business address, telephone number, fax number (if any), and email address (if any)); and
 - (c) proposed routes or areas of operation; and
 - (d) proposed timetables or operating hours; and 5
 - (e) proposed fares; and
 - (f) the date that the public transport service is intended to commence; and
 - (g) the intended duration of the public transport service; and 10
 - (h) any other matters that may be required by the regional council.
- (2) With the consent of the regional council concerned, any notice required by this section to be given by any person may—
- (a) be given by an organisation on behalf of the person; and 15
 - (b) relate to any number of commercial public transport services.
- (3) For the purposes of **subsection (1), applicable period** means—
- (a) the period of notice for commencing the commercial public transport service that is specified in the relevant regional public transport plan; or 20
 - (b) if the period of notice for commencing the commercial public transport service is not specified in the regional public transport plan, a period of notice that is not less than 21 days before the commercial public transport service is to start. 25

Compare: 1989 No 74 s 48(1), (3)

29 Grounds for declining to register commercial public transport services

- A regional council may decline to register a commercial public transport service— 30
- (a) that is likely to have a material adverse effect on the financial viability of any contracted public transport service; or
 - (b) that is likely to increase the net cost to the regional council of any contracted public transport service; or 35
 - (c) that is contrary to sound traffic management or any environmental factor identified by the regional council as being of importance to its region; or

- (d) if the regional council has reasonable grounds to believe that the commercial public transport service is unlikely to meet a control that will apply to the commercial public transport service; or
- (e) if—
 - (i) the service to be registered is stated or described in the regional public transport plan as a public transport service that the regional council proposes to be provided in its region; and
 - (ii) notification of the registration is submitted between the date on which the regional council resolves to tender the provision of the service as a contracted public transport service and the date on which the service commences as a contracted public transport service.

Compare: 1989 No 74 s 49(2)

30 Process for declining to register commercial public transport services

- (1) A regional council may not decline to register a proposed commercial public transport service unless it has first—
 - (a) notified the operator of the service within 7 days of receiving a notice from the operator under section 28 that it intends to decline the proposed service; and
 - (b) given the operator an opportunity to be heard within the next 7 days of receiving the notice.
- (2) If a regional council declines to register a proposed commercial public transport service under **section 29**, it must, within 7 days of completing a hearing under **subsection (1)** or within 21 days of receiving notice from the operator under **section 28**, give written notice of—
 - (a) the decision to the operator; and
 - (b) the grounds for the decision; and
 - (c) the factors supporting those grounds.

Compare: 1989 No 74 s 49(3)

31 Registration of commercial public transport services

- (1) Within the applicable period referred to in **subsection (2)**, a regional council must register a commercial public transport service notified to it in accordance with **section 28** unless the

regional council declines registration of the commercial public transport service under **section 29**.

- (2) For the purposes of **subsection (1)**, **applicable period** means a period of notice that is within 21 days of receiving the notice concerned. 5
- (3) The registration of a commercial public transport service under this section remains in force until the service is deregistered under **section 36(1) or 39(5)**.

Compare: 1989 No 74 s 49(1)

Registration of variation to registered commercial public transport services 10

32 Notification of proposed variation to registered commercial public transport services

- (1) In accordance with the applicable period referred to in **subsection (5)**, a person must notify every regional council in whose region a commercial public transport service is registered if the person proposes to vary the— 15
- (a) name of the operator of the service;
 - (b) contact details of the operator;
 - (c) route or area of the operator's service; 20
 - (d) timetable for or hours of operation of the operator's service;
 - (e) fares of the service.
- (2) The notice must specify the— 25
- (a) date the service is to be varied; and
 - (b) intended duration of the variation.
- (3) With the consent of the regional council concerned, any notice required by this section to be given by any person may— 30
- (a) be given by an organisation on behalf of the person; and
 - (b) relate to any number of commercial public transport services.
- (4) The regional council may reduce or waive the period of notice required by **subsection (1)** if it is satisfied that the public would not be unreasonably disadvantaged by the earlier variation to the registered commercial public transport service. 35
- (5) For the purposes of **subsection (1)**, **applicable period** means—
- (a) the period of notice for varying the registered commercial public transport service that is specified in the relevant regional public transport plan; or

- (b) if the period of notice for varying the registered commercial public transport service is not specified in the regional public transport plan, a period of notice that is not less than 21 days before the variation to the registered commercial public transport service is to take effect. 5

Compare: 1989 No 74 s 50(1), (2)

33 Grounds for declining to register variation to registered commercial public transport services

A regional council may decline to register a variation to a registered commercial public transport service— 10

- (a) that is likely to have a material adverse effect on the financial viability of any contracted public transport service; or
- (b) that is likely to increase the net cost to the regional council of any contracted public transport service; or 15
- (c) that is contrary to sound traffic management or any environmental factor identified by the regional council as being of importance to its region; or
- (d) if— 20
- (i) a service is stated or described in the regional public transport plan as a public transport service that the regional council proposes to be provided in its region; and
- (ii) the effect of registering the variation would mean that all or part of the service be provided as a commercial public transport service; and 25
- (iii) notification of the variation is submitted between the date on which the regional council resolves to tender the provision of the service as a contracted public transport service and the date on which the service commences as a contracted public transport service; or 30
- (e) if the regional council has reasonable grounds to believe that the variation to the registered commercial public transport service is unlikely to meet a control that will apply to it. 35

- 34 Process for declining to register variation to registered commercial public transport services**
- (1) A regional council may not decline to register a variation to a proposed commercial public transport service unless it has first—
- (a) notified the operator of the service within 7 days of receiving notice from the operator under **section 32** that it intends to decline the variation; and
 - (b) given the operator an opportunity to be heard within the next 7 days of receiving the notice.
- (2) If a regional council declines to register a variation to a registered commercial public transport service under **section 33**, the regional council must, within 7 days of a hearing under **sub-section (1)** or within 21 days of receiving notice from the operator under **section 32**, give written notice of—
- (a) the decision to the operator; and
 - (b) the grounds for the decision; and
 - (c) the factors supporting those grounds.
- Compare: 1989 No 74 s 50(6)
- 35 Registration of variation to registered commercial public transport services**
- (1) A regional council must register a variation to a registered commercial public transport service that has been notified to it under **section 32**, and that has not been declined in accordance with **section 33**, on the later of—
- (a) 21 days after the date on which the notification of the proposed variation to the registered commercial public transport service was received by it, or on an earlier date that may be appropriate having regard to any waiver of or reduction in the period of notice required under **section 32(4)**; or
 - (b) the date on which the operator of the registered commercial public transport service has specified that the service is to be varied.
- (2) If registration of a variation is required to enable a registered commercial public transport service to meet a control of the type described in **section 13(2)(b)**, the relevant regional council may require a variation to commence on the date that the control applies to the service under **section 13(2)**.

- (3) However, if a variation is notified under **section 32**, nothing in this section requires a regional council to register the variation on a date that is later than the date that the control is to apply to the registered commercial public service under **section 13(2)**.

Compare: 1989 No 74 s 50(4)

5

Deregistration of commercial public transport services

36 Deregistration of commercial public transport services

- (1) A regional council may, at any time, deregister all or part of a commercial public transport service from the register if the regional council is satisfied that the service— 10
- (a) does not meet the controls that—
- (i) are adopted under **section 12**; and
- (ii) are specified in the relevant regional public transport plan; and
- (iii) apply to the commercial public transport service from the date specified in **section 13**; or 15
- (b) has,—
- (i) in the case of a service registered before the commencement of this section, failed to commence operating within 90 days of the date that this section comes into force; or 20
- (ii) in the case of a service registered on or after the commencement of this section, failed to commence operating within 90 days of registration.
- (2) If the regional council determines to deregister a commercial public transport service, the regional council must give written notice of— 25
- (a) the decision to the operator; and
- (b) the grounds for the decision; and
- (c) the factors supporting those grounds; and 30
- (d) the date on which the deregistration takes effect (which may not be earlier than the date of notification).

37 Circumstances in which regional councils may not deregister commercial public transport services

- (1) A regional council may not deregister a commercial public transport service under **section 36** unless it has first— 35
- (a) notified the operator of the commercial public transport service of the intention to deregister, its reasons for

- deregistration, and the grounds in support of its reasons;
and
- (b) given the operator 20 working days within which to be heard.
- (2) A regional council may not deregister a commercial public transport service if the service fails to meet a control owing to—
- (a) obedience to orders or directions given by a lawful authority; or
- (b) any action or omission necessary to save or prevent danger to human life; or
- (c) force majeure; or
- (d) compliance with a regulation made under **section 52(b)** that is inconsistent with a control adopted under **section 12**.
- 38 Regional councils may issue notices to comply**
- (1) Despite **section 37**, a regional council may give an operator of a commercial public transport service written notice to comply with a control if the regional council has reasonable grounds to believe that the operator—
- (a) is failing to comply with a control that applies to the service;
- (b) has failed to comply with a control that applies to the service, and that the failure is likely to recur.
- (2) The notice to comply—
- (a) must—
- (i) state that the regional council believes that the operator to whom it relates is failing, or has failed and is likely to fail again, to comply with a control that applies to the service; and
- (ii) specify the—
- (A) relevant details of the control; and
- (B) regional council's reasons for believing that the operator is failing, or has failed and is likely to fail again, to comply with any control that applies to the service; and
- (C) nature of the failure or likely failure; and
- (D) day before which compliance must be achieved:

- (b) may specify any steps that may be taken to ensure that the service complies with a control that applies to the service.
- (3) An operator to whom a notice to comply is given or posted must comply with the notice. 5
- (4) A notice to comply may be—
- (a) given to the operator to whom or which it relates; or
- (b) posted to the operator by registered post.
- (5) If, by the date specified in the notice, the operator is not complying with the control, the regional council may apply to the District Court for— 10
- (a) an order for specific performance; or
- (b) an injunction restraining the operator's non-compliance with the control; or
- (c) relief by way of damages. 15
- (6) A document purporting to be a compliance notice must be received in evidence and, in the absence of proof to the contrary, be treated as a notice to comply; and in any proceedings the production of a document purporting to be certified by or on behalf of a regional council to be a true copy of the regional council's notice to comply is, in the absence of proof to the contrary, sufficient evidence of the notice. 20

39 **Withdrawal of commercial public transport services**

- (1) In accordance with the applicable period referred to in **subsection (4)**, the operator of a registered commercial public transport service who proposes to withdraw from providing all or part of that service must notify the regional council in whose region the commercial public transport service is registered of that proposal. 25
- (2) The operator of a registered commercial public transport service may not withdraw all or part of the service before the expiry of the minimum period specified in the regional public transport plan. 30
- (3) The regional council may reduce or waive the period of notice required by **subsection (1)**, or the minimum period of operation required under **subsection (2)**, if it is satisfied that the public would not be unreasonably disadvantaged by the earlier withdrawal of the registered commercial public transport service. 35

- (4) For the purposes of **subsection (1)**, but subject to **subsection (3)**, **applicable period** means—
- (a) the period of notice for withdrawing a registered commercial public transport service that is specified in the relevant regional public transport plan; or 5
 - (b) if the period of notice for withdrawing a registered commercial public transport service is not specified in the regional public transport plan, a period of notice that is not less than 21 days before the registered commercial public transport service is to cease. 10
- (5) The regional council with which the commercial public transport service is registered must deregister the service on the later of—
- (a) 21 days after the date on which the notification of the proposed withdrawal from providing the registered commercial public transport service was received by it, or on an earlier date that may be appropriate having regard to any waiver of or reduction in the period of notice required under **subsection (3)**; or 15
 - (b) the date on which the operator of the registered commercial public transport service has specified that the service is to be withdrawn. 20

Compare: 1989 No 74 s 50

Subpart 3—Miscellaneous

Notices

25

40 Notices

- (1) Except as otherwise specified in this Act or in regulations, if a notice or other document is to be given, served on, or provided to a person under this Act, that notice or document may be—
- (a) given to that person personally; or 30
 - (b) sent by registered post to that person at that person's usual or last known place of business or residence; or
 - (c) given personally to any other person authorised to act on behalf of that person; or
 - (d) sent by registered post to that other person at that other person's usual or last known place of business or residence; or 35
 - (e) except in the case of a notice or other document to be given or served in the course of, or for the purpose of, any court proceedings for an offence against this Act or 40

an appeal under this Act, sent by post to that person, or any other person authorised to act on that person's behalf, at that person's or other person's usual or last known place of business or residence.

- (2) A notice or other document sent by post or registered post is deemed to have been given, served, or received 7 days after the date on which it was posted, unless the person to whom it was posted proves that, otherwise than through that person's fault, the notice or other document was not received. 5
- Compare: 1989 No 74 s 61 10

Appeals

41 Appeals to District Court

- (1) A person may appeal to a District Court against an adverse decision relating to that person if the person is an operator of a public transport service that is the subject of the decision. 15
- (2) If an appeal is made under **subsection (1)**, the District Court must determine whether the person has complied with the relevant control regardless of its validity.
- (3) Nothing in this section affects the person's right to apply, in accordance with the law, for judicial review of the validity of a control. 20
- (4) For the purposes of **subsection (1)**, **adverse decision** means a decision of a regional council to—
- (a) decline to register a commercial public transport service under **subpart 2**; or 25
 - (b) decline to register a variation to a registered commercial public transport service under **subpart 2**; or
 - (c) deregister a registered commercial public transport service under **subpart 2**.

Compare: 1989 No 74 s 59 30

42 Procedure

- (1) An appeal under **section 41** must be brought, by way of an originating application, no later than 28 days after the date on which the appellant was notified under this Act of the decision appealed against or within any further period that the District Court may allow. 35
- (2) When considering an appeal under **section 41**,—

- (a) a District Court may hear all evidence tendered and representations made by, or on behalf of, any party to the appeal that the Court considers relevant to the appeal, whether or not that evidence would be otherwise admissible in the Court; and 5
- (b) the Court may—
- (i) confirm, reverse, or modify the decision appealed against, and make the orders and give the directions to the regional council that may be necessary to give effect to the Court's decision; or 10
- (ii) refer the matter back to the regional council with directions to reconsider the whole or any part of the matter; and
- (c) subject to this section, an appeal must be made and determined in accordance with the District Courts Act 1947 and the rules of the District Court made under that Act. 15
- (3) Subject to **sections 44 and 45**, the decision of the District Court on an appeal under **section 41** is final. 20
- Compare: 1989 No 74 s 59 20

43 Decisions of regional councils to continue in force pending appeals, etc

- (1) Subject to **subsection (2)**, a decision of a regional council appealed against under **section 41, 44, or 45** continues in force pending the determination of the appeal, and no person is excused from complying with a provision of this Act on the grounds that an appeal is pending. 25
- (2) Pending the outcome of an appeal, a District Court may suspend the regional council's decision if the Court is satisfied that public safety would not be compromised. 30

44 Appeals to High Court on questions of law

- (1) A party to an appeal under **section 41** who is dissatisfied with the decision of the District Court on the ground that it is erroneous in law may appeal to the High Court on that question of law. 35
- (2) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an

appeal under **subsection (1)** as if it were an appeal under section 72 of that Act.

Compare: 1989 No 74 s 60

- 45 Further appeals to Court of Appeal**
- (1) A party to an appeal under **section 44** who is dissatisfied with the decision of the High Court in respect of the appeal may, with the leave of the High Court or (if that leave is declined) with special leave of the Court of Appeal, appeal to the Court of Appeal on that question of law. 5
- (2) The Court of Appeal may make any order or determination that it thinks fit in relation to the appeal. 10
- (3) The decision of the Court of Appeal on an appeal or any application for leave to appeal is final.
- (4) Except as provided in this section, the procedures in respect of an appeal under this section must be in accordance with the applicable provisions of the High Court Rules or the Court of Appeal Rules, as the case may be. 15

Offences

- 46 Operating unregistered commercial public transport services** 20
- A person who operates, within any region, a commercial public transport service that is required under **section 27** to be registered but is not registered within that region commits an offence and is liable on summary conviction to a fine not exceeding— 25
- (a) \$30,000, in the case of a first offence against this section; and
- (b) \$60,000, in the case of a second or subsequent offence against this section.
- Compare: 1989 No 74 s 51(a) 30
- 47 Varying registered commercial public transport services without giving notice required by section 32**
- An operator of a registered commercial public transport service commits an offence and is liable on summary conviction to a fine not exceeding \$30,000 if the operator, without reasonable excuse,— 35

- (a) fails to comply with the notice requirement in **section 32**; and
- (b) varies the—
- (i) name of the operator or the service:
 - (ii) contact details of the operator: 5
 - (iii) route or area of the service:
 - (iv) timetable for or hours of operation of the operator's service:
 - (v) fares of the service.
- Compare: 1989 No 74 s 51(b) 10
- 48 Withdrawing registered commercial public transport services without giving notice required by section 39**
- An operator of a registered commercial public transport service who, without reasonable excuse, withdraws that service or part of that service without complying with the notice requirement in **section 39** commits an offence and is liable on summary conviction to a fine not exceeding \$30,000. 15
- Compare: 1989 No 74 s 51(b)
- 49 Withdrawing registered commercial public transport services before expiry of minimum duration specified in regional public transport plans** 20
- An operator of a registered commercial public transport service who, without reasonable excuse, withdraws that service or part of that service before the expiry of the minimum period for the operation of a commercial public transport service specified in the regional public transport plan commits an offence and is liable on summary conviction to a fine not exceeding \$30,000. 25
- 50 Failure to comply with section 25**
- A regional council that fails to comply with **section 25** commits an offence and is liable on summary conviction to a fine not exceeding \$3,000. 30
- Compare: 1989 No 74 s 52(2)
- 51 Power to inspect records**
- (1) For the purpose of ascertaining whether the provisions of this Act have been or are being complied with by any person to whom this Act applies, any enforcement officer may require 35

that person to produce for inspection any documents, books, or records in that person's possession or over which that person has control, including (but not limited to) logbooks, records associated with logbooks, financial records relating to revenue or expenditure, vehicle maintenance records, and driver roster and time records. 5

- (2) The enforcement officer may take extracts from or make copies of any books or records so produced.

Compare: 1989 No 74 s 63A

Regulations 10

52 Regulations

The Governor-General may, by Order in Council, make regulations—

- (a) specifying—
 - (i) a service as a public transport service: 15
 - (ii) a service as an exempt commercial public transport service:
- (b) specifying—
 - (i) additional controls that a regional council may adopt for the purposes of its regional public transport plan: 20
 - (ii) any limits to, or conditions on, a control specified under **section 12** or **subparagraph (i)**:
- (c) suspending the application of a control specified under **section 12** or **paragraph (b)(i)**: 25
- (d) providing for any matters that are contemplated by, or necessary for giving full effect to, the provisions of this Act or for its due administration.

Repeals and consequential amendments

53 Repeals and consequential amendments 30

- (1) The Transport Services Licensing Act 1989 (1989 No 74) is repealed.
- (2) The Acts set out in **Schedule 1** are consequentially amended in the manner specified in that schedule.
- (3) The Land Transport Rule: Operator Licensing 2007 (81001) is 35
consequentially amended in the manner specified in **Schedule 2**.

Transitional and savings provisions

- 54 Transitional provision for existing registered commercial public transport services**
- (1) A passenger service, or any part of a passenger service that is 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. 5
- (2) **Subsection (1)** does not apply to the following services:
- (a) taxi services; and
- (b) shuttle services; and 10
- (c) private hire services.
- 55 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 28, 32, or 39**, as the case may require. 15
- 56 Transitional provision for existing regional passenger transport plans**
- (1) When a regional council renews a regional land transport strategy for the first time after the commencement of this Act, the regional council must, as soon as is reasonably practicable, adopt a regional public transport plan under **section 9**. 20
- (2) 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 3 years after the commencement of this Act, whichever is earlier. 25
- (3) Subject to **subsection (4)**, until a regional council adopts a regional public transport plan in accordance with **subsection (1)**, the regional council's regional passenger transport plan prepared under the Transport Services Licensing Act 1989 remains in effect as if that Act (immediately before the commencement of this Act) was still in force. 30
- (4) If a regional passenger transport plan continues in effect under **subsection (3)** and it is included in a regional land transport strategy under section 175(2)(k) of the Land Transport Act 1998, then— 35

- (a) the following provisions continue to apply as if section 175(2)(k) of the Land Transport Act 1998 were not repealed under **section 53(2)**:
- (i) sections 181 and 182 of the Land Transport Act 1998; and 5
 - (ii) sections 12(5) and (6)(b), 12A(6), and 19(4) of the Land Transport Management Act 2003; and
- (b) the regional council may not adopt a control under **section 12**.
- (5) Despite the repeal of section 175(2)(k) of the Land Transport Act 1998 under **section 53(2)**, a regional land transport strategy is to be treated as including the relevant regional public transport plan for the purposes of the following provisions: 10
- (a) sections 181 and 182 of the Land Transport Act 1998; and 15
 - (b) sections 12(5) and (6)(b), 12A(6), and 19(4) of the Land Transport Management Act 2003.

57 Transitional provision for existing contracted services

A contracted service given effect under Part 2 of the Transport Services Licensing Act 1989 is to be treated as a contracted public transport service given effect under this Act. 20

58 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. 25
- (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. 30

s 53(2)

Schedule 1

Acts consequentially amended

Employment Relations Act 2000 (2000 No 24)

Section 93(5): omit “Transport Services Licensing Act 1989 (not including any service specified as an exempt service in Part 1 of Schedule 1 of that Act or in regulations referred to in that Part)” and substitute “Land Transport Act 1998”. 5

Foreshore and Seabed Act 2004 (2004 No 93)

Paragraph (b)(v) of the definition of **contiguous land** in section 32(6): omit “2(1) of the Transport Services Licensing Act 1989” and substitute “4(1) of the Railways Act 2005”. 10

Land Transport Act 1998 (1998 No 110)

Section 2(1): insert in its appropriate alphabetical order:

“commercial public transport service has the same meaning as in **section 4 of the Public Transport Management Act 2007**”. 15

Definition of **land transport documents** in section 2(1): omit “the Transport Services Licensing Act 1989,”.

Paragraph (b) of the definition of **traction engine** in section 2(1): repeal and substitute: 20

“(b) is not a rail vehicle within the meaning of section 4(1) of the Railways Act 2005; and”.

Section 113(1)(a): omit “the Transport Services Licensing Act 1989,”.

Section 168(1)(a): omit “the Transport Services Licensing Act 1989,”. 25

Section 168(1): add:

“(c) to prescribe fees to meet, or assist in meeting, the costs incurred by a regional council in processing notifications of commencement, variation, or withdrawal of commercial public transport services under the **Public Transport Management Act 2007**.” 30

Section 175(2)(k): repeal.

Section 176(2): omit “or to include a regional passenger transport plan (within the meaning of section 47 of the Transport Services Licensing Act 1989) that has been prepared by it since the preparation of the strategy”. 35

Section 218(4): omit “the Transport Services Licensing Act 1989,”.

Land Transport Amendment Act 2005 (2005 No 77)

New section 79M(1) in section 38: omit “passenger” and substitute “public transport”.

New section 79M in section 38: add:

“(3) For the purposes of this section, **public transport service** has the same meaning as in section 5 of the Land Transport Management Act 2003.” 5

Land Transport Management Act 2003 (2003 No 118)

Definition of **public transport service** in section 5: repeal and substitute: 10

“**public transport service**—

“(a) means the carriage of passengers for hire or reward by means of—

“(i) a large passenger service vehicle; or

“(ii) a small passenger service vehicle; or 15

“(iii) a harbour ferry; or

“(iv) a hovercraft; or

“(v) a passenger rail service vehicle; or

“(vi) a monorail; or

“(vii) a tramway; or 20

“(viii) a vehicle within the definition of rail vehicle in section 4(1) of the Railways Act 2005; or

“(ix) any other vehicle, boat, craft, or other mode of transport available to the public generally; but

“(b) excludes air transport” 25

Section 5: insert in its appropriate alphabetical order:

“**regional public transport plan** has the same meaning as in **section 4 of the Public Transport Management Act 2007**”.

Definition of **registered service** in section 5: repeal and substitute: 30

“**registered service** has the same meaning as in **section 4 of the Public Transport Management Act 2007**”.

Section 69(1): insert after paragraph (o):

“(oa) to issue guidelines for, and monitor the development of, regional public transport plans:” 35

Local Government (Auckland) Amendment Act 2004 (2004 No 57)

Section 4(1): insert in its appropriate alphabetical order:

“**regional public transport plan** has the same meaning as in **section 4 of the Public Transport Management Act 2007**”.

 40

**Local Government (Auckland) Amendment Act 2004
(2004 No 57)—*continued***

Section 9(1)(a)(iii): omit “Transport Services Licensing Act 1989” and substitute “Land Transport Management Act 2003”.

Section 36(c): omit “passenger transport plan under section 175(2)(k)” and substitute “public transport plan”. 5

New Zealand Railways Corporation Act 1981 (1981 No 119)

Section 119A: omit “Transport Services Licensing Act 1989” and substitute “**Public Transport Management Act 2007**”.

Sentencing Act 2002 (2002 No 9)

Definition of **leasing agreement** in section 127(1): omit “Transport Services Licensing Act 1989” and substitute “Land Transport Act 1998”. 10

Smoke-free Environments Act 1990 (1990 No 108)

Definition of **taxi** in section 2(1): repeal and substitute:

“**taxi** has the same meaning as in section 2(1) of the Land Transport Act 1998”. 15

Trans-Tasman Mutual Recognition Act 1997 (1997 No 60)

Schedule 3: omit “Transport Services Licensing Act 1989”.

Schedule 2 s 53(3)
Land Transport Rule: Operator Licensing 2007
(81001) consequentially amended

Rule 5.4(4): revoke and substitute:

- “5.4(4) The Director must: 5
- “(a) acknowledge the registration under 5.4(3) in writing; and
 - “(b) advise the regional council of any region in which the shuttle service is to operate of:
 - “(i) the registration of the shuttle service; 10
 - and
 - “(ii) the general area of operation of the shuttle service.”

Rule 6.1(8): revoke and substitute:

- “6.1(8) The Director must: 15
- “(a) acknowledge the registration under 6.1(7) in writing; and
 - “(b) advise the regional council of any region in which the private hire service is to operate of:
 - “(i) the registration of the private hire service; and 20
 - “(ii) the general area of operation of the private hire service.”

Rule 8.7: add:

- “8.7(4) The Director must advise the regional council of any region in which an approved taxi organisation is to operate of: 25
- “(a) the approved taxi organisation’s operating area or areas; and
 - “(b) any changes made to its operating area or areas. 30
- “8.7(5) The Director must advise the relevant regional council of an exemption granted under 8.7(2).”

Definition of **local authority** in Part 2: revoke and substitute:

“**local authority** has the same meaning as in section 5(1) of the Local Government Act 2002”. 35

Definition of **regional council** in Part 2: revoke and substitute:

“**regional council** has the same meaning as in **section 4 of the Public Transport Management Act 2007**”.

Definition of **registered service** in Part 2: revoke and substitute:

“registered service has the same meaning as in section 4 of the Public Transport Management Act 2007”.