

Land Transport Management (Regulation of Public Transport) Amendment Bill

Government Bill

As reported from the Transport and Infrastructure Committee

Commentary

Recommendation

The Transport and Infrastructure Committee has examined the Land Management (Regulation of Public Transport) Amendment Bill and recommends by majority that it be passed. We recommend all amendments by majority.

Introduction

The Land Transport Management Act 2003 governs how transport sector agencies and regional councils¹ plan, procure, and deliver public transport services.

This bill would amend the Act to implement the principles of the Sustainable Public Transport Framework (SPTF), which would replace the Public Transport Operating Model (PTOM). The SPTF's objectives are to prioritise mode shift,² encourage fairer treatment of the public transport workforce, and improve environmental and health outcomes.

Specifically, the bill aims to increase flexibility for owning and operating public transport assets and services, by enabling local authorities to operate and hold a direct interest in them. This change would acknowledge that outsourcing services to private operators may not align with broader social objectives for public transport services.

¹ For the purpose of this report, the term “regional councils” refers to regional councils, Auckland Transport, unitary authorities (other than Auckland Council) and territorial authorities that have a public transport function.

² The term “mode shift” refers to the change in demand from one form of transport (such as private vehicles) to another (such as public transport).

The bill would also:

- require public transport services to be planned, procured, and operated in an open and transparent manner
- require regional councils and territorial authorities to collaborate to prepare regional public transport plans (RPTPs)
- improve the framework for exempt services
- expand the definition of public transport to include unscheduled (on-demand) services and shuttle services.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Changes relating to exempt services

Under sections 116 and 130 of the Act, any public transport service operated in a region must be provided under a contract with the regional council as part of a unit³ unless it is an exempt service.⁴

Several clauses in the bill would replace or amend provisions relating to exempt services. Most of our recommended changes are to these clauses, to improve their clarity and workability, or to better reflect the bill's policy intent. This commentary will discuss all changes relating to exempt services first (in sequential order) before addressing other changes.

Defining the term “subsidy”

Clause 8 of the bill would insert new sections 114A and 114B into the Act. As introduced, proposed section 114A(2) states that a “subsidy does not include anything done under an agreement between a regional council and an operator to reduce passenger fares”. This mirrors the wording in section 130(3) of the Act. We consider that the bill should more clearly state what a subsidy is, rather than merely what is not a subsidy.

³ Under section 5(1) of the Act, a unit is a defined geographic area that was specified in an RPTP and for which a regional council specified how public transport services must be operated.

⁴ Exempt services include, among other things, commercial services that operate without a subsidy. Examples of current exempt services include the Waiheke Island ferry and the Wellington Cable Car.

To this effect, we recommend amending clause 4 of the bill, which would amend the Act's interpretation section (section 5), to insert a definition of "subsidy". Under our definition, a subsidy would include any funding from a local authority or the national land transport fund, but would not include:

- anything done under an agreement between a regional council and an operator to reduce passenger fares
- financial assistance provided by a regional council for small vehicle passenger services identified in the council's regional public transport plan under section 120(1)(a)(vii).

This would mean that small vehicle passenger services would receive financial assistance, but remain exempt, if they were identified in the council's RPTP under section 120(1)(a)(vii). These services would not need to be provided as part of a unit. This would allow the current arrangements for the Total Mobility scheme to continue.⁵ It would also enable greater flexibility to provide financial assistance to community-based and employer-funded services that are operated in small passenger service vehicles.

We recommend deleting proposed section 114A(2) from clause 8 as it would then be unnecessary.

Additionally, we recommend specifying that a subsidy may only be provided to a service that is identified as integral in an RPTP and is operated in a unit, or part of a unit. This would, in effect, ensure that all public transport services (other than exempt services) must be provided as a unit. We recommend amending clause 10 to insert section 116B to make this clear.

Removing the automatic exemption for inter-regional services

Proposed new sections 114A and 114B define "exempt service" and "unit" respectively. Under the bill as introduced, all public transport services that operate inter-regionally would be considered exempt services.

Submitters told us that inter-regional services are a critical part of the public transport system. Some councils are working with neighbouring councils to deliver inter-regional services. They stated that a blanket exemption for inter-regional services would affect their ability to plan and deliver these types of services. We think that removing the automatic exemption would give regional councils more flexibility to work collaboratively across regional boundaries to provide public transport services together.

We recommend amending clause 8, proposed section 114A, so that inter-regional services would be treated the same as services within a region. They would only be automatically exempt if they are not identified as integral in an RPTP and operate without

⁵ The Total Mobility scheme helps disabled people and people with long-term impairments with access to transport that is accessible.

a subsidy, or if the regions that they operate between are not required to have RPTPs. Subsidised inter-regional services that are identified as integral in an RPTP would need to be provided in a specified unit.

In keeping with good legislative standards, this change should be prospective and not affect any funding arrangements for existing exempt inter-regional services. To specify this clearly, we recommend inserting clause 12 into the bill's Schedule.

Requirement to consult with other regional councils

By removing the automatic exemption for inter-regional services, our hope is that councils would be able to collaborate more easily to provide inter-regional services. To support this aim, we think that if a regional council wished to propose an inter-regional service, it should be required to consult with relevant local authorities in the other regions the service would operate in. We recommend amending clause 15(2) to provide for this.

Clarifying which exempt services do not need to be registered

Clause 17 would replace section 130 of the Act. It requires exempt services to register with a regional council, and lists exceptions to this requirement.

Proposed section 130(2)(b) would allow an exempt service to operate without being registered if the service uses fewer than 10 vehicles, or vehicles with fewer than 9 seats. The provision's intent is that unscheduled (or "on-demand") services and shuttle services would not be required to register with regional councils. This could increase flexibility and support mode shift.

We think that proposed section 130(2)(b) as introduced is too broad, and might unintentionally allow other exempt services to avoid the requirement to register. We recommend amending proposed section 130(2) to better reflect the policy intent.

Regulation-making powers relating to exempt services

Clause 19 would replace section 150 of the Act. This provision lists the criteria for recommending regulations that would make services exempt, or require exempt services to operate as part of a unit.

We recommend two changes to this clause to ensure that the regulation-making powers are clear and functional.

Resolving circular nature of power to recommend an exemption

Before recommending regulations that would make a service exempt under proposed section 150(2)(c)(ii)(A), the Minister must be satisfied that the service would satisfy the criteria in proposed section 114A (see clause 8 of the bill). One criterion in proposed section 114A is that a service would be exempt if it is specified as such by regulations made under section 150. This arrangement appears to be circular.

We recommend amending proposed section 150(2)(c)(ii) to state that the Minister must be satisfied that a service, while operating as an exempt service, will not receive

a subsidy or be integral to a region's public transport network. This would avoid a circular decision-making process, while still satisfying the bill's intent.

Ensuring funding is available before recommending an exempt service be operated as part of a unit

Proposed section 150(3) lists criteria that would need to be met before the Minister may recommend regulations that would require an exempt service to be operated in a unit, or as part of a unit.

Public transport services that are provided as a unit are co-funded from the national land transport fund (NLTF). Submitters told us that, before recommending such regulations, the Minister should be certain that there is sufficient funding available for the service to operate in a unit. We were advised that Waka Kotahi would consider whether funding is available before giving advice related the removal of an exemption. However, we think this should be expressly required in the bill.

We recommend inserting new section 150(3)(c)(iii) to require the Minister to be satisfied that a regional council has funding available to support a service's operation before making a recommendation to remove an exemption.

In keeping with good legislative standards, this change should be prospective and not affect any ongoing reviews of a service's exemption. We recommend inserting clause 13 in the bill's Schedule to specify this.

Guiding principles for public transport services

Clause 9 would replace section 115(1) of the Act, which lists the guiding principles for planning, procuring, and providing public transport services under Part 5 of the Act. We propose some minor drafting changes for this clause, and two key amendments which are detailed below.

Public transport should support equitable access

Under proposed section 115(1)(b), services must support mode shift from private motor vehicles.

We are concerned that prioritising mode shift could detract from the access needs for those without alternatives or who cannot drive cars, including disabled people or those with mobility issues. We consider that equitable access is a key function of public transport, and that the bill should reflect this. Therefore, we recommend amending proposed section 115(1)(b) to require services to support equitable access as well as mode shift.

Public transport should integrate with land use planning

Proposed section 115(1)(d) would encourage regional councils, territorial authorities, and public transport operators to work together to provide public transport services and associated infrastructure to encourage use of the services and to meet passengers' needs.

Councils suggested that, to provide high-quality public transport networks, public transport planning should also be integrated with land use planning. We agree that land use should be accounted for, and recommend amending proposed section 115(1)(d) accordingly.

Transparency requirements

Clause 10 would replace section 116 of the principal Act. This would require public transport services to be planned, procured, and operated in an open and transparent manner. In the bill as introduced, this would extend to operating costs, service performance, the operator's financial performance, and other matters specified.

We think it should be made clear that this requirement would not compel commercially sensitive information to become publicly available. We note that the Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987 outline grounds under which agencies may be permitted to withhold information. This includes when information is commercially sensitive. We recommend amending clause 10 to clarify that regional councils or Waka Kotahi would not be required to disclose information that they would be entitled to withhold under those Acts.

We also recommend amending proposed section 116 to specify that this would not limit or affect regional council's obligations to publish:

- any patronage data provided by public transport operators (section 127(1)(b))
- data that shows the extent to which services are subsidised (section 127(1)(b))
- information provided by public transport operators related to public transport planning, contracting, and monitoring (section 128)
- information provided to Auckland Council by Auckland Transport, related to the preparation of Auckland Transport's regional public transport plan (section 128).

Matters for councils to take into account before adopting regional public transport plans

Clause 14 would amend section 124, which lists the matters that regional councils must take into account before adopting an RPTP.

We recommend adding one further matter to this list, and removing part of an existing matter from the Act. We discuss these changes below.

Removing specific reference to competitive and efficient markets

Under the existing Public Transport Operating Model, the Act requires councils to take into account the desirability of encouraging a competitive and efficient market when adopting an RPTP (section 124(c)(iv)), and in relation to procurement procedures (section 25). One of the new objectives under the Sustainable Public Transport Framework is that public transport services should support value for money and effi-

ciency, while achieving the other objectives. This is a broader approach to value for money than under the existing model.

Clause 6 would amend section 25 to remove the focus on encouraging competitive and efficient markets from procurement procedures. However, the bill as introduced does not contain a similar amendment to section 124(c)(iv). This would create an inconsistency, and does not support the bill's policy intent.

We recommend inserting clause 14(1A) to remove reference to encouraging a competitive and efficient market in section 124(c)(iv). Regional councils would still be required to take value for money into account, but with a broader understanding of what this means.

Councils should take into account the views of the public transport workforce before adopting RPTPs

One of the objectives of the Sustainable Public Transport Framework is fair and equitable treatment of the public transport workforce. We think that, to be consistent with this objective, the views of public transport workers (and their representative unions) should be considered in preparing RPTPs. We therefore propose inserting clause 14(3) to require regional councils to take into account the views of the public transport workforce and their representative unions when adopting an RPTP.

National Party differing view

The National Party wishes to offer a differing view to those expressed by the majority of committee members on the Land Transport Management (Regulation of Public Transport) Amendment Bill.

The National Party disagrees with the proposed Sustainable Public Transport Framework in its current form. The framework allows for the provision of in-house public transport services without the need for contracts. We believe that any proposed changes to the way that public transport services operate in New Zealand should provide for a competitive and cost-efficient public transport operator procurement process.

The changes made through the select committee on the Land Transport Management (Regulation of Public Transport) Amendment Bill failed to address these concerns relating to the lack of focus on encouraging competitive and efficient markets for public transport operator procurement procedures. We note that the current Public Transport Operating Model requires regional councils to procure public transport services through a competitive procurement process with contracts.

National believes that regional councils should ensure that public transport operators are providing the most reliable and high-quality services to their communities, and we do not have confidence that this will be the case as a result of this bill, with the provision of in-house public transport services.

National supports a public transport system which is procured through a contractual model with a focus on cost efficiency.

Despite this differing view on the Land Transport Management (Regulation of Public Transport) Amendment Bill, the National Party wishes to thank all those who were involved in any work relating to the committee's work on this bill.

National does not support this bill progressing.

ACT Party differing view

This bill proposes that more people should use public transport, shift out of cars and onto a bus, and that the bus fleet should switch from mainly diesel powered to exclusively zero emissions from 2025. This bill fails to provide solutions to the underlying reasons why the numbers of people using public transport has not recovered to pre-COVID-19 levels, and why services have become unreliable since people started returning to work and study after COVID-19 restrictions were removed.

The outcome of the legislation risks a return to the expensive and inflexible working arrangements negotiated between unions and councils for public transport—those of us old enough remember waiting for a bus delayed by frequent bus strikes and service interruptions prior to PTOM. The PTOM model was intended to introduce competition and enforce higher quality standards and reliability than the previous council service. And for a long time it did: until COVID-19.

We can **assume that there are worthwhile benefits from public transport** which are shared by the fare-paying passenger and the road operators, due to reduced congestion and emissions at peak times.

Public transport **should be delivered as efficiently as possible**, so that costs are minimised and the benefits maximised.

Instead of specifying reliability and performance measures in public transport contracts, this legislation removes the requirement to seek competitive tenders for public transport services, which risks a much higher costs to ratepayers and taxpayers.

The need to electrify the bus fleet to meet emission reduction standards should not be in this bill. No bus operator will be allowed to purchase a diesel bus after 2025 to use on a public transport route. That is not going to help put newer buses on rural bus routes.

This bill is yet another tool to force Kiwis out of cars and to justify spending huge amounts of money on wasteful emissions reduction initiatives which do little to reduce emissions.

ACT does not support this Bill proceeding any further.

Appendix

Committee process

The Land Transport Management (Regulation of Public Transport) Amendment Bill was referred to the committee on 28 March 2023. We invited the Minister of Transport to provide an initial briefing on the bill. He did so on 11 May 2023.

We called for submissions on the bill with a closing date of 28 April 2023. We received and considered submissions from 54 interested groups and individuals. We heard oral evidence from 20 submitters at hearings in Wellington and via videoconference.

We received advice on the bill from the Ministry of Transport. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting. The Regulations Review Committee reported to us on the powers contained in clauses 8 and 19.

Committee membership

Shanan Halbert (Chairperson)

Rachel Boyack

Simeon Brown

Paul Eagle

Hon Julie Anne Genter

Dr James McDowall

Terisa Ngobi

Tim van de Molen

Helen White

Simon Court, Dr Liz Craig, Dr Anae Neru Leavasa, and Hon Poto Williams participated for some of our consideration of this bill.

**Land Transport Management (Regulation of Public
Transport) Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon David Parker

Land Transport Management (Regulation of Public Transport) Amendment Bill

Government Bill

Contents

		Page
1	Title	3
2	Commencement	3
3	Principal Act	3

Part 1

Substantive amendments

4	Section 5 amended (Interpretation)	3
5	Section 24 amended (Land transport disbursement accounts)	3
6	Section 25 amended (Procurement procedures)	4
7	Section 27 replaced (Manner in which certain local authority interests in public transport service must be held)	4
	27 Local authority may hold interest in public transport services and infrastructure	4
8	New sections 114A and 114B inserted	4
	114A Meaning of exempt service	4
	114B Meaning of unit	5
9	Section 115 amended (Principles)	5
10	Section 116 replaced (Public transport services must be provided under contract)	6
	116 Planning, procuring, and operating public transport services	6
	116A Limitations on operating integral public transport services	7
	<u>116B Limitations on payment of subsidies</u>	<u>7</u>
11	Section 117 amended (Purpose of regional public transport plans)	7

**Land Transport Management (Regulation of Public
Transport) Amendment Bill**

12	Section 119 amended (Adoption of regional public transport plans)	7
13	Section 120 amended (Contents of regional public transport plans)	7
14	Section 124 amended (Matters to take into account when adopting regional public transport plans)	8
15	Section 125 amended (Consultation requirements for regional public transport plans)	8
16	Section 128 amended (Power to require information from regional councils and Auckland Transport)	9
17	Section 130 replaced (All exempt services to be registered)	9
	130 Exempt services must be registered to operate	10
18	Section 139 amended (Withdrawal of exempt services)	10
19	Section 150 replaced (Regulations)	10
	150 Regulations relating to exempt service	10

Part 2

Minor, consequential, and transitional amendments

20	Section 114 amended (Application of certain provisions of Local Government Act 2002 to Auckland Transport)	12
21	Section 127 amended (Power to require information from operators of public transport services)	12
22	Section 129 amended (Disclosure of information received under sections 127 and 128)	12
23	Section 131 amended (Register of exempt services)	12
24	Section 133 amended (Notification of proposal to operate or vary exempt services)	12
25	Section 134 amended (Grounds for declining registration or variation of exempt services)	12
26	Section 135 amended (Process for declining registrations or variations of exempt services)	13
27	Section 136 amended (Registration of and variation to exempt services)	13
28	Section 137 amended (Deregistration of exempt services and removing details of variations)	13
29	Section 140 amended (Right to appeal to Environment Court)	13
30	Section 141 amended (Appeals to District Court)	13
31	Section 147 amended (Operating public transport services that are not exempt or contracted)	13
32	Section 148 amended (Varying registered exempt services without giving notice required by section 133)	13
33	Schedule 1AA amended	13

Schedule

New Part 3 inserted into Schedule 1AA

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The Parliament of New Zealand enacts as follows:

1 Title

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

2 Commencement

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

3 Principal Act

This Act amends the Land Transport Management Act 2003.

Part 1

Substantive amendments

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4 Section 5 amended (Interpretation)

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

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

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

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

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

subsidy, in relation to a public transport service,—

(a) means any funding from—

(i) the national land transport fund; or

(ii) a local authority; but

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(b) does not include—

(i) anything done under an agreement between the relevant regional council and an operator to reduce passenger fares; or

(ii) financial assistance provided by the relevant regional council for a passenger service identified in the council's regional public transport plan under section 120(1)(a)(vii)

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

unit is defined in **section 114B**

5 Section 24 amended (Land transport disbursement accounts)

Replace section 24(4)(b) with:

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

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

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

6 Section 25 amended (Procurement procedures)

After section 25(6), insert:

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

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

Replace section 27 with:

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

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- (1) A local authority may hold an interest in, or acquire the ownership of, either or both of the following:

- (a) a public transport service;
(b) public transport infrastructure and associated assets.

- (2) To avoid doubt, **subsection (1)(a)** applies whether or not the local authority receives any funding from the national land transport fund in relation to the service.

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8 New sections 114A and 114B inserted

After section 114, insert:

114A Meaning of exempt service

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

- ~~(a) it operates inter-regionally;~~

- (b) it operates in a region that is required to have a regional public transport plan, but—

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- (i) when it started operating, it was not identified in that plan as integral to the public transport network in that region; and

- (ii) it operates without a subsidy for its provision:

- (c) it operates in a region that is not required to have a regional public transport plan:

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- (ca) it operates inter-regionally between 2 or more regions, at least 1 of which is required to have a regional public transport plan, but—

- (i) when it started operating, it was not identified in any plans as integral to the public transport network in any of those regions; and

- (ii) it operates without a subsidy for its provision;

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- (cb) it operates inter-regionally between 2 or more regions that are not required to have regional public transport plans;
- (d) it is specified as an exempt service by regulations made under **section 150.**
- (2) ~~For the purposes of **subsection (1)(b)(ii)**, a subsidy does not include any thing done under an agreement between a regional council and an operator to reduce passenger fares.~~ 5

114B Meaning of unit

- (1) In this Part, a **unit** is a defined geographic area (of any size)—
 - (a) that is specified in a regional public transport plan; and 10
 - (b) for which the regional council for the region has specified (in any way) how public transport services must be operated.
- (2) For example, a regional council may specify the geographic boundaries of a unit by reference to—
 - (a) cadastral, electoral, regional, territorial, or other central or local government administrative boundaries; or 15
 - (b) suburbs, roads, ~~or~~ motorways, or railways; or
 - (c) landmarks; or
 - (d) destinations (for example, a hospital, public library, shopping centre, or transport depot). 20
- (3) For example, a regional council may specify how public transport services in a unit are to be operated by reference to 1 or more of the following:
 - (a) operation along the whole or part of the length of 1 or more specified routes within the unit; or
 - (b) operation according to a schedule that applies to all or a part of a specified route or routes within the unit; or 25
 - (c) operation from or to a particular destination within the unit; or
 - (d) operation within the unit without predetermined routes or schedules.

9 Section 115 amended (Principles)

Replace section 115(1) with: 30

- (1) All persons exercising powers or performing functions under this Part must be guided by each of the following principles to the extent relevant to the particular power or function:
 - (a) well-used public transport services reduce the environmental and health impacts of land transport, including by reducing reliance on single-occupant vehicles and using zero-emission technology: 35
 - (b) public transport services support a mode shift from private motor vehicle use and equitable access to places, facilities, services, and social and

	<u>economic opportunities</u> if they are co-ordinated, integrated, reliable, frequent, accessible, affordable, and safe:	
(c)	fair and equitable employment or engagement of people in the public transport workforce should ensure that there is a sufficiently robust labour market to sustain and expand public transport services:	5
(d)	regional councils, territorial authorities, and public transport operators should work together to provide co-ordinated <u>co-ordinate</u> public transport services, and the associated infrastructure <u>the provision of infrastructure, and land use as necessary—</u>	
(i)	to meet the needs of passengers; and	10
(ii)	to encourage more people to use the services:	
(e)	providing public transport services <u>should be provided in a way that</u> assists—	
(i)	public transport investment to be efficient; and	
(ii)	public transport investment to give value for money.	15
(f)	providing public transport services assists in furthering the principles set out in paragraphs (a) to (d).	

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

Replace section 116 with: 20

116	Planning, procuring, and operating public transport services	
(1)	Planning, procuring, and operating public transport services must be carried out in an open and transparent manner, irrespective of who operates the service.	
(2)	Without limiting subsection (1) , openness and transparency are required in relation to the following matters:	25
(a)	operating costs:	
(b)	service performance (for example, by reference to key performance indicators such as reliability and punctuality):	
(c)	the vehicles, vessels, or other transport modes used or to be used to operate the services:	30
(d)	the financial performance of the person operating or to be operating the services (for example, the person's assets, liabilities, and equity):	
(e)	the aggregate terms and conditions of the workforce operating or to be operating the services.	
<u>(3)</u>	<u>This section does not require a regional council or the Agency to disclose information that they would be entitled to withhold in response to a request for information under the Local Government Official Information and Meetings Act 1987 or the Official Information Act 1982.</u>	35

- (4) However, **subsection (3)** does not limit or affect—
- (a) a regional council’s obligation to publish information under section 127(1)(b); or
 - (b) the obligations of a regional council to provide information under section 128.

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116A Limitations on operating integral public transport services

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

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116B Limitations on payment of subsidies

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

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

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

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

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

Replace section 119(1) with:

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

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

- (1) In section 120(1)(a)(i), delete “that the regional council proposes to provide”.
- (2) After section 120(1)(a)(i), insert:

- (ia) identify the infrastructure necessary to support those public transport services; and

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- (3) Replace section 120(1)(a)(ii) with:
- (ii) for scheduled services identified under subparagraph (i), provide an outline of their routes, frequency, and hours of operation; and
 - (iia) for unscheduled services identified under subparagraph (i), provide an outline of their geographic area, and hours, of operation; and
- (4) In section 120(1)(a)(iv), replace “a unit is” with “the services in a unit are”.
- (5) In section 120(1)(a)(v), after “replaced by”, insert “services in”.
- (6) Replace section 120(2)(d) with:
- (d) the approach that will be taken to provide the service or services in a unit or part of a unit, including, if relevant, whether the service will be operated by the council itself or another person; and
- (7) In section 120(2)(e), after “procurement of”, insert “services in”.
- (8) In section 120(2)(f), after “performance of”, insert “services in”.
- 14 Section 124 amended (Matters to take into account when adopting regional public transport plans)**
- (1) After section 124(c)(ii), insert:
- (iia) ~~the transport component of any plan or strategy of a local authority within the region for which there has been public consultation; and that has been developed and publicly consulted on by—~~
 - (A) a territorial authority within the region; or
 - (B) the regional council if it has transferred its public transport responsibilities to a territorial authority under section 17 of the Local Government Act 2002; and
- (1A) In section 124(c)(iv), delete “, having regard to the desirability of encouraging a competitive and efficient market for public transport services”.
- (2) After section 124(c)(iv), insert:
- (iva) the views of the territorial authorities in the region; and
- (3) After section 124(c)(v), insert:
- (vi) the views of the public transport workforce and its representative unions registered under Part 4 of the Employment Relations Act 2000; and
- 15 Section 125 amended (Consultation requirements for regional public transport plans)**
- (1) In the heading to section 125, replace “**Consultation requirements for**” with “**Preparation of**”.
- (2) Replace section 125(1) with:

- (1) When preparing a draft regional public transport plan, a regional council must—
 - (a) (except Auckland Transport) prepare the draft in collaboration with the territorial authorities in the region; and
 - (b) consult all the following entities: 5
 - (i) the relevant regional transport committee (but Auckland Transport must consult the Auckland Council and each affected local board of the Auckland Council):
 - (ii) the Agency:
 - (iii) every public transport operator in the region: 10
 - (iv) every person who has notified the regional council of a proposal to operate an exempt service in the region:
 - (v) the Minister of Education:
 - (vi) the relevant railway line access provider:
 - (vii) Kāinga Ora—Homes and Communities, if there are any specified development projects in the region: 15
 - (viii) if the regional council proposes to plan, procure, or operate an inter-regional public transport service, all relevant local authorities in the other regions in which the service is proposed to operate. 20
- (3) In section 125(2), delete “or Auckland Transport (as the case may be)”.
- (4) In section 125(2)(b), replace “83, 87, and 89” with “83 and 87”.
- 16 Section 128 amended (Power to require information from regional councils and Auckland Transport)**
 - (1) In the heading to section 128, delete “**and Auckland Transport**”. 25
 - (2) Replace section 128(1) with:
 - (1) The Agency may require a regional council to provide it with information related to public transport planning and public transport services that is necessary to enable the Agency to perform its functions under this Act, including information that— 30
 - (a) is provided to the regional council under section 127; or
 - (b) the regional council holds in relation to planning, procuring, and operating public transport services (for example, any information relating to the matters listed in **section 116(2)** that the regional council has collected when exercising a power or performing a function under this Part). 35
- 17 Section 130 replaced (All exempt services to be registered)**

Replace section 130 with:

130 Exempt services must be registered to operate

- (1) A person must not operate an exempt service in a region unless the service is registered as an exempt service with the regional council of that region.
- (2) Despite **subsection (1)**, a person may operate an exempt service in a region without the service being registered if—
 - (a) the service can be reserved for use by a single person or a self-selected group of people; or
 - ~~(b) the service cannot be reserved for use by a single person or a self-selected group of people, but—~~
 - ~~(i) it is operated using fewer than 10 vehicles; or~~
 - ~~(ii) it is operated using vehicles with 9 or fewer seating positions, including the driver's; or~~
 - ~~(iii) it is a shuttle service.~~
 - (b) the service is an unscheduled service that is operated—
 - (i) using fewer than 10 vehicles;
 - (ii) using vehicles with 9 or fewer seating positions, including the driver's; or
 - (c) the service is a shuttle service.

18 Section 139 amended (Withdrawal of exempt services)

- (1) Replace section 139(1) with:
 - (1) The operator of an exempt service that must be registered under **section 130** must notify the regional council in whose region the service is registered if it intends to withdraw from operating the service.
 - (1A) The operator must give notice—
 - (a) at least 60 working days before it ceases to operate the exempt service, if the service is identified in the regional public transport plan as integral to the public transport network; or
 - (b) at least 15 working days before it ceases to operate the service, in any other case.
- (2) In section 139(2), replace “(1)” with “**(1A)**”.

19 Section 150 replaced (Regulations)

Replace section 150 with:

150 Regulations relating to exempt service

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations—
 - (a) specifying that a public transport service is an exempt service; or

- (b) requiring an exempt service to be operated in a unit or part of a unit.
- (2) The Minister may make a recommendation for the purposes of **subsection (1)(a)** only if all of the following apply:
- (a) the Minister or a regional council has requested the Agency to investigate whether the Minister should recommend making the order; ~~and;~~ 5
- (b) the Agency, after consulting the operator of the service and any relevant regional council, requests the Minister to recommend making the order; ~~and;~~
- (c) the Minister is satisfied that the consultation has taken place and ~~either~~ that— 10
- (i) the service is being, or will be, provided as part of a local roading network; or
- (ii) the service, while operating as an exempt service,—
- (A) will not receive a subsidy for its provision; and
- (AA) will not be an integral part of the relevant region's public transport network; and 15
- ~~(A) will satisfy the criteria in **section 114A**; and~~
- (B) will not need its fares to be regulated; and
- (C) will reflect and reinforce the principles set out in **section 115(1)**. 20
- (3) The Minister may make a recommendation for the purposes of **subsection (1)(b)** only if—
- (a) the Minister or a regional council has requested the Agency to investigate whether the Minister should recommend making the order; and
- (b) the Agency, after consulting the operator of the service and any relevant regional council, requests the Minister to recommend making the order; and 25
- (c) the Minister is satisfied that the consultation has taken place and that—
- (i) the service is integral to the public transport network (whether or not it is identified as such in the relevant regional public transport plan); and 30
- (ii) either—
- (A) the service needs its fares to be regulated; or
- (B) operating the service in a unit or part of a unit will reflect and reinforce the principles set out in **section 115(1)**; ~~and~~ 35
- (iii) the regional council has funding available to support the operation of the service in a unit or part of a unit.

- (4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 2

Minor, consequential, and transitional amendments

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|-----------|---|----|
| 20 | Section 114 amended (Application of certain provisions of Local Government Act 2002 to Auckland Transport) | 5 |
| | In section 114, replace “83A, 87, and 89” with “83A and 87”. | |
| 21 | Section 127 amended (Power to require information from operators of public transport services) | |
| (1) | In section 127(1)(a), after “operator of”, insert “a service in”. | 10 |
| (2) | In section 127(1)(a), replace “for that unit” with “for that service”. | |
| (3) | In section 127(1)(b)(ii) and (c), replace “unit” with “service”. | |
| 22 | Section 129 amended (Disclosure of information received under sections 127 and 128) | |
| (1) | In section 129(1), delete “of the unit” in each place. | 15 |
| (2) | In section 129(3), delete “of the unit” in each place. | |
| 23 | Section 131 amended (Register of exempt services) | |
| (1) | In section 131(1), replace “public transport services that are exempt services” with “exempt services that must be registered under section 130 ”. | |
| (2) | In section 131(2)(d), replace “routes” with “routes, or geographic area of operation,”. | 20 |
| 24 | Section 133 amended (Notification of proposal to operate or vary exempt services) | |
| (1) | In the heading to section 133, after “services”, insert “that must be registered”. | 25 |
| (2) | In section 133(1)(a), after “exempt service”, insert “that must be registered under section 130 ”. | |
| (3) | In section 133(1)(a)(iv), replace “routes” with “routes, or geographic area of operation,”. | |
| 25 | Section 134 amended (Grounds for declining registration or variation of exempt services) | 30 |
| (1) | In section 134(1)(b), replace “routes” with “routes, or geographic area of operation,”. | |
| (2) | In section 134(2)(a), delete “of the route or routes”. | |

- (3) In section 134(2)(a)(i), after “viability of any”, insert “service in a”.
- (4) In section 134(2)(a)(ii), after “council of any”, insert “service in a”.
- 26 Section 135 amended (Process for declining registrations or variations of exempt services)**
In section 135, replace “in the register a variation of a route of an exempt service” with “a variation of its route or geographic area of operation”. 5
- 27 Section 136 amended (Registration of and variation to exempt services)**
In section 136(1)(b), after “routes”, insert “or geographic area of operation”.
- 28 Section 137 amended (Deregistration of exempt services and removing details of variations)** 10
(1) In section 137(2), after “routes”, insert “or geographic area of operation”.
(2) In section 137(4)(a), after “replaced by a”, insert “service in a”.
- 29 Section 140 amended (Right to appeal to Environment Court)**
In section 140(1), replace “those units” with “those services”.
- 30 Section 141 amended (Appeals to District Court)** 15
(1) In section 141(2)(b), after “routes”, insert “or geographic area of operation”.
(2) In section 141(2)(d), after “routes”, insert “or geographic area of operation”.
- 31 Section 147 amended (Operating public transport services that are not exempt or contracted)**
(1) In the heading to section 147, replace “contracted” with “in part of a unit”. 20
(2) In section 147(1), replace “provided as a unit or part of a unit under contract with the regional council” with “operated in a unit or part of a unit”.
- 32 Section 148 amended (Varying registered exempt services without giving notice required by section 133)**
In section 148, after “routes”, insert “or geographic area of operation,”. 25
- 33 Schedule 1AA amended**
In Schedule 1AA,—
(a) insert the Part set out in the **Schedule** of this Act as the last Part; and
(b) make all necessary consequential amendments.

Schedule

New Part 3 inserted into Schedule 1AA

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	Part 3	
	Provisions relating to Land Transport Management (Regulation of Public Transport) Amendment Act 2023	5
9	Definition	
	In this Part, amendment Act means the Land Transport Management (Regulation of Public Transport) Amendment Act 2023 .	
10	Regional public transport plan treated as complying with certain requirements	10
(1)	This clause applies if a regional council has adopted a regional public transport plan under section 119 before the amendment Act commences.	
(2)	On and from the commencement of the amendment Act, the plan must be treated as having been made in accordance with subpart 1 of Part 5 of this Act.	15
(3)	However, when the plan is first renewed or varied in accordance with section 126, the regional council must, at the same time, comply with all requirements of this Act as amended by the amendment Act (for example, the requirements in sections 115(1), and 120(1)(a)(ia), and 429(2)(d)).	
11	Regional public transport plan treated as exempt from complying with certain requirements	20
(1)	This clause applies if a regional council, immediately before the amendment Act commences,—	
(a)	has a regional public transport plan (a current plan); and	
(b)	is in the process of adopting, varying, or renewing it under section 119.	25
(2)	The requirement in section 126(1)(a) does not apply to the council's current plan. However, the process in subclause (1)(b) must be completed as soon as is reasonably practicable.	
(3)	To avoid doubt, the new plan must comply with all requirements of this Act as amended by the amendment Act.	30
12	<u>Exempt inter-regional public transport services continue to be exempt</u>	
(1)	<u>This clause applies to an inter-regional public transport service—</u>	
(a)	<u>that is operating and receiving a subsidy immediately before the amendment Act commences; and</u>	

	<u>(b) the funding arrangements for which remain substantially the same on and after that commencement.</u>	
<u>(2)</u>	<u>Despite sections 114A and 116B, on and from the commencement of the amendment Act, the public transport service—</u>	
	<u>(a) continues to be an exempt service; and</u>	5
	<u>(b) may continue to receive the subsidy.</u>	
13	<u>Regulation-making processes already begun under section 150</u>	
<u>(1)</u>	<u>This clause applies if, immediately before the amendment Act commences,—</u>	
	<u>(a) a consultation process under section 150(2) was underway; but</u>	
	<u>(b) regulations have not yet been made under section 150(1).</u>	10
<u>(2)</u>	<u>On and from the commencement of the amendment Act, all processes of consultation by the Agency and consideration and recommendation by the Minister may continue under section 150(2) as in force immediately before the amendment Act commences.</u>	
<u>(3)</u>	<u>If the Minister continues consideration under subclause (2), the Minister’s consideration must be of the matters set out in section 150(2)(a), (b), or (c) (as applicable) as in force immediately before the amendment Act commences.</u>	15
<u>(4)</u>	<u>Regulations made on a recommendation that is made after consideration under subclause (3) have effect as if they were made under section 150 as in force on and from the commencement of the amendment Act.</u>	20

Legislative history

16 March 2023
28 March 2023

Introduction (Bill 237–1)
First reading and referral to Transport and Infrastructure
Committee