

Local Government (Auckland) Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill implements changes to transport governance for the Auckland Region and requires changes to be made to the Auckland Regional Policy Statement and regional and district plans to better provide for land transport priorities and land use policies.

The changes in transport governance are designed to promote increased integration of decision-making in respect of Auckland land transport. Overall responsibility for land transport strategy will continue to reside with the Auckland Regional Council (through its Regional Land Transport Committee), while a new council-controlled organisation (the Auckland Regional Transport Authority (ARTA)) will be established to undertake the integrated planning, funding, and development of Auckland land transport. In fulfilling these functions, ARTA will prepare a Land Transport Programme for the Auckland Region, detailing its planned activities, and including statements of regional priority in respect of particular activities and projects.

ARTA will be a subsidiary of, and be accountable to, the Auckland Regional Council. The activities in ARTA's Land Transport Programme will be funded by Transfund, Auckland territorial authorities, and the Auckland Regional Council. The Bill provides for the Auckland Regional Council to determine the level of funding that it will provide to ARTA each year, with ARTA determining the

prioritisation of individual activities within its Land Transport Programme. In recognition of their interest in regional land transport, the Auckland territorial authorities will be represented on an appointments panel, which will have the sole role of appointing ARTA's directors. The role of Transfund New Zealand, Transit New Zealand, and TrackCo are unchanged by this Bill. The relationships between Transfund and Auckland local authorities will change, however, as in the future Transfund will primarily deal with ARTA about the funding of land transport (rather than with the Auckland Regional Council (in respect of public transport) and the territorial authorities (in respect of local roads) as currently occurs).

The Bill also provides for the dissolution of Infrastructure Auckland and the transfer of its assets and liabilities to a new council-controlled organisation (Auckland Regional Holdings (ARH)). ARH will be a subsidiary of the Auckland Regional Council, and will be a vehicle for owning and managing land transport and other assets in the interests of the Auckland Region. In doing so, ARH will make available any land transport assets that it holds for use in the delivery of ARTA's Land Transport Programme. The Bill provides that at least 85% of the funds provided by ARH to the ARC (from the former Infrastructure Auckland assets) are to be expended for transport and stormwater purposes. This requirement can be reviewed after 2007.

To improve integrated transport priorities and land use policies for Auckland, the Bill also requires changes to the Auckland Regional Policy Statement and regional and district plans to provide for integrated transport priorities and land use policies that are consistent with the Auckland Regional Growth Strategy and the Auckland Regional Land Transport Strategy. The Bill provides for Auckland local authorities to delegate, under section 34A of the Resource

Management Act 1991, to a single hearings panel the functions, powers, and duties to hear submissions (at the same time and the same place) and make recommendations on proposed changes. The proposed changes to the planning documents would be publicly notified by 26 February 2005.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. *Section 37* and *Schedule 5* come into force on 1 October 2004. The rest of the Bill comes into force on 1 July 2004.

Part 1 Preliminary provisions

Clause 3 states the purpose of the Bill, which is—

- (a) to improve the integration of—
 - (i) the Auckland regional land transport system; and
 - (ii) the management of land transport funding and assets for the Auckland Region; and
 - (iii) decisions on stormwater funding for the Auckland Region; and
- (b) to require Auckland local authorities to change the policy statement and plans prepared under the Resource Management Act 1991 to integrate the land transport and land use provisions and make those provisions consistent with the Auckland Regional Growth Strategy and the Auckland Regional Land Transport Strategy.

Clause 4 defines terms used in the Bill.

Clause 5 states that the Act binds the Crown.

Part 2

Auckland Region land transport and stormwater

Clause 6 states the purpose of this Part which is to—

- (a) assign to the Auckland Regional Council (**ARC**) principal responsibility for setting the strategy for the Auckland regional land transport system, for integrating the planning, funding and development of the Auckland regional land transport system, and for managing transport and stormwater funding and assets in the long-term interests of the Auckland Region; and
- (b) establish two new organisations, being Auckland Regional Transport Authority and Auckland Regional Holdings, to assist ARC to discharge those responsibilities; and
- (c) dissolve Infrastructure Auckland, and transfer its assets and liabilities to ARH and other organisations; and
- (d) require Auckland local authorities to prepare and notify changes to the policy statement and plans under the Resource Management Act 1991 to provide for integrated land transport and land use provisions that are consistent with the Auckland Regional Growth Strategy and the Auckland Regional Land Transport Strategy.

Auckland Regional Transport Authority

Clause 7 establishes the Auckland Regional Transport Authority (**ARTA**), as a body corporate with perpetual succession. Further provisions relating to ARTA are set out in *Schedule 1*.

Clause 8 states the principal objective of ARTA, which is to plan, fund, and develop the Auckland regional land transport system in a way that contributes to an integrated, safe, responsive, and sustainable land transport system for the Auckland region. This clause also states the principles that ARTA must observe in performing its functions.

Clause 9 states the functions of ARTA, which include—

- (a) from 30 September 2004,—
 - (i) assuming responsibility for the land transport programme prepared by ARC for the year ending 30 June 2005; and
 - (ii) assuming responsibility for the public transport service obligations of ARC; and
 - (iii) performing the functions of ARC under the Transport Services Licensing Act 1989; and
 - (iv) assuming responsibility for the approved activities of ARC under the national land transport programme at that date; and
- (b) in relation to the year commencing 1 July 2006, preparing a land transport programme for the Auckland Region as if it were ARC; and
- (c) in relation to each year commencing on or after 1 July 2006, preparing a land transport programme for the Auckland Region in accordance with the Land Transport Management Act 2003; and
- (d) seeking and receiving funding for the Auckland regional land transport system in accordance with the Land Transport Management Act 2003 or from any other source; and
- (e) making payments from the Auckland Regional Land Transport Fund as authorised by this Bill or the Land Transport Management Act 2003; and
- (f) from 30 June 2007, undertaking and exercising any functions

- and powers of a road controlling authority that are delegated to it by an Auckland territorial authority; and
- (g) carrying out research, education, or training in relation to any land transport activity.

In determining whether to include a particular activity in its land transport programme, ARTA is required to exercise its judgement independently and in accordance with its statutory obligations.

Clause 10 states that all decisions relating to the operation of ARTA are to be made by or under the authority of the board of ARTA in accordance with the Bill and ARTA's statement of intent under section 64 of the Local Government Act 2002. This clause also authorises ARC to make rules specifying various matters including the number of directors of ARTA, and the powers and procedure of the board of ARTA. The board of ARTA is accountable in accordance with the Bill and the Local Government Act 2002 for the performance by ARTA of its functions.

Clause 11 provides that the directors, chairperson, and deputy chairperson of ARTA are to be appointed by an appointments panel convened by ARC. The appointments panel is to consist of the chairperson of ARC, 1 person appointed by each territorial authority, and persons appointed by ARC equal in number to the number of Auckland territorial authorities. Further provisions relating to the appointments panel are set out in *Schedule 2*.

Clause 12 requires a member of the appointments panel to act independently and provides that the member is not responsible to the person who appointed the member or whom the member represents.

Clause 13 provides that the appointments panel may at any time, by notice in the *Gazette*, appoint or re-appoint any natural person as a director of ARTA, and any director as the chairperson or deputy chairperson of the board of ARTA. No elected member or employee of an Auckland local authority, or person who has a financial interest in any contract or arrangement entered into by ARTA, may be a director of ARTA.

Clause 14 provides that if, at any time after the first appointment of directors by the appointments panel, there is less than a quorum of directors, ARC may appoint as directors of ARTA the number of natural persons that is necessary to bring the number of directors up to the quorum, but any such appointment expires when there is at least a quorum of directors who have been appointed by the appointments panel (whichever is the sooner). This clause also provides that if there is no chairperson or deputy chairperson of ARTA, ARC may appoint 1 of the directors as chairperson or deputy chairperson until a chairperson or deputy chairperson is appointed by the appointments panel.

Clause 15 states that ARTA is a council-controlled organisation for the purposes of the Local Government Act 2002 and the Ombudsmen Act 1975.

Auckland Regional Holdings

Clause 16 establishes Auckland Regional Holdings (**ARH**), as a body corporate with perpetual succession. Further provisions relating to ARH are set out in *Schedule 1*.

Clause 17 states the principal objective of ARH, which is to act in the

long-term interests and for the benefit of the Auckland Region and to manage its assets prudently. This clause also states principles that ARH must observe in performing its functions.

Clause 18 states the functions of ARH, which include—

- (a) owning and managing funds and assets in the long-term interests of the Auckland Region; and
- (b) providing funds to ARC in accordance with ARH's long-term funding plan prepared under *clause 19*; and
- (c) making land transport assets available to assist ARTA to achieve its principal objective; and
- (d) undertaking any other function given to it by statute or authorised by its statement of intent.

Clause 19 requires ARH to prepare a long-term funding plan.

Clause 20 provides that all decisions relating to the operation of ARH are to be made by or under the authority of the board of ARH in accordance with the Bill and ARH's statement of intent under section 64 of the Local Government Act 2002. This clause also provides that ARC may make rules specifying various matters including the number of directors, and the powers and procedure of the board of ARH. The board of ARTA is accountable in accordance with the Act and the Local Government Act 2002 for the performance of its functions.

Clause 21 provides that ARC may, by notice in the *Gazette*, appoint or re-appoint any natural person as a director of ARH, and any director as the chairperson or deputy chairperson of the board of ARH.

Clause 22 states that ARH is a council-controlled organisation for the purposes of the Local Government Act 2002 and the Ombudsmen Act

1975.

Clause 23 provides that ARH must not sell or otherwise dispose of the ownership or control of any shares held by it in Ports of Auckland Limited without the written consent of ARC, and Part 6 of the Local Government Act 2002 applies to a decision of ARC on whether to give its written consent for this purpose.

Infrastructure Auckland

Clause 24 dissolves Infrastructure Auckland on 1 July 2004. On and from that date all assets and liabilities (other than liabilities under stormwater grants and transport grants) of Infrastructure Auckland are vested in ARH, the liabilities under stormwater grants are vested in ARC, and under transport grants are vested in ARTA. Further provisions relating to the dissolution of Infrastructure Auckland are set out in *Schedule 3*.

Changes to land transport role of Auckland local authorities

Clause 25 provides that on 30 September 2004 (or such earlier date appointed by order in council) all public transport service obligations of ARC are vested in ARTA. *Schedule 4* contains further provisions relating to this vesting.

Clause 26 requires ARC to monitor ARTA's and ARH's administration costs.

Clause 27 requires ARC to apply at least 85% per annum (or any other percentage that is specified by order in council at any time after 31 December 2007) of the funds provided to it by ARH to ARTA for

the purposes of the Auckland regional land transport system, or for stormwater purposes in the Auckland Region, in accordance with its long-term council community plan. In making decisions on how to allocate money that it must apply for these purposes, ARC is to have regard to Infrastructure Auckland's transport and stormwater notional allocation programme under its 2003–04 annual plan. When providing funds to ARTA, ARC may not specify individual activities for which the funds may be used.

Clause 28 provides that ARC's regional land transport strategy under section 175 of the Land Transport Act 1998 must not include specific activities and their prioritisation or any regional passenger transport plan within the meaning of the Transport Services Licensing Act 1989.

Clause 29 authorises an Auckland territorial authority, at any time after 30 June 2007 and with the prior approval of ARC and ARTA, to delegate to ARTA all or any of its roading functions and powers under Part XXI of the Local Government Act 1974 or Part IV of the Transit New Zealand Act 1989.

Changes to Auckland policy statements and plans under Resource Management Act 1991

Clause 30 defines terms used in *clauses 31 to 35*, and provides that undefined terms that are defined in the Resource Management Act 1991 have the meaning given to them in that Act.

Clause 31 imposes an obligation on the ARC and the Auckland territorial authorities to prepare and publicly notify changes to the Auckland regional policy statement, and the regional and district

plans. The changes must be notified by 26 February 2005.

Clause 32 requires a land transport and land use change to integrate the land transport and land use provisions of the Auckland planning document to which it relates and to be consistent with the scope and intent of the Auckland regional growth strategy and the Auckland regional land transport strategy. A land transport and land use change must not extend the Auckland metropolitan urban limits beyond those in the Auckland regional policy statement except with the agreement of ARC, nor may it modify any existing designation or include a new one.

Clause 33 requires the Auckland local authorities to appoint a panel of hearings commissioners and to delegate to the panel under section 34A of the Resource Management Act 1991 the powers, functions, and duties of the local authorities to hear submissions and make recommendations on the proposed land transport and land use changes.

Clause 34 requires the panel to hear all the submissions made by a submitter on the various land transport and land use changes at the same time and place.

Clause 35 clarifies that consultation on the proposed land transport and land use changes carried out in accordance with the Resource Management Act 1991 is to be treated as complying with the Local Government Act 2002.

Auckland regional land transport strategy

Clause 36 requires ARC to complete a review of the Auckland

regional land transport strategy by 31 December 2005. This clause does not prevent ARTA from taking into account the Auckland regional land transport strategy as it is before the review is completed.

Part 3
Amendments, repeals, and revocations

Clause 37 amends the Land Transport Management Act 2003 as set out in *Schedule 5*. In particular—

- (a) ARTA is required, in preparing a land transport programme, to take into account any current national land transport strategy and the National Energy Efficiency and Conservation Strategy and (from a date appointed by order in council) to give effect to the Auckland regional land transport strategy, unless it is required to do otherwise by operational considerations which affect the sequencing and timing of projects, the funding available to it, or its statutory functions or powers; and
- (b) the ARC may not make any recommendation for inclusion of an activity in a national land transport programme, or receive any funds directly from the national land transport account, after 30 September 2004. An Auckland territorial authority may not make any recommendation for inclusion of an activity in a national land transport programme, or receive any funds directly from the national land transport account, after 1 July 2005; and
- (c) ARTA must, as soon as practicable and at no cost to the local authority, pay to an Auckland local authority the funds received by ARTA from Transfund for approved activities to be carried out by the local authority; and
- (d) ARTA's and Transit's land transport programmes for the year commencing 1 July 2006 and subsequent years must each

include a statement of its view of land transport priorities (including the priorities of other approved organisations) for the Auckland Region. In preparing this statement of priorities, ARTA and Transit must take into account the 10 year financial forecasts of the land transport expenditure of Transfund and the Auckland local authorities, and the priorities in the latest land transport programme of Transit or ARTA, as the case may be. ARTA's and Transit's land transport programmes may include comment on the other's land transport programme.

Clause 38 inserts ARTA into the definition of "regional council" in the Transport Services Licensing Act 1989.

Clause 39 makes consequential amendments to other Acts.

Clause 40 contains consequential repeals and a revocation.

Consultation

The 8 Auckland local authorities were consulted, in December 2003, on the Auckland transport package that underpins this Bill.

The Department of Internal Affairs, Department of Prime Minister and Cabinet, Inland Revenue Department, Ministry of Economic Development, Ministry for the Environment, Ministry of Transport and the Treasury have been consulted on this Bill.

Hon Chris Carter

Local Government (Auckland) Amendment Bill

Government Bill

Contents

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Local Government (Auckland) Amendment Act 2004.
- (2) In this Act, the Local Government Act 2002¹ is called “the principal Act”.

2 Commencement

- (1) **Section 37 and Schedule 5** come into force on **1 October 2004**.
- (2) The rest of this Act comes into force on **1 July 2004**.

Part 1

Preliminary provisions

3 Purpose

The purpose of this Act is—

- (a) to improve the integration of—

¹2002 No 84

- (i) the Auckland regional land transport system; and
 - (ii) the management of land transport funding and assets for the Auckland Region; and
 - (iii) decisions on stormwater funding for the Auckland Region; and
- (b) to require Auckland local authorities to change the policy statement and plans prepared under the Resource Management Act 1991 to integrate the land transport and land use provisions and make those provisions consistent with the Auckland Regional Growth Strategy and the Auckland Regional Land Transport Strategy.

4 Interpretation

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

agreement—

- (a) includes a deed, a contract, an agreement, an arrangement, and an understanding, whether oral or written, express or implied, and whether or not enforceable at law; and
- (b) without limiting **paragraph (a)**, includes a contract of service and a deed, contract, agreement, or arrangement creating or evidencing a trust

appointments panel means the panel convened under **section 11**

ARC means the Auckland Regional Council

ARH means Auckland Regional Holdings established by **section 16**

ARTA means the Auckland Regional Transport Authority established by **section 7**

assets—

- (a) means any real or personal property of any kind, whether

- or not subject to rights; and
- (b) without limiting **paragraph (a)**, includes—
- (i) any estate or interest in any land, including all rights of occupation of land or buildings:
 - (ii) all buildings, vehicles, plant, equipment, and machinery, and any rights in them:
 - (iii) all securities within the meaning of the Securities Act 1978:
 - (iv) all rights of any kind, including rights under Acts and agreements, and all applications, objections, submissions, and appeals relating to such rights:
 - (v) all patents, trade marks, designs, copyright, plant variety rights, and other intellectual property rights of any kind whether enforceable by Act or rule of law:
 - (vi) goodwill, and any business undertaking:
 - (vii) interests of any kind in any of the property specified in **subparagraphs (i) to (vi)**

Auckland local authority means ARC or an Auckland territorial authority

Auckland Region means the region of ARC

Auckland Regional Land Transport Fund means ARTA's land transport disbursement account

Auckland regional land transport system means land transport within the Auckland Region managed by Auckland local authorities, ARTA, and ARH

Auckland territorial authority means a territorial authority the district of which is wholly or partly in the Auckland Region
board, in relation to ARTA or ARH, means the board of directors of ARTA or ARH

employee has the same meaning as in section 6 of the

Employment Relations Act 2000

Infrastructure Auckland means the corporation established by section 707ZZJ of the Local Government Act 1974

liabilities includes—

- (a) liabilities and obligations under any Act or agreement; and
- (b) debt securities within the meaning of the Securities Act 1978; and
- (c) contingent liabilities; and
- (d) interests of any kind in any of the liabilities specified in paragraphs (a) to (c)

public transport service obligation means a legally enforceable obligation that relates to a public transport service

rights includes powers, privileges, interests, leases, licences, approvals, consents, designations, permissions, dispensations, authorisations, benefits, and equities of any kind, whether actual, contingent, or prospective

stormwater grant means a legally enforceable agreement to give money to be used for stormwater purposes

transport grant means a legally enforceable agreement to give money to be used for land transport purposes.

- (2) In this Act, unless the context otherwise requires, **activity**, **activity class**, **approved activity**, **land transport**, **land transport disbursement account**, **land transport programme**, **national land transport programme**, **public transport service**, **Transfund**, and **Transit**, have the same meaning as in section 5 of the Land Transport Management Act 2003.

5 Act binds the Crown

This Act binds the Crown.

Part 2

Auckland Region land transport and stormwater

6 Purpose of this Part

The purpose of this Part is to—

- (a) assign to the Auckland Regional Council principal responsibility for setting the strategy for the Auckland regional land transport system, for integrating the planning, funding, and development of the Auckland regional land transport system, and for managing transport and stormwater funding and assets in the long-term interests of the Auckland Region; and
- (b) establish the Auckland Regional Transport Authority and Auckland Regional Holdings to assist the Auckland Regional Council to discharge that responsibility; and
- (c) dissolve Infrastructure Auckland, and transfer its assets and liabilities to Auckland Regional Holdings and other organisations; and
- (d) require Auckland local authorities to prepare and notify changes to the policy statement and plans under the Resource Management Act 1991 to provide for integrated land transport and land use provisions that are consistent with the Auckland Regional Growth Strategy and the Auckland Regional Land Transport Strategy.

Auckland Regional Transport Authority

7 Establishment of Auckland Regional Transport Authority

- (1) This section establishes the Auckland Regional Transport Authority.
- (2) ARTA is a body corporate with perpetual succession.

- (3) **Schedule 1** applies in relation to ARTA.

8 Principal objective and principles

- (1) The principal objective of ARTA is to plan, fund, and develop the Auckland regional land transport system in a way that contributes to an integrated, safe, responsive, and sustainable land transport system for the Auckland Region.
- (2) In performing its functions, ARTA must act in accordance with the following principles:
- (a) ARTA should have a focus on both the overall needs of the Auckland Region and the views of communities in the Auckland Region; and
 - (b) ARTA should exhibit a sense of social and environmental responsibility, which includes—
 - (i) avoiding, to the extent reasonable in the circumstances, adverse effects on the environment; and
 - (ii) taking into account the views of affected communities; and
 - (iii) giving early and full consideration to land transport options and alternatives in a manner that contributes to **paragraph (a) and subparagraph (i)**; and
 - (c) ARTA should provide early and full opportunities for persons and organisations who are required to be consulted in order to contribute to the development of its land transport programmes; and
 - (d) ARTA should have regard to the reasonably foreseeable needs of future generations, including the economic and cultural well-being of people and communities; and
 - (e) ARTA should foster cooperative and collaborative

- working relationships; and
- (f) ARTA should contribute to the achievement of its objective, including its environmental and social responsibilities, in an efficient and effective manner; and
 - (g) ARTA should have clear accountability for the way that it contributes to an integrated, safe, responsive, and sustainable land transport system for the Auckland Region; and
 - (h) ARTA should be a good employer within the meaning of clause 36 of Schedule 7 of the principal Act; and
 - (i) ARTA should operate in a financially responsible manner; and
 - (j) ARTA should endeavour to ensure that—
 - (i) its administration costs in any financial year do not exceed an amount approved by ARC; and
 - (ii) its administration costs in relation to funds provided by Transfund in any financial year do not exceed an amount approved by Transfund.

9 Functions of ARTA

- (1) The functions of ARTA are—
 - (a) on and from 30 September 2004, (or an earlier date, if any, appointed by the Governor-General by order in council) to—
 - (i) assume responsibility for the land transport programme prepared by ARC for the year ending 30 June 2005; and
 - (ii) assume responsibility for the public transport service obligations of ARC vested in it by **section 24**; and
 - (iii) perform the functions of the regional council for

- the Auckland Region under the Transport Services Licensing Act 1989, as if it were a regional council for the purposes of that Act; and
- (iv) assume responsibility for the approved activities of ARC under the national land transport programme at that date; and
 - (b) in relation to the year commencing 1 July 2006, to prepare, as if it were ARC, a land transport programme for the Auckland Region under the Land Transport Management Act 2003; and
 - (c) in relation to each year commencing on or after 1 July 2006, to prepare a land transport programme for the Auckland Region that includes all of ARTA's activities under this Act in accordance with the Land Transport Management Act 2003; and
 - (d) to seek and receive funding for the Auckland regional land transport system in accordance with the Land Transport Management Act 2003 or from any other source; and
 - (e) to make payments from the Auckland Regional Land Transport Fund as authorised by this Act or the Land Transport Management Act 2003; and
 - (f) on and from 30 June 2007, to undertake and exercise any functions and powers of a road controlling authority that are delegated to it by an Auckland territorial authority under **section 29**; and
 - (g) to carry out research, education, or training in relation to any land transport activity or land transport activity class; and
 - (h) to undertake any other functions that are given to it by this Act or any other Act, or that are incidental and

related to, or consequential upon, any of its functions under this Act or any other Act.

- (2) In determining whether to include a particular activity in its land transport programme, ARTA must exercise its judgement independently and in accordance with its statutory obligations.
- (3) Nothing in this Act, the principal Act, the Land Transport Act 1998, or any other Act authorises ARC to direct ARTA in relation to its land transport programme.

10 Board of ARTA

- (1) All decisions relating to the operation of ARTA are to be made by or under the authority of the board of ARTA in accordance with this Act and ARTA's statement of intent under section 64 of the principal Act.
- (2) The board of ARTA is accountable in accordance with this Act and the principal Act for the performance by ARTA of its functions.
- (3) ARC may, by notice in the *Gazette*, make rules (not inconsistent with this Act or any other enactment) specifying the number of directors and the terms and conditions of their appointment, and the powers and procedure of the board of ARTA including, but not limited to, the quorum for board meetings, and board committees.

11 Appointments panel

- (1) The directors, chairperson, and deputy chairperson of ARTA are to be appointed by an appointments panel convened by ARC as necessary.
- (2) The appointments panel is to consist of natural persons as follows:
 - (a) the chairperson of ARC; and

- (b) 1 person appointed (by written notice to ARC) by each Auckland territorial authority; and
 - (c) persons appointed in writing by ARC, the number of whom equals the number of Auckland territorial authorities.
- (3) The chairperson of the appointments panel is the chairperson of ARC.
- (4) **Schedule 2** applies in relation to the appointments panel.

12 Members of appointments panel to act independently

A member of the appointments panel—

- (a) must act independently; and
- (b) is not responsible to the person who appointed the member or whom the member represents.

13 Appointment of directors and chairperson and deputy chairperson of ARTA

- (1) The appointments panel may, by notice in the *Gazette*, appoint or reappoint—
- (a) any natural person as a director of ARTA; and
 - (b) any director as the chairperson or deputy chairperson of the board of ARTA.
- (2) An appointment or reappointment takes effect on and from—
- (a) the time specified in the notice; or
 - (b) if a time is not specified, the date on which the notice is published in the *Gazette*.
- (3) No person may be a director of ARTA if the person—
- (a) is an elected member or employee of an Auckland local authority; or
 - (b) has a financial interest in any contract or arrangement entered into by ARTA.

14 Temporary directors

- (1) **Subsection (2)** applies if, at any time after the first appointment of directors under **section 13**, there is less than a quorum of directors of ARTA who have been appointed by the appointments panel.
- (2) ARC may, by notice in the *Gazette*, appoint as directors of ARTA the number of natural persons that is necessary to bring the number of directors up to the quorum.
- (3) An appointment under **subsection (2)** expires when there is at least a quorum of directors who have been appointed by the appointments panel.
- (4) If at any time there is no chairperson or deputy chairperson of directors of ARTA, ARC may, by notice in the *Gazette*, appoint 1 of the directors as chairperson or deputy chairperson.
- (5) An appointment under **subsection (4)** expires when there is a chairperson or deputy chairperson, as the case may be, who has been appointed by the appointments panel.

15 ARTA is council-controlled organisation

- (1) ARTA is a council-controlled organisation for the purposes of the principal Act and the Ombudsmen Act 1975.
- (2) For the purposes of Part 5 of the principal Act, ARC is to be treated as the sole shareholder of ARTA.
- (3) Sections 56, 59, and 60 of the principal Act do not apply in relation to ARTA.

Auckland Regional Holdings

16 Establishment of Auckland Regional Holdings

- (1) This section establishes Auckland Regional Holdings.
- (2) ARH is a body corporate with perpetual succession.

- (3) **Schedule 1** applies in relation to ARH.

17 Principal objective and principles of ARH

- (1) The principal objective of ARH is to—
- (a) act in the long-term interests and for the benefit of the Auckland Region; and
 - (b) without limiting **paragraph (a)**, manage its assets prudently.
- (2) In performing its functions, ARH must act in accordance with the following principles:
- (a) ARH should collaborate and co-operate with ARC and ARTA to achieve the overall objectives of ARC; and
 - (b) ARH should undertake any commercial activities in accordance with sound business practice; and
 - (c) ARH should ensure prudent stewardship and the efficient and effective use of resources; and
 - (d) ARH should exhibit a sustainable development approach in its decision-making by taking into account—
 - (i) the social, economic, and cultural well-being of people and communities; and
 - (ii) the need to maintain and enhance the quality of the environment; and
 - (iii) the reasonably foreseeable needs of future generations; and
 - (e) ARH should have clear accountability for the way that it contributes to an integrated, safe, responsive, and sustainable land transport system for the Auckland Region; and
 - (f) ARH should be a good employer within the meaning of clause 36 of Schedule 7 of the principal Act; and
 - (g) ARH should operate in a financially responsible manner

and, for this purpose,—

- (i) endeavour to maintain its long-term financial viability; and
 - (ii) prudently manage its assets and liabilities; and
- (h) ARH should own land transport assets indirectly (through companies, or organisations as defined in section 6(2) of the principal Act, controlled by it), rather than directly owning such assets; and
- (i) ARH should endeavour to ensure that its administration costs in any financial year do not exceed an amount approved by ARC.

18 Functions of ARH

The functions of ARH are to—

- (a) own, directly or indirectly, and manage assets (including funds) in the long-term interests of the Auckland Region; and
- (b) provide funds to ARC in accordance with ARH's long-term funding plan prepared under **section 19**; and
- (c) make land transport assets available to assist ARTA to achieve its principal objective; and
- (d) undertake such other functions as are given to it by this Act or any other Act, or are authorised by its statement of intent.

19 Long-term funding plan

- (1) Having regard to ARC's long-term council community plan, ARH must deliver to ARC a long-term funding plan on or before 1 March in each year.
- (2) ARH must—
 - (a) consider any comments on the draft long-term funding

- plan that are made to it by ARC within 2 months after 1 March; and
- (b) deliver the long-term funding plan to ARC on or before 30 June.
- (3) ARH may, by written notice, modify its long-term funding plan if ARH has first—
- (a) given written notice to ARC of the proposed modification; and
 - (b) considered any comments made on the proposed modification by ARC within—
 - (i) 1 month after the date on which the notice under **paragraph (a)** was given; or
 - (ii) any shorter period that ARC may agree to.
- (4) ARC may, by resolution, require ARH to modify the long-term funding plan by including or omitting any provision or provisions, and ARH must comply with the resolution.
- (5) Before giving notice of the resolution to ARH, ARC must consult ARH.

20 Board of ARH

- (1) All decisions relating to the operation of ARH are to be made by or under the authority of the board of ARH in accordance with this Act and ARH's statement of intent under section 64 of the principal Act.
- (2) The board of ARH is accountable in accordance with this Act and the principal Act for the performance by ARH of its functions.
- (3) ARC may, by notice in the *Gazette*, make rules (not inconsistent with this Act or any other enactment) specifying the number of directors and the terms and conditions of their appointment, and the powers and procedure of the board of

ARH including, but not limited to, the quorum for board meetings and board committees.

21 Appointment of directors and chairperson and deputy chairperson of ARH

- (1) ARC may, by notice in the *Gazette*, appoint or reappoint—
 - (a) any natural person as a director of ARH; and
 - (b) any director as the chairperson or deputy chairperson of the board of ARH.
- (2) An appointment or reappointment takes effect on and from—
 - (a) the time specified in the notice; or
 - (b) if a time is not specified, the date on which the notice is published in the *Gazette*.

22 ARH is council-controlled organisation

- (1) ARH is a council-controlled organisation for the purposes of the principal Act and the Ombudsmen Act 1975.
- (2) For the purposes of Part 5 of the principal Act, ARC is to be treated as the sole shareholder of ARH.
- (3) Sections 56, 59, and 60 of the principal Act do not apply in relation to ARH.

23 Restrictions on disposal of shares in Ports of Auckland Limited

- (1) ARH must not, without the written consent of ARC, sell or otherwise dispose of the ownership or control of any shares held by it in Ports of Auckland Limited.
- (2) Part 6 of the principal Act applies to a decision of ARC on whether to give its written consent for the purposes of **subsection (1)** as if—
 - (a) ARC held the shares; and

- (b) the shares were a strategic asset under section 90(2) of that Act; and
- (c) the decision were whether ARC should sell or otherwise dispose of the ownership or control of the shares.

Infrastructure Auckland

24 Dissolution of Infrastructure Auckland

- (1) On and from 1 July 2004—
 - (a) Infrastructure Auckland is dissolved; and
 - (b) all assets and liabilities (other than liabilities under stormwater grants and transport grants) of Infrastructure Auckland are vested in ARH; and all proceedings pending by or against Infrastructure Auckland in relation to those assets or liabilities may be carried on, completed, or enforced by or against ARH; and
 - (c) all liabilities of Infrastructure Auckland under stormwater grants are vested in ARC; and all proceedings pending by or against Infrastructure Auckland in relation to those grants may be carried on, completed, or enforced by or against ARC; and
 - (d) all liabilities of Infrastructure Auckland under transport grants are vested in ARTA; and all proceedings pending by or against Infrastructure Auckland in relation to those grants may be carried on, completed, or enforced by or against ARTA.
- (2) **Schedule 3** applies in relation to the dissolution of Infrastructure Auckland.

Changes to land transport role of Auckland local authorities

25 ARC's public transport service obligations

- (1) On 30 September 2004 (or an earlier date, if any, appointed by the Governor-General by order in council) all assets and liabilities of ARC that are public transport service obligations are vested in ARTA; and all proceedings pending by or against ARC in relation to those obligations may be carried on, completed, or enforced by or against ARTA.
- (2) **Schedule 4** applies in relation to the assets and liabilities referred to in **subsection (1)**.
- (3) On and from the date specified in or under **subsection (1)**, ARC must undertake any land transport service delivery activities through ARTA or ARH, unless specified in this Act or any other Act.

26 ARC to monitor ARTA's and ARH's administration costs

- (1) When monitoring the performance of ARTA under section 65 of the principal Act, ARC must also monitor ARTA's administration costs and its compliance with **section 8(2)(j)**.
- (2) When monitoring the performance of ARH under section 65 of the principal Act, ARC must also monitor ARH's administration costs and its compliance with **section 17(2)(i)**.

27 Application of funds by ARC

- (1) ARC must apply, in accordance with its long-term council community plan, at least the specified percentage of any funds received from ARH under **section 18(b)**—
 - (a) to ARTA for the purposes of the Auckland regional land transport system; or
 - (b) for stormwater purposes in the Auckland Region.
- (2) In determining how to apply any funds it is required to apply to the purposes in **subsection (1)(a) or (b)**, ARC must have regard

to the transport and stormwater notional allocation programme set out in Infrastructure Auckland's annual plan for the 2003–04 year.

- (3) When providing funds to ARTA, whether under **subsection (1)(a)** or otherwise, ARC may not specify individual activities for which the funds may be used.
- (4) The provision of funds by ARC for the purposes of the Auckland regional land transport system or for stormwater purposes in the Auckland Region is not a dutiable gift for the purposes of the Estate and Gift Duties Act 1968.
- (5) In this section, **specified percentage** means—
 - (a) 85%; or
 - (b) any other percentage that is specified by the Governor-General by order in council after 31 December 2007.

28 Auckland regional land transport strategy

From 1 July 2005, ARC's regional land transport strategy, prepared by ARC under section 175 of the Land Transport Act 1998, must not include—

- (a) references to specific activities and their prioritisation; or
- (b) any regional passenger transport plan under section 175(2)(k).

29 Delegation of roading functions and powers to ARTA

- (1) An Auckland territorial authority may, at any time after 30 June 2007 and with the prior approval in writing of ARC and ARTA, delegate in writing to ARTA 1 or more of its functions, duties, and powers under—

- (a) Part XXI of the Local Government Act 1974; or
- (b) Part IV of the Transit New Zealand Act 1989, other than

- the power under section 62 to delegate.
- (2) While functions, duties, or powers are delegated to ARTA under **subsection (1)**,—
 - (a) the territorial authority is not answerable for any act or default of ARTA in the performance or exercise of any of the delegated functions, duties, or powers; and
 - (b) the territorial authority may not perform or exercise any of the delegated functions, duties, or powers without first revoking the delegation.
 - (3) ARTA may, subject to any general or special directions given or conditions imposed in relation to the delegation, exercise any functions, duties, or powers delegated to it under this section in the same manner and with the same effect as if they had been conferred or imposed on it directly by this section and not by delegation.
 - (4) A delegation may be revoked at any time by the Auckland territorial authority by whom it was made giving written notice of revocation to ARTA.
 - (5) Until it is revoked or it expires, a delegation continues in force according to its tenor.
 - (6) When purporting to act under a delegation, ARTA—
 - (a) must, when reasonably requested to do so, produce evidence of its authority to act; and
 - (b) is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

*Changes to Auckland policy statements and plans under the
Resource Management Act 1991*

30 Interpretation

- (1) In **sections 31 to 35**, unless the context otherwise requires,—

Auckland planning document—

- (a) means a regional policy statement, regional plan, or district plan of an Auckland local authority; and
- (b) includes a proposed policy statement or plan

land transport and land use change has the meaning given to it in section 32(1).

- (2) A term or expression that is defined in the Resource Management Act 1991 and used but not defined in sections 31 to 35 has the same meaning as in the Resource Management Act 1991.

31 Obligation to publicly notify proposed changes to planning documents

- (1) Each Auckland local authority must, by 26 February 2005, prepare and publicly notify proposed land transport and land use changes to its Auckland planning documents.
- (2) The Resource Management Act 1991 applies to a land transport and land use change except to the extent that it is inconsistent with sections 32 to 35.

32 Extent of land transport and land use changes

- (1) A land transport and land use change is a change or variation to an Auckland planning document that—
 - (a) integrates the land transport and land use provisions of the planning document; and
 - (b) is consistent with the scope and intent of any relevant provision in—
 - (i) the Auckland regional growth strategy prepared under section 37SE of the Local Government Act 1974; and
 - (ii) the Auckland regional land transport strategy

prepared under section 175 of the Land Transport Act 1998.

- (2) A land transport and land use change must not—
 - (a) extend the metropolitan urban limits set in the Auckland Regional Policy Statement except as agreed with ARC;
 - or
 - (b) modify any designation or include any new designation.

33 Delegation of powers to single panel

- (1) The Auckland local authorities must jointly appoint a panel of 1 or more hearings commissioners to hear any submissions lodged on the proposed land transport and land use changes.
- (2) Each Auckland local authority must, under section 34A of the Resource Management Act 1991, delegate to the panel its powers, functions, and duties to hear submissions and make recommendations on the proposed land transport and land use changes.

34 Time and place of hearings

The panel must hear all the submissions from a submitter on the proposed land transport and land use changes at the same time and at the same place.

35 Consultation provisions

To avoid doubt, consultation on the proposed land transport and land use changes carried out in accordance with the Resource Management Act 1991 is to be treated as complying with section 82 of the principal Act.

Auckland regional land transport strategy

- 36 Review of Auckland regional land transport strategy**
- (1) ARC must, by 31 December 2005, complete a review of the Auckland regional land transport strategy.
 - (2) **Subsection (1)** does not prevent ARTA from taking into account, to the extent it considers appropriate, the Auckland regional land transport strategy as it is before the review is completed.

Part 3

Amendments, repeals, and revocations

- 37 Amendments to Land Transport Management Act 2003**
The Land Transport Management Act 2003 is amended in the manner indicated in **Schedule 5**.
- 38 Amendment to Transport Services Licensing Act 1989**
Section 2 of the Transport Services Licensing Act 1989 is amended by repealing the definition of **regional council**, and substituting the following definition:
- “regional council—**
- “(a) means a regional council (other than the Auckland Regional Council) within the meaning of the Local Government Act 2002; and
 - “(b) includes—
 - “(i) the Auckland Regional Transport Authority established by **section 7 of the Local Government (Auckland) Amendment Act 2004**; and
 - “(ii) a territorial authority within the meaning of the Local Government Act 2002 that has under this Act the functions, duties, and powers of a regional

council under this Act.”

39 Amendments to other Acts

The enactments specified in **Schedule 6** are amended in the manner indicated in that schedule.

40 Repeals and revocation

(1) The following enactments are repealed:

- (a) Part 44C (except sections 707ZZZR to 707ZZZU) and Schedule 17B of the Local Government Act 1974;
- (b) section 6(4)(d) of the principal Act;
- (c) section 51 of the Public Audit Act 2001.

(2) The Local Government (Infrastructure Auckland Deed Commencement) Order 1998 (SR 1998/290) is revoked.

Schedule 1

ss 7, 16

Provisions relating to ARTA and ARH

1 Interpretation

In this schedule, **organisation** means ARTA or ARH.

2 Capacity and powers

- (1) For the purpose of performing its functions, an organisation has—
 - (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and
 - (b) for the purposes of **paragraph (a)**, full rights, powers, and privileges.
- (2) **Subclause (1)** is subject to this Act.

3 Board of directors

- (1) The board of an organisation has all the powers necessary for carrying out its role.
- (2) Except as provided in this Act or in the rules made under **section 10(3) or section 20(3)**, the board of an organisation may regulate its procedure in the manner that it thinks fit.

4 Vacation of office of director, chairperson, or deputy chairperson

- (1) A person ceases to hold office as a director, or chairperson or deputy chairperson of the board of an organisation if—
 - (a) the term of appointment of the person holding that office expires; or
 - (b) the person dies; or
 - (c) the person resigns that office by delivering a signed

- notice of resignation to ARC; or
- (d) ARC determines that the office is to be vacated and publishes a notice to this effect in the *Gazette*; or
 - (e) the person is not eligible to hold that office.
- (2) A notice given under **subsection (1)(c)** or published under **subsection (1)(d)** takes effect—
- (a) on the date specified in the notice for that purpose; or
 - (b) if a date is not specified, on the date on which the notice is given or published.

5 Taxes and duties

The following are not dutiable gifts for the purposes of the Estate and Gift Duties Act 1968:

- (a) any funds made available by ARTA for the purposes of the land transport system in the Auckland Region:
- (b) any funds made available by ARH for the purposes of the land transport system in the Auckland Region or for stormwater purposes in that region.

6 ARH to be regional council for purposes of Port Companies Act 1988

For the purposes of the Port Companies Act 1988, ARH is to be treated as if it were a regional council.

Transitional provisions

7 Establishment board of ARTA

- (1) The Minister of Local Government, after consulting relevant Ministers and the Auckland local authorities, must, by notice in the *Gazette*, appoint a person to act as the board of ARTA until the appointments panel first appoints directors of ARTA under

section 11 or the close of 30 August 2004, whichever is the earlier.

- (2) The role of the person appointed under **subclause (1)** includes preparing draft strategic and business development plans, operating policies and practices, and capability, facilities, and financial plans for consideration by the board appointed by the appointments panel or under **clause 8**, as the case may be.

8 First directors of ARTA

If the appointments panel has not appointed any directors of ARTA on or before 30 August 2004, the Minister of Local Government, after consulting relevant Ministers and the Auckland local authorities, must, by notice in the *Gazette*, appoint persons to act as the first directors, and chairperson and deputy chairperson of the board, of ARTA; and those persons are to be treated as—

- (a) having been appointed by the appointments panel under **section 11**; and
- (b) having resigned from office in accordance with **clause 4(c)** at the time when the first directors actually appointed by the appointments panel under **section 11** commence in office as such.

9 First directors of ARH

- (1) ARC may, before 1 July 2004, by resolution name—
 - (a) natural persons who are to be directors designate of ARH; and
 - (b) any such person as the chairperson designate or deputy chairperson designate of the board of ARH.
- (2) The named persons are to be treated as having been appointed as directors, chairperson, or deputy chairperson, as the case

may be, with effect on and from 1 July 2004.

- (3) As soon as practicable after 1 July 2004, ARC must notify in the *Gazette* the persons appointed under this clause.

10 First statements of intent of ARTA and ARH

Schedule 8 of the principal Act applies in relation to the statements of intent of ARTA and ARH for the year ended 30 June 2005 as if—

- (a) reference to 1 October 2004 were a reference to 1 March each year in clause 2; and
 - (b) reference to 1 October 2004 were a reference to 1 March in clause 3(a); and
 - (c) reference to 1 December 2004 were a reference to 30 June each year in clause 3(b); and
 - (d) the words “immediately following the financial year” were omitted from clause 9(1).
-

Schedule 2

s 11

Appointments panel

1 Appointments policy and process

- (1) ARC must engage a recruitment specialist to assist and advise the appointments panel.
- (2) Before considering appointments, the appointments panel must ensure that there is an independent and thorough process for scrutinising persons proposed for appointment as directors of ARTA.
- (3) The appointments panel must, in selecting persons for appointment as directors of ARTA,—
 - (a) comply with the policy adopted by ARC under section 57(1) of the principal Act, and with section 57(2) of that Act (as if the appointments panel were a local authority); and
 - (b) have regard to the commercial expertise of those persons, and their knowledge of transport planning and management and other factors relevant to complex transport demand management and complex public transport management issues; and
 - (c) be satisfied that the persons provide a balance of perspectives in relation to the objectives of economic development, safety and personal security, public health, access and mobility, and environmental sustainability.

2 Members of panel

- (1) A member of the appointments panel holds office at the pleasure of the local authority that appointed the member.
- (2) The powers of the appointments panel are not affected by any

vacancy in its membership.

3 Meetings of panel

- (1) Meetings of the appointments panel are to be held at the times and places that the panel or its chairperson appoints.
- (2) At every meeting of the appointments panel, the presiding member must be the chairperson if he or she is present. If he or she is not present, the members present must elect 1 of their number to preside at that meeting, and the member presiding has all the powers of the chairperson for the purpose of that meeting.
- (3) Every question before the appointments panel must be determined by a majority of the votes of the members present at the meeting, with every member having one vote.
- (4) However, a decision of the appointments panel to appoint a person as a director of ARTA is not valid unless at least 10 members vote in favour of it.
- (5) At a meeting of the appointments panel the presiding member—
 - (a) has a deliberative vote; but
 - (b) in the case of an equality of votes, does not have a casting vote.

4 Costs of panel

The costs of the members, and of the operation, of the appointments panel are payable as follows:

- (a) the costs of a person appointed to the panel by a territorial authority are payable by the territorial authority;
- (b) all other costs are payable by ARC.

5 Other procedure

Except as provided in this Act, the appointments panel may regulate its procedure in the manner that it thinks fit.

Schedule 3

s 24

Dissolution of Infrastructure Auckland

1 Interpretation

In this schedule—

dissolution date means the date specified in **section 24(1)**

new employer means ARH, ARC, or ARTA

organisation means ARH, ARC, or ARTA

suitable alternative position, in relation to an employee, means a position—

- (a) for which the employee has the appropriate skills and experience; and
- (b) the pay and conditions of which are, in their overall effect, no less favourable to the employee than those applying to the employee immediately before the date of the employee's transfer to that position

transferred employee means an employee of Infrastructure Auckland, ARH, or ARC who becomes an employee of an organisation under **clause 2(1) to (4)**.

2 Transfer of employees

- (1) Every person who is an employee of Infrastructure Auckland immediately before the dissolution date becomes an employee of ARH on the dissolution date.
- (2) However, if Infrastructure Auckland and ARC or ARTA, as the case may be, have, before the dissolution date and after consulting the employee concerned, agreed to the transfer of an employee from Infrastructure Auckland to a suitable alternative position with ARC or ARTA then the employee, if employed by Infrastructure Auckland immediately before the dissolution

- date, is transferred to that position, and becomes an employee of ARC or ARTA, as the case may be, on the dissolution date.
- (3) If, at any time within 9 months after the dissolution date, ARH or (with the agreement of ARH) ARC or ARTA, after consulting the employee, determines that an employee of ARH (not being an employee who has previously been transferred to a suitable alternative position under **subclause (2)** or this subclause) is to transfer to a suitable alternative position with ARH, ARC, or ARTA, as the case may be, on a date within that period, then the employee will transfer to that position and remain or become an employee of ARH, ARC, or ARTA, as the case may be, on that date.
 - (4) If, at any time within 9 months after the dissolution date, ARC, with the agreement of ARH or ARTA, as the case may be, and after consulting the employee, determines that an employee of ARC is to transfer to a suitable alternative position with ARH or ARTA, as the case may be, on a date within that period, then the employee will transfer to that position and become an employee of ARH, or ARTA, as the case may be, on that date.
 - (5) The terms and conditions of employment of a transferred employee immediately before the dissolution date continue to apply in relation to that employee until—
 - (a) those terms and conditions are varied by agreement between the transferred employee and the new employer;
or
 - (b) the employee is transferred to a suitable alternative position under any of **subclauses (2) to (4)**; or
 - (c) the transferred employee accepts a subsequent appointment with the new employer.
 - (6) For the purposes of every enactment, law, determination, contract, and agreement relating to the employment of a

transferred employee—

- (a) the contract of employment of the employee is deemed to have been unbroken; and
 - (b) the employee's period of service with Infrastructure Auckland, ARH, or ARC, and every other period of service of that employee that is recognised by Infrastructure Auckland, ARH, or ARC as continuous service, is deemed to have been a period of service with the new employer.
- (7) A transferred employee is not entitled to receive any payment or any other benefit because—
- (a) the position held by the employee in Infrastructure Auckland or ARH or ARC has ceased to exist; or
 - (b) the employee has ceased (as a result of the transfer to the new employer) to be an employee of Infrastructure Auckland or ARH or ARC; or
 - (c) the employee has been transferred to a suitable alternative position under any of **subclauses (2) to (4)**.

3 Final accounts of Infrastructure Auckland

- (1) As soon as reasonably practicable after the dissolution of Infrastructure Auckland, ARH must cause to be prepared the final accounts of Infrastructure Auckland as at the close of the day before the dissolution date.
- (2) A copy of the final accounts (signed by at least 2 of the last directors of Infrastructure Auckland), together with a copy of the report of the Auditor-General on those accounts, must be sent by ARH to the Minister.
- (3) A copy of the final accounts (signed in accordance with **subclause (2)**) together with a copy of the report of the Auditor-General on those accounts, must be presented to the

House of Representatives by the Minister as soon as practicable after their receipt by the Minister.

4 Taxes and duties

- (1) For the purposes of the Inland Revenue Acts, Infrastructure Auckland and an organisation are, in relation to all assets and liabilities of Infrastructure Auckland that, by **section 24**, become the assets and liabilities of the organisation, to be treated as the same person; and all transactions entered into by, and all acts of, Infrastructure Auckland before the date referred to in that section in relation to those assets and liabilities, are to be treated as having been entered into or performed by the organisation on the date on which they were entered into or performed by Infrastructure Auckland.
- (2) For the purposes of the Inland Revenue Acts, an organisation must be treated as having held, at all times since the interests were acquired by Infrastructure Auckland, the voting interests and market value interests that it receives from Infrastructure Auckland under **section 24**.
- (3) In this section, **Inland Revenue Acts** has the meaning given to it in section 3(1) of the Tax Administration Act 1994; and includes any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge.

5 Certain matters not affected by this Part

Nothing effected or authorised by **section 24** or this schedule—

- (a) places Infrastructure Auckland, or any other person, in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
- (b) gives rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the

- performance of any obligation; or
- (c) places Infrastructure Auckland or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
 - (d) releases any surety wholly or in part from any obligation; or
 - (e) validates or discharges any contract or security.

6 Provisions relating to vesting of assets and liabilities

- (1) Where any assets or liabilities are vested in an organisation by **section 24**, all contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices (whether or not in writing) relating to the assets or liabilities and entered into by, made with, given to or by, or addressed to Infrastructure Auckland (whether alone or with any other person) subsisting immediately before the vesting of those assets or liabilities by that section are, to the extent that they were previously binding on and enforceable by, against, or in favour of Infrastructure Auckland, binding on and enforceable by, against, or in favour of the organisation, as fully and effectually in every respect as if, instead of Infrastructure Auckland, the organisation had been the person by whom they were entered into, with whom they were made, or to or by whom they were given or addressed, as the case may be.
- (2) An instrument, contract, agreement, conveyance, deed, lease, licence, or other instrument or undertaking or notice is, in cases of doubt, to be treated, for the purposes of **subclause (1)**, as being related to the assets or liabilities if it has been acknowledged by any two of the organisations as being so

related.

7 Registers

- (1) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers is obliged solely by reason of **section 24** or this schedule to change the name of Infrastructure Auckland to that of an organisation in those books or registers or in any document.
- (2) The presentation to any registrar or other person of any instrument, whether or not comprising an instrument of transfer by Infrastructure Auckland,—
 - (a) executed or purporting to be executed by an organisation; and
 - (b) relating to any property held by Infrastructure Auckland; and
 - (c) containing a recital that the property has become vested in the organisation by virtue of **section 24**,—
is, in the absence of proof to the contrary, sufficient evidence that the property is vested in the organisation.
- (3) Except as provided in this clause, nothing in this Act limits the Land Transfer Act 1952.

8 Takeovers Code not to apply

- (1) The Takeovers Code does not apply in relation to the vesting of any assets or liabilities under **section 24**.
- (2) For the purposes of the Takeovers Code, Infrastructure Auckland and ARH are to be treated as the same person.

Schedule 4

s 25

Vesting of public transport service obligations

1 Taxes and duties

For the purposes of the Inland Revenue Acts (as defined in **clause 4(3) of Schedule 3**), ARC and ARTA are, in relation to all public transport service obligations that, by **section 25**, become assets and liabilities of ARTA, to be treated as the same person; and all transactions entered into by, and all acts of, ARC before the date of vesting referred to in that section, in relation to all those public transport service obligations, are to be treated as having been entered into or performed by ARTA on the date on which they were entered into or performed by ARC.

2 Certain matters not affected by this Part

Nothing effected or authorised by **section 25** or any provision of this schedule—

- (a) places ARC, or any other person, in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
- (b) gives rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
- (c) places ARC or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
- (d) releases any surety wholly or in part from any obligation;

or

(e) validates or discharges any contract or security.

3 Provisions relating to vesting of public transport service obligations

- (1) All contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices, (whether or not in writing) relating to public transport service obligations that are entered into by, made with, given to or by, or addressed to ARC (whether alone or with any other person) and subsist immediately before the vesting of those obligations by **section 25** are, to the extent that they were previously binding on and enforceable by, against, or in favour of ARC, binding on and enforceable by, against, or in favour of ARTA, as fully and effectually in every respect as if, instead of ARC, ARTA had been the person by whom they were entered into, with whom they were made, or to or by whom they were given or addressed, as the case may be.
- (2) An instrument, contract, agreement, conveyance, deed, lease, licence, or other instrument or undertaking or notice is, in cases of doubt, to be treated, for the purposes of **subclause (1)**, as related to public transport service obligations if it is acknowledged by both ARC and ARTA as being related to those obligations.
-

Schedule 5

s 37

Amendments to Land Transport Management Act 2003

Land Transport Management Act 2003 (2003 No 118)

Insert in section 5, in their appropriate alphabetical order,—

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

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

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

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

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

Repeal section 10(6)(d)(vi).

Insert in section 12(5), after the words “approved organisation”, the words “(other than ARTA)”.

Add to section 12 the following subsection:

“(6) ARTA must, in preparing a land transport programme,—

“(a) take into account any current national land transport strategy and the National Energy Efficiency and Conservation Strategy; and

“(b) from a date appointed by the Governor-General by order in council, give effect to the Auckland regional land transport strategy—

unless it is required to do otherwise by operational considerations which affect the sequencing and timing of projects, the funding available to it, or its statutory functions or powers.”

Add to section 15:

- “(6) ARTA must consult under subsection (4) with respect to its statement of priorities, but need not otherwise consult any organisation or person referred to in subsection (4) about any matter if an Auckland local authority has already consulted that organisation or person about the matter in the course of preparing its current long-term council community plan or annual plan in accordance with the Local Government Act 2002.”

Insert in section 23(4), after the word “Board”, the words “and ARTA”.

Insert in section 26, after paragraph (d):

- “(da) made from ARTA’s land transport disbursement account if the payment is made to the land transport disbursement account of another approved organisation; or”.

Repeal section 39 and the heading “Infrastructure Auckland” before that section, and substitute:

“39 Special provisions relating to Auckland Region

- “(1) Immediately after 30 September 2004, Auckland Regional Council must transfer to ARTA any part of the grants received by it from Transfund in relation to the Auckland Regional Council’s land transport programme for the year ending 30 June 2005 (other than funding that relates to the Auckland Regional Council’s Regional Land Transport Strategy) that remains in the Auckland Regional Council’s land transport disbursement account at that date.

- “(2) From 30 September 2004, all grants to be made by Transfund in relation to the programme referred to in subsection (1) must be made to ARTA rather than Auckland Regional Council.
- “(3) Despite ARC being an approved organisation for the purposes of this Act, it may not after 30 September 2004—
- “(a) make any recommendation of a kind referred to in section 12(1); or
 - “(b) receive any funds directly from the national land transport account.
- “(4) Despite an Auckland territorial authority being an approved organisation for the purposes of this Act, it may not after 1 July 2005—
- “(a) make any recommendation of a kind referred to in section 12(1); or
 - “(b) receive any funds directly from the national land transport account.
- “(5) ARTA must, as soon as practicable and at no cost to the local authority, pay to an Auckland local authority the funds received by ARTA from Transfund for approved activities to be carried out by the local authority.
- “(6) Transit’s land transport programmes for the year commencing 1 July 2006 and subsequent years must include a statement of its view of land transport priorities (including the priorities of other approved organisations) for the Auckland Region; and, in preparing this statement of priorities, Transit—
- “(a) must take into account the 10 year financial forecasts of the land transport expenditure of Transfund and the Auckland local authorities, and the priorities in the latest land transport programme of ARTA; and
 - “(b) may include comment on ARTA’s latest land transport programme.

- “(7) ARTA’s land transport programmes for the year commencing 1 July 2006 and subsequent years must include a statement of its view of land transport priorities (including the priorities of other approved organisations) for the Auckland Region; and, in preparing this statement of priorities, ARTA—
- “(a) must take into account the 10 year financial forecasts of the land transport expenditure of Transfund and the Auckland local authorities, and the priorities in the latest land transport programme of Transit; and
 - “(b) may include comment on Transit’s latest land transport programme.”

Repeal section 104.

Insert in clause 3(2) of Schedule 1, after the word “Transit”, the words “and ARTA”.

Schedule 6

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Amendments to other Acts

Goods and Services Tax Act 1985 (1985 No 141)

Omit subparagraph (vii) of paragraph (b) of the definition of **local authority** in section 2(1) and substitute:

“(vii) the Auckland Regional Transport Authority established by **section 7 of the Local Government (Auckland) Amendment Act 2004**;

“(viii) Auckland Regional Holdings established by **section 16 of the Local Government (Auckland) Amendment Act 2004**.”

Income Tax Act 1994 (1994 No 164)

Omit subparagraph (vii) of paragraph (b) of the definition of **local authority** in section OB 1 and substitute:

“(vii) the Auckland Regional Transport Authority established by **section 7 of the Local Government (Auckland) Amendment Act 2004**;

and

“(viii) Auckland Regional Holdings as established by **section 16 of the Local Government (Auckland) Amendment Act 2004**.”

Omit paragraph (h) of the definition of **council-controlled organisation** in section OB 1 and substitute:

“(h) any organisation that would be a council-controlled organisation of a kind described in paragraph (a) or paragraph (b) or paragraph (c) were it not for an exemption granted under section 6(4)(i) of the Local Government Act 2002—

but does not include the Auckland Regional Transport

Authority (as established by **section 7 of the Local Government (Auckland) Amendment Act 2004**) or Auckland Regional Holdings (as established by **section 16 of the Local Government (Auckland) Amendment Act 2004**).”

Local Government Act 1974 (1974 No 66)

Omit from section 37SF(c) the words “Infrastructure Auckland (as established by section 707ZZJ)” and substitute the words “the Auckland Regional Transport Authority (as established by **section 7 of the Local Government (Auckland) Amendment Act 2004**), Auckland Regional Holdings (as established by **section 16 of the Local Government (Auckland) Amendment Act 2004**),”.

Ombudsmen Act 1975 (1975 No 9)

Omit the item relating to Infrastructure Auckland in Part 3 of Schedule 1.