

Examined and certified:

Clerk of the House of Representatives

*In the name and on behalf of Her Majesty Queen Elizabeth
the Second I hereby assent to this Act this 1st day
of July 2004*

Administrator of the Government.

Local Government (Auckland) Amendment Act 2004

Public Act 2004 No 57

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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 2002 is called “the principal Act”.

2 Commencement

- (1) Sections 45 and 46 and Schedules 4 and 6 come into force on—
 - (a) 1 January 2005; or
 - (b) any earlier date specified by the Governor-General by Order in Council.
- (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—
 - (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.

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 18

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—

- (a) means the region of ARC; and
- (b) includes that part of the district of the Franklin District Council that is not within 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)

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**, **affected community**, **approved activity**, **approved organisation**, **land transport**, **land transport disbursement account**, **land transport options and alternatives**, **land transport programme**, **national land transport account**, **national land transport programme**, **public transport service**, **regional land transport strategy**, **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—
 - (i) setting the strategy for the Auckland regional land transport system; and
 - (ii) integrating the planning, funding, and development of the Auckland regional land transport system; and
 - (iii) stormwater funding in the long-term interests of the Auckland Region (to the extent that this function was, before the commencement of this Act, the responsibility of Infrastructure Auckland); 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.

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 Objective and principles

- (1) The 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 meeting its objective, ARTA must exhibit a sense of social and environmental responsibility, which includes—
 - (a) avoiding, to the extent reasonable in the circumstances, adverse effects on the environment; and
 - (b) ensuring, to the extent practicable, that—
 - (i) the views of affected communities are taken into account; and
 - (ii) land transport options and alternatives are given early and full consideration in a manner that contributes to paragraph (a) and subparagraph (i); and
 - (iii) early and full opportunities are provided to the persons and organisations who are required to be

consulted in order to contribute to the development of land transport programmes.

- (3) 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 have regard to the reasonably foreseeable needs of future generations, including the economic and cultural well-being of people and communities; and
 - (c) ARTA should foster co-operative and collaborative working relationships; and
 - (d) ARTA should contribute to the achievement of its objective, including its environmental and social responsibilities, in an efficient and effective manner; and
 - (e) 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
 - (f) ARTA should be a good employer within the meaning of clause 36 of Schedule 7 of the principal Act; and
 - (g) ARTA should operate in a financially responsible manner.

9 Functions of ARTA

- (1) The functions of ARTA are—
- (a) on and from 1 January 2005, (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 assets and liabilities of ARC vested in it by section 31; 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 other than activities relating to the exercise of ARC's powers under sections 175 to 182 of the Land Transport Act 1998; and
 - (b) in relation to the financial year that commenced on 1 July 2004, to complete (as if it were ARC before the commencement of this section) the land transport programme for the Auckland land transport system under the Land Transport Management Act 2003 for the next financial year; and
 - (c) in relation to each financial year commencing on or after 1 July 2005, to prepare for the next financial year a land transport programme for the Auckland land transport system 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 from sources other than the national land transport account; and
 - (e) on and from 1 January 2005, 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 37; and
 - (g) to carry out research, education, or training in relation to land transport in the Auckland Region; 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 judgment independently and in accordance with its statutory obligations.
- (3) Nothing in this Act, the principal Act, the Land Transport Act 1998, the Land Transport Management Act 2003, 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 must ensure that ARTA acts in a manner consistent with its objective, including its social and environmental responsibilities.
- (3) The board of ARTA is accountable in accordance with this Act and the principal Act for the performance by ARTA of its functions.
- (4) 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.
- (5) The convening of an appointments panel and anything done by the panel and by ARC in relation to the panel before the commencement of this Act is to be treated as being as valid

and effective as it would have been had it been done on or after the commencement of this Act.

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 date specified in the notice; or
 - (b) if a date 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.
- (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.

16 Modifications of statement of intent

In relation to ARTA's statement of intent under the principal Act,—

- (a) ARTA, in complying with clauses 2 to 5 and 9 of Schedule 8 of that Act, must include its reasons for a proposed modification or modification of its statement of intent; and
- (b) ARC, in carrying out its functions under that schedule, must provide its reasons for proposing any modifications to ARTA's statement of intent.

17 ARTA's responsibilities in relation to administration costs

ARTA must ensure that—

- (a) its administration costs in any financial year do not exceed an amount approved by ARC; and
- (b) its administration costs in relation to funds provided by Transfund in any financial year do not exceed an amount approved by Transfund.

Auckland Regional Holdings

18 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.

19 Objective and principles of ARH

- (1) The 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.

20 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 21; and
- (c) make land transport assets available to assist ARTA to achieve ARTA's 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.

21 Long-term funding plan

- (1) Having regard to ARC's long-term council community plan, ARH must deliver to ARC a draft long-term funding plan on or before 1 March in each year.
- (2) The long-term funding plan must—
 - (a) relate to the 10-year period beginning on 1 July in the year it is delivered to ARC; and
 - (b) include the following matters:
 - (i) forecasts of the funds required by ARC from ARH; and
 - (ii) forecasts of funds, both capital and income, that will be available for distribution by ARH to ARC; and
 - (iii) forecasts of funds, both capital and income, that ARH intends to reinvest in existing or new activities; and
 - (iv) the proposed source of those funds; and
 - (v) estimated cash flow projections for the period of the plan; and
 - (vi) estimated changes in the net worth of ARH for the period of the plan; and
 - (vii) such other financial and non-financial information as is necessary for a proper understanding of these forecasts; and
 - (viii) an investment and treasury management policy; and
 - (ix) a liability management policy.
- (3) 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.

- (4) 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.
- (5) 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.
- (6) Before giving notice of the resolution to ARH, ARC must consult ARH.
- (7) ARH must provide funds, in accordance with a resolution of ARC, to ARC before ARH completes its first long-term funding plan under this section.
- (8) In relation to the long-term funding plan prepared under this section,—
 - (a) ARH must include its reasons for a proposed modification of the plan; and
 - (b) ARC, in carrying out its functions under this section, must provide its reasons for proposing any modification to the plan.

22 Long-term funding plan for 2004–05

- (1) Having regard to ARC's long-term council community plan, ARH must deliver to ARC a draft long-term funding plan as soon as is practicable after 1 July 2004 for the year beginning on that date.
- (2) Section 21(2) and (4) to (8) applies in relation to the long-term funding plan prepared under subsection (1).

23 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 must ensure that ARH acts in a manner consistent with its objective.

- (3) The board of ARH is accountable in accordance with this Act and the principal Act for the performance by ARH of its functions.
- (4) 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.

24 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 date specified in the notice; or
 - (b) if a date is not specified, the date on which the notice is published in the *Gazette*.
- (3) Not more than 2 directors of ARH may be members or employees of ARC.

25 ARH is council-controlled organisation

- (1) ARH is a council-controlled organisation for the purposes of the principal Act.
- (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.

26 Modifications of statement of intent

In relation to ARH's statement of intent under the principal Act,—

- (a) ARH, in complying with clauses 2 to 5 and 9 of Schedule 8 of that Act, must include its reasons for a proposed modification or modification of its statement of intent; and

- (b) ARC, in carrying out its functions under that schedule, must provide its reasons for proposing any modifications to ARH's statement of intent.

27 ARH's responsibilities in relation to administration costs
ARH must ensure that its administration costs in any financial year do not exceed an amount approved by ARC.

28 Restrictions on disposal of shares in Ports of Auckland Limited

- (1) ARH must adopt the special consultative procedure in relation to any proposal of ARH to sell or otherwise dispose of the ownership or control of any shares held by it in Ports of Auckland Limited.
- (2) ARH must not sell or otherwise dispose of the ownership or control of more than 24.9% of the shares in Ports of Auckland Limited that are vested in it under section 29 unless the conditions in subsection (3) are satisfied.
- (3) The conditions are—
 - (a) that ARH holds a poll of the residential electors of the Auckland Region on whether it should be permitted to do so; and
 - (b) that in any such poll a majority of valid votes are cast in favour of ARH being permitted to do so.
- (4) ARH may hold more than 1 poll for the purposes of this section.
- (5) In relation to a poll held under this section, ARH is responsible for—
 - (a) the costs of the poll; and
 - (b) giving the necessary directions to the Returning Officer for each territorial authority district within the Auckland Region.
- (6) A poll held under this section is to be treated as if it were a poll under the Local Electoral Act 2001, and the provisions of that Act, as far as they are applicable and with the necessary modifications, apply accordingly.

*Infrastructure Auckland***29 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.

*Auckland Regional Transport Network Ltd***30 Dispositions by or in relation to Auckland Regional Transport Network Ltd**

- (1) This section applies to a disposition by or in relation to ARTNL if the Governor-General by Order in Council—
 - (a) identifies the disposition and the parties to the disposition; and
 - (b) provides that this section applies to the disposition.
- (2) Subpart 1 of Part 6 of the principal Act does not apply in relation to a disposition.
- (3) For the purposes of the Inland Revenue Acts and any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge,—
 - (a) the parties to a disposition are, in relation to the shares or the assets and liabilities transferred by the disposition, to be treated as the same person; and all transactions entered into by, or all acts of, the party making the

- disposition before the date on which the disposition takes effect are to be treated as having been entered into or performed by the party receiving the disposition on the date on which they were entered into or performed by the party making the disposition; and
- (b) if a disposition is the transfer from ARTNL to ARH of shares in a subsidiary company of ARTNL, ARH and its members and directors must be treated as having held, at all times since the shares were acquired by ARTNL, the voting interests in and market value interests of the shares.
- (4) If, as a result of a disposition, ARTNL or a subsidiary company of ARTNL becomes a subsidiary company of ARH, then any income derived by ARH from ARTNL or the subsidiary company of ARTNL is to be treated as income derived as if ARH were a local authority and ARTNL or the subsidiary company of ARTNL were a council-controlled organisation.
- (5) Subsection (4) prevails over paragraph (b)(viii) of the definition of **local authority** in section OB 1 of the Income Tax Act 1994 and of the Income Tax Act 2004.
- (6) In this section,—
- ARTNL** means Auckland Regional Transport Network Limited
- disposition** means a disposition to ARH, ARTA, or an Auckland territorial authority of all or some of—
- (a) the shares of ARTNL;
- (b) the assets and liabilities of ARTNL or a subsidiary company of ARTNL
- Inland Revenue Acts** has the meaning given to it in section 3(1) of the Tax Administration Act 1994.

Changes to land transport role of Auckland local authorities

31 Vesting of ARC's public transport service assets and liabilities

- (1) On 1 January 2005 (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 assets and liabilities are vested in ARTA; and all proceedings pending by or

against ARC in relation to those assets and liabilities 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).

32 Delivery of ARC's land transport activities

- (1) On and from the date specified in or under section 31(1),—
- (a) ARC may undertake any activity other than an activity that is a statutory function of ARTA, ARH, or any other approved organisation within the Auckland Region; and
 - (b) section 27(1) and (2) of the Land Transport Management Act 2003 applies as if ARTA and ARH were local authorities; and
 - (c) section 27(3) of the Land Transport Management Act 2003 applies to all public service transport infrastructure and public transport service assets and liabilities vested in ARTA or ARH as if ARTA and ARH were regional councils.
- (2) However, subsection (1)(a) does not apply in relation to—
- (a) the exercise of powers under sections 175 to 182 of the Land Transport Act 1998; or
 - (b) the raising of funds from sources other than the national land transport account for land transport purposes.
- (3) ARC is not required to use the special consultative procedure in making amendments to its long-term council community plan to make the plan consistent with subsection (1) and section 31(1).

33 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 17.
- (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 27.

34 Application of funds by ARC

- (1) ARC must apply, in accordance with its long-term council community plan, at least the specified percentage of the funds referred to in subsection (2)—
 - (a) to ARTA for the purposes of land transport in the Auckland Region; or
 - (b) for stormwater purposes in the Auckland Region.
- (2) The funds are any funds ARC receives from ARH being funds (whether capital or income) derived from the assets vested in ARH by section 29 or from any assets that replace any of those assets.
- (3) 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 total proportions for transport and stormwater in the notional allocation programme set out in Infrastructure Auckland's annual plan for the 2003–04 year.
- (4) When providing funds to ARTA, whether under subsection (1)(a) or otherwise, ARC may specify activity classes, but not activities, for which the funds may be used.
- (5) The provision of funds by ARC under subsection (1) is not a dutiable gift for the purposes of the Estate and Gift Duties Act 1968.
- (6) 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.

35 ARC to fund liabilities for transport grants vested in ARTA

ARC must provide funds to ARTA to meet the liabilities vested in ARTA by section 29(1)(d).

36 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—

- (a) include reference to activities or their prioritisation; or
- (b) include any matters other than those specified in section 175(2); or

- (c) include any regional passenger transport plan under section 175(2)(k).

37 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 must, 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) While a delegation is in force, ARTA must not cease to exercise or perform any of the delegated functions, duties, or powers except with the agreement of the territorial authority concerned.
- (5) 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.
- (6) Until it is revoked or it expires, a delegation continues in force according to its tenor.
- (7) 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*

38 Interpretation

- (1) In sections 39 to 43, 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 40(1).
- (2) A term or expression that is defined in the Resource Management Act 1991 and used but not defined in sections 39 to 43 has the same meaning as in the Resource Management Act 1991.

39 Obligation to publicly notify proposed changes to planning documents

- (1) Each Auckland local authority must, by 31 March 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 41 to 43.
- (3) For the purposes of this section, 2 or more Auckland local authorities may carry out jointly an evaluation under section 32 of the Resource Management Act 1991.
- (4) For the purposes of this section, the Franklin District Council may change its district plan in relation to that part of its district that is within the region of the Waikato Regional Council.

40 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 by including issues, objectives, policies, and descriptions of methods for the purpose of—
- (a) giving effect, in an integrated manner, to the growth concept in the Auckland Regional Growth Strategy prepared under section 37SE of the Local Government Act 1974; and

- (b) contributing, in an integrated manner, to the matters specified in Schedule 5.
- (2) A change for the purposes of subsection (1)(a) and a change for the purposes of subsection (1)(b) must, in relation to each other, be integrated.
- (3) A change to a plan under this section may also include specific methods, including rules.
- (4) A land transport and land use change and any decision of the Environment Court on an appeal against the change must not—
 - (a) extend the metropolitan urban limits set in the Auckland Regional Policy Statement unless the ARC agrees; or
 - (b) modify any designation or include any new designation.

41 Delegation of powers to single panel

- (1) The Auckland local authorities must jointly appoint a panel of 3 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.

42 Time and place of hearings

- (1) The panel may hear submissions on a proposed land transport and land use change as if the change were a change to a single document.
- (2) The panel must use its best endeavours to hear all submissions from a person on a proposed land transport and land use change at the same time and place.

43 Consultation

To avoid doubt, compliance with the Resource Management Act 1991 and this Act in relation to a land transport and land use change is to be treated as compliance with Part 6 of the principal Act.

Auckland regional land transport strategy

- 44 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**

- 45 Amendments to Land Transport Management Act 2003**
The Land Transport Management Act 2003 is amended in the manner indicated in Schedule 6.
- 46 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 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; but
 - “(c) does not include the Auckland Regional Council, and the Waikato Regional Council in relation to that part of its region within the district of the Franklin District Council”.
- 47 Amendments to other Acts**
The enactments specified in Schedule 7 are amended in the manner indicated in that schedule.

48 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.
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ss 7, 18

Schedule 1

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(4) or section 23(4), 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 referred to in section 34(2), other than funds that ARC must apply under section 34(1):
- (b) any funds, assets, or property made available by ARTA for the purposes of the land transport system in the Auckland Region:
- (c) any funds, assets, or property made available by ARH for the purposes of the land transport system in the Auckland Region or for stormwater purposes in that region:
- (d) any assets transferred for administrative purposes from ARC to ARTA or ARH (except as provided in paragraph (a)).

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 must 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) As soon as is practicable after appointing the person under subclause (1), the Minister must notify the appointment in the *Gazette*.
- (3) 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(1)(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

Appointments panel

s 11

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—
 - (i) assisting economic development; and
 - (ii) assisting safety and personal security; and
 - (iii) protecting and promoting public health; and
 - (iv) improving access and mobility; and
 - (v) ensuring 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 29

Dissolution of Infrastructure Auckland**1 Interpretation**

In this schedule—

dissolution date means the date specified in section 29(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 and any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge, Infrastructure Auckland and an organisation are, in relation to all assets and liabilities of Infrastructure Auckland that, by section 29, 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 and any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge, an organisation and its members or directors must be treated as having held, at all times since the interests were acquired by Infrastructure Auckland or the Auckland Regional Services Trust, the voting interests and market value interests that it receives from Infrastructure Auckland under section 29.

- (3) In this section, **Inland Revenue Acts** has the meaning given to it in section 3(1) of the Tax Administration Act 1994.

5 Certain matters not affected by this Part

Nothing effected or authorised by section 29 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 29, 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 29 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 29,—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 29.
 - (2) For the purposes of the Takeovers Code, Infrastructure Auckland and ARH are to be treated as the same person.
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s 31

Schedule 4

Vesting of public transport service assets and liabilities

1 Taxes and duties

For the purposes of the Inland Revenue Acts (as defined in clause 4(3) of Schedule 3) and any other Act that imposes or provides for the collection of a tax, duty, levy, or other charge, ARC and ARTA are, in relation to all public transport service assets and liabilities that, by section 31, 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 assets and liabilities, 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 31 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 assets and liabilities

- (1) All contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices, (whether or not in writing) relating to public transport service assets and liabilities 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 assets and liabilities by section 31 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 assets and liabilities if it is acknowledged by both ARC and ARTA as being related to those assets and liabilities.
-

s 40(1)(b)

Schedule 5**Land transport and land use changes**

For the purposes of section 40(1)(b), the matters are as follows:

- (a) providing increased certainty in the assessment of resource consents, designations, and plan changes related to transport and urban form, and ensuring that transport and land use patterns are aligned to achieve sustainability, efficiency, and liveability in the Auckland Region; and
 - (b) managing transport and transport infrastructure, facilitating a multimodal transport network, and facilitating integrated transport management; and
 - (c) reducing adverse effects of transport on the environment (including improving air and water quality, reducing noise and stormwater, improving heritage protection and reducing community disruption and transport land use), and reducing the adverse effects and increasing the positive interactions of transport and land use; and
 - (d) supporting compact sustainable urban form and sustainable urban land use intensification (including location, timing and sequencing issues, and associated quality, character, and values of urban form and design); and
 - (e) integrating transport and land use policies to reinforce metropolitan urban and rural objectives of the Auckland Regional Policy Statement, the development of a competitive and efficient economy and a high quality of life, underpinned by a quality environment and amenity.
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Schedule 6
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:
 - “(b) from a date appointed by the Governor-General by Order in Council, give effect to the matters in the Auckland regional land transport strategy required by section 175(2) of the Land Transport Act 1998, unless it is required to do otherwise by operational considerations that affect the sequencing and timing of activities, the funding available to it, or its statutory functions or powers.”

Add to section 15:

- “(6) ARTA must consult under subsection (4) with respect to its land transport programme, but need not otherwise consult any organisation or person referred to in subsection (4) about any

Land Transport Management Act 2003 (2003 No 118)—
continued

activity in its land transport programme if an Auckland local authority has already consulted that organisation or person about the activity 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 1 January 2005, the Auckland Regional Council must transfer to ARTA any part of the funds 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 1 January 2005, all grants to be made by Transfund in relation to the programme referred to in subsection (1) must be made to ARTA rather than the Auckland Regional Council.
- “(3) Despite the Auckland Regional Council being an approved organisation for the purposes of this Act, it may not after 1 January 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; or
 - “(c) prepare a land transport programme.
- “(4) However, on and from 1 January 2005 the Auckland Regional Council may make a recommendation of a kind referred to in section 12(1) or receive funds directly from the national land transport account and prepare a land transport programme

Land Transport Management Act 2003 (2003 No 118)—
continued

only if it does so for the purpose of exercising its powers under sections 175 to 182 of the Land Transport Act 1998.

- “(5) 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; or
 - “(c) prepare a land transport programme.
- “(6) 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.
- “(7) 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.
- “(8) 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; and

Land Transport Management Act 2003 (2003 No 118)—
continued

- “(c) must be satisfied that the priorities contribute to its objective, including its social and environmental responsibilities, and contribute to the following:
- “(i) assisting economic development; and
 - “(ii) assisting safety and personal security; and
 - “(iii) improving access and mobility; and
 - “(iv) protecting and promoting public health; and
 - “(v) ensuring environmental sustainability.”

Repeal section 104.

Add to clause 3 of Schedule 1 the following subclause:

- “(3) In the case of ARTA, also include all significant expenditure from sources other than Transfund.”
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Schedule 7

Amendments to other Acts

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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 18 of the Local Government (Auckland) Amendment Act 2004”.

Income Tax Act 1994 (1994 No 164)

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 18 of the Local Government (Auckland) Amendment Act 2004)”.

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

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

“(viii) other than for the purposes of section CB 3(b)(ii), Auckland Regional Holdings as established by section 18 of the Local Government (Auckland) Amendment Act 2004”.

Income Tax Act 2004 (2004 No 35)

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

“(h) Watercare Services Limited and any subsidiaries it has;—

Income Tax Act 2004 (2004 No 35)—continued

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 18 of the Local Government (Auckland) Amendment Act 2004”).

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:

“(viii) other than for the purposes of section CW 32(4)(c), Auckland Regional Holdings as established by section 18 of the Local Government (Auckland) Amendment Act 2004”.

Land Transport Act 1998 (1998 No 110)

To add to section 175 the following subsection:

“(5) For the purposes of this section, that part of the district of the Franklin District Council that is within the region of the Waikato Regional Council is to be treated—

“(a) as not being part of the region of the Waikato Regional Council; but

“(b) as being part of the region of the Auckland Regional Council.”

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 18 of the Local Government (Auckland) Amendment Act 2004),”.

Local Government Act 2002 (2002 No 84)

Repeal section 6(4)(d).

Ombudsmen Act 1975 (1975 No 9)

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

Legislative history

29 March 2004	Introduction (Bill 113–1)
7 April 2004	First reading and referral to Transport and Industrial Relations Committee
4 June 2004	Reported from Transport and Industrial Relations Committee (Bill 113–2)
29 June 2004	Second reading, committee of the whole House, third reading
