
Land Transport Management (Regulation of Public Transport) Amendment Bill

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Land Transport Management (Regulation of Public Transport) Amendment Bill 2023

1 Introduction

- 1.1 The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to comment on the Land Transport Management (Regulation of Public Transport) Amendment Bill (**Bill**).
- 1.2 This submission has been prepared with input from the Law Society's Public and Administrative Law Committee,¹ and addresses one issue relating to clause 19 of the Bill.
- 1.3 The Law Society does not wish to be heard.

2 Regulations relating to exempt services

- 2.1 Clause 19 replaces section 150 of the Land Transport Management Act 2003 (**Act**). Proposed new section 150(2)(c)(ii)(A) authorises the Minister to recommend the making of regulations specifying a public transport service as an 'exempt service'. This section further states the Minister may only make such a recommendation if satisfied the public transport service will satisfy the criteria in new section 114A (which sets out when a public transport service is considered an exempt service).
- 2.2 New section 150(2)(c)(ii)(A) is unclear, and would benefit from clarification. The intention may be for this subsection to provide that a public transport service must meet one of the descriptions in new sections 114A(1)(a), (b), or (c), in order to be specified as an exempt service in the regulations. However, this seems circular – if a service meets one of the descriptions in new sections 114A(1)(a), (b) or (c), then it is already an 'exempt service' by virtue of new section 114A(1) (and need not be specified as such in any regulations).
- 2.3 Alternatively, the drafters may have intended that new sections 114A(1)(a),(b) and (c) would only apply to exempt services that are already in operation, and new section 150(2)(c)(ii)(A) would refer to the criteria for assessing *whether it is appropriate* for a public transport service to operate as an exempt service. If so, this should be more clearly articulated in the Bill.
- 2.4 We note that the current section 150(2)(a)(i) of the Act:
 - (a) more clearly specifies the substantive criteria that must be satisfied before the Minister can recommend the making of Orders in Council which specify exempt services; and
 - (b) more clearly conveys the purpose of assessing a service against such criteria – i.e., to determine, for example, whether it is appropriate to allow a public transport service to operate as a service that:
 - (i) is not provided under a contract with a regional council;²

¹ See the Law Society's website for more information about this Committee:
<https://www.lawsociety.org.nz/branches-sections-and-groups/law-reform-committees/public-and-administrative-law-committee/>.

² Section 116 of the Act.

- (ii) is not subject to the policies and procedures set out in regional public transport plans (including fare regulation policies);³ and
- (iii) does not receive a subsidy for the provision of the service.⁴

2.5 New section 150(2)(c)(ii)(A) could be improved by ensuring the wording is more closely aligned with the wording of current section 150(2)(a)(i). Presently, this section more clearly conveys the purpose of, and the criteria for, determining whether a service should operate as an exempt service.



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Vice-President

³ Sections 120(1)(c) and 120(2)(b) of the Act.

⁴ Section 150(2)(a)(i)(A) of the Act, and new section 114A(1)(b)(ii) in clause 8 of the Bill.