

**Passenger Transport Amendment
(Maintenance of Bus Services)
Bill 2005**

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Passenger Transport Act 1990* (the **Principal Act**) to enable the implementation of “step-in arrangements” to maintain regular bus services before or after termination or on or before expiry of commercial bus service contracts (in force before the reform of bus contracts in 2004), and temporary contracts replacing those contracts, (**existing bus service contracts**).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

Schedule 1 Amendments

The *Passenger Transport Amendment (Bus Reform) Act 2004* established a new system for the regulation of regular bus services, including the introduction of performance-based contracts and opportunities for contestability. Under transitional provisions inserted by that Act, existing contracts were kept on foot but are able to be terminated by the Director-General before the contract term expires. Subsequent contracts are governed by the new contract arrangements. The proposed Act enables the Director-General to implement step-in arrangements to maintain the provision of bus services where an existing bus service contract expires or is terminated before a new contract is operative.

Schedule 1 [10] inserts proposed clauses 39A–39C into Schedule 3 (Savings and transitional provisions) to the Principal Act.

Proposed clause 39A enables the Director-General, by notice published in the Gazette, to implement step-in arrangements to authorise the Director-General or a person nominated by the Director-General to step in to provide bus services formerly provided under an existing bus service contract before or after termination or on or before expiry of the contract. Such provisions would enable the person to act in the place of the bus service provider for up to 12 months, as if the contract were in force, and to take possession of and use the assets necessary to provide the bus services. The proposed clause sets out the matters that may be covered by step-in arrangements (including the use of staff) and provides for the variation or revocation of step-in arrangements by further notice published in the Gazette.

Proposed clause 39B makes it an offence to fail to comply (without reasonable excuse) with an obligation imposed under step-in arrangements or to enter into an agreement, transaction or other arrangement or take other action with the intention of preventing the use of staff or a bus, premises or other assets under a step-in arrangement.

Proposed clause 39C provides legal protections relating to the operation of proposed clause 39A and step-in arrangements.

Schedule 1 [1] enables savings and transitional regulations to be made as a consequence of the proposed Act.

Schedule 1 [2] inserts definitions of expressions used in the provisions inserted by the proposed Act.

Schedule 1 [3] extends the effect of clause 33 of Schedule 3 to the Principal Act (which defeats statutory rights of renewal for existing bus service contracts) to rights of renewal contained in existing bus service contracts.

Schedule 1 [4] and [5] amend clause 34 of Schedule 3 to the Principal Act to provide

that the review provisions of the Principal Act do not apply to a decision to implement step-in arrangements under proposed clause 39A.

Schedule 1 [6] amends clause 36 of Schedule 3 to the Principal Act to extend protections from legal challenge given by that clause in respect of the exercise of functions of the Director-General to functions relating to the implementation of step-in arrangements.

Schedule 1 [7]–[9] amend clause 37 of Schedule 3 to the Principal Act to extend the prohibition on compensation by the Crown under that clause to loss or damage arising from step-in arrangements or things done or omitted to be done under or in connection with step-in arrangements.