



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Vol. 426

CAPE TOWN, 15 DECEMBER 2000

KAAPSTAD, 15 DESEMBER 2000

No. 1901

THE PRESIDENCY

No. 1373.

15 December 2000

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 64 of 2000: South African Rail Commuter Corporation Limited Financial Arrangements Act, 2000.

DIE PRESIDENSIE

No. 1373.

15 Desember 2000

Hierby word bekend gemaak dat die President sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 64 van 2000: Wet op Finansiële Reëlings rakende die Suid-Afrikaanse Spoorpendelkorporasie Beperk, 2000.

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 8 December 2000.)

ACT

To amend the Legal Succession to the South African Transport Services Act, 1989, so as to remove the power of the South African Rail Commuter Corporation Limited to borrow money, except for purposes of bridging finance in limited circumstances; to remove the power of the Corporation to guarantee or secure the debts or obligations of persons who are not wholly-owned subsidiaries of the Corporation; to subject the power of the Corporation to guarantee or secure the debts or obligations of wholly-owned subsidiaries of the Corporation, to the conditions and limitations imposed by the Minister of Transport; to provide for the State to take over, in a specified amount, all loan obligations and net liabilities of the Corporation; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 23 of Act 9 of 1989, as amended by section 16 of Act 52 of 1991 and section 3 of Act 47 of 1992

1. Section 23 of the Legal Succession to the South African Transport Services Act, 1989 (hereinafter referred to as the principal Act), is amended by the substitution— 5

(a) for subsection (4) of the following subsection:

“(4) The Corporation shall have the capacity and powers of a natural person of full capacity in so far as a juristic person is capable of having such capacity or of exercising such powers, except the power to issue guarantees, indemnities or securities to secure or indemnify the obligations of persons that are not wholly-owned subsidiaries of the Corporation.” 10

(b) in subsection (5) for the words preceding paragraph (a) of the following words:

“(5) **[Without derogating from the generality of]** Subject to the provisions of subsections (1), (2) and (4), the Corporation shall have power—” 15

(c) in subsection (5) for paragraph (d) of the following paragraph:

“(d) to **[borrow,]** lend or invest money, and to borrow money only for purposes of bridging finance in the manner and subject to the maximum amounts determined, from time to time, by the Minister of Finance;” 20

- (d) in subsection (5) for paragraph (e) of the following paragraph:
“(e) to open an account or accounts in the name of the Corporation with one or more banks registered under section 17 of the Banks Act, 1990 (Act No. 94 of 1990), in which all moneys received by the Corporation are to be deposited and from which its expenses are to be paid, and to do everything necessary to operate such accounts, and also to draw, accept, endorse or discount cheques, promissory notes and bills of exchange;”; 5
- (e) in subsection (5) for paragraph (f) of the following paragraph:
“(f) to enter into indemnities, guarantees and suretyships and to secure payment in terms thereof in any manner, only in so far as such indemnities, guarantees and suretyships relate to the liabilities or obligations of any wholly-owned subsidiary of the Corporation and subject to the conditions and limitations imposed by the Minister;”. 10

Amendment of section 31 of Act 9 of 1989, as amended by section 22 of Act 52 of 1991, section 7 of Act 47 of 1992 and section 2 of Act 43 of 1995 15

2. Section 31 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

- “(1) The provisions of sections 13 and 18 [**and 19**] of this Act shall apply *mutatis mutandis* to the Corporation, provided that [— 20
- (a) the reference in sections 13(7) and 18(1) [**and 19(1)**] to the Minister shall be interpreted as a reference to the Minister of Transport.
- (b) **the reference in section 19(1) to the memorandum of association and the provisions of the Companies Act, 1973, shall be interpreted as a reference to the capacity and powers of the Corporation in terms of section 23.]”.** 25

Taking over by State of loan obligations of Corporation

3. The State shall take over the total loan obligations of the South African Rail Commuter Corporation Limited, established in terms of section 22 of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989), as they existed at 30 April 2000, in a total amount of R2 281 000 000 (two billion two hundred and eighty-one million rand) plus interest payable by the Corporation on the various loans making up the said amount, from 1 May 2000 to the date of payment. 30

Short title and commencement

4. (1) This Act is called the South African Rail Commuter Corporation Limited Financial Arrangements Act, 2000. 35
- (2) Sections 1 and 2 of this Act shall come into operation on a date determined by the President by proclamation in the *Gazette*.