

SOUTH AFRICAN LAW COMMISSION

Project 42

**SUPPLEMENTARY REPORT ON
INVESTIGATION INTO TIME LIMITS
FOR THE INSTITUTION OF ACTIONS AGAINST THE STATE**

September 1998

To Dr A M Omar, M P, Minister of Justice

I am honoured to submit to you in terms of section 7(1) of the South African Law Commission Act, 1973 (Act 19 of 1973), for your consideration the Commission's supplementary report on the **Investigation into Time Limits for the Institution of Actions against the State.**

I MAHOMED
Chairperson
30 September 1998

INTRODUCTION

The South African Law Commission was established by the South African Law Commission Act, 1973 (Act 19 of 1973).

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1 Previous report

1.1 On 3 October 1985 the Commission reported to the previous Minister of Justice on its investigation into time limits for the institution of actions against the State.

1.2 The report recommended the repeal or amendment of twenty-one provisions that limited the institution of actions against government institutions or persons for whose actions government institutions were liable in law. The report recommended uniform provisions for such actions in terms whereof the defendant had to be notified in writing of intended proceedings within six months after the debt became due. The provisions gave the court having jurisdiction power to condone failure to comply with the notice requirement if sound reasons existed for the failure or if the defendant was not unreasonably prejudiced by the failure. It was further recommended that the usual requirements for prescription should apply to the debts of government institutions.

1.3 The State Law Advisors were requested to consider the draft Bill recommended by the Commission in order to give effect to the recommendations in the Commission's report, but the legislation was never introduced in Parliament, presumably because of objections by certain government institutions.

2 Reasons why implementation of the previous report should be reconsidered

2.1 Parliament has demonstrated its willingness to relax the strict requirements insisted on previously. Section 57(1) of the South African Police Service Act¹ has changed the period within which legal action must be commenced from 6 months after the time when the cause of action arose in section 32(1) of the Police Act² to 12 months after the date upon which the claimant became aware of the alleged act or omission or after the date upon which the claimant might be reasonably expected to have become aware of the alleged act or omission, whichever

1 Act 68 of 1995.

2 Act 7 of 1958 .

is the earlier date. Section 57(5) of the new Act gives a court the right to dispense with the requirements or prohibitions contained in the section where the interests of justice so require.

2.2 In the case of **Mohlomi v Minister of Defence**³ the Constitutional Court declared the provisions of section 113(1) of the Defence Act⁴ inconsistent with section 22 of the interim Constitution⁵ and to be invalid for that reason. Such declaration of invalidity apply to and govern all actions instituted either before or since 27 April 1994⁶ which were not already barred by section 113(1) on that date and which, on 26 September 1996,⁷ have not yet been finally determined by judgments delivered at first instance or on appeal or by settlements duly concluded. All cases to which the declaration of invalidity apply will be regulated by chapter III of the Prescription Act⁸ until Parliament produces a suitable replacement for section 113(1).⁹

2.3 **It is submitted that Parliament should produce a suitable replacement, not only for section 113(1), but also for other similar provisions.** Each such provision must be scrutinised to see whether its own particular range and terms are compatible with the right which section 22 of the interim Constitution bestows on everyone to have his or her justiciable disputes settled by a court of law.¹⁰ The decision of the Constitutional Court has created serious doubt about the validity of many provisions, especially those that agree closely with section 113(1) of the Defence Act. Similar questions will arise under sections 34 and 36 of the 1996 Constitution of the Republic of South Africa.¹¹

2.4 **It is further submitted that it is highly desirable that a uniform provision should be enacted for actions against all government institutions.** The numerous provisions which lay down different requirements in different Acts create uncertainty.¹² This uncertainty is aggravated by the uncertainty about the constitutionality of each different provision.

3 1997 (1) SA 124 (CC).

4 Act 44 of 1957.

5 Act 200 of 1993: Every person shall have the right to have justiciable disputes settled by a court of law or, where appropriate, another independent and impartial forum.

6 The date when the interim Constitution came into force.

7 The time of the order.

8 Act 68 of 1969.

9 Paragraphs [25] and [26] of the **Mohlomi** case.

10 Paragraph [12] of the **Mohlomi** case.

11 Act 108 of 1996.

12 Paragraph 5.2 at 7 of the Commission's previous report.

3 Draft provisions

(a) Introduction

3.1 The Commission has reconsidered the legislation recommended in its previous report. In the light of legislative changes since 1985 and the decision of the Constitutional Court in the **Mohlomi** case, referred to above, the Commission recommends the draft legislation contained in the Annexure to this report.

3.2 Several of the provisions referred to in the previous draft legislation have been amended or repealed with or without the substitution of similar provisions. The draft legislation has been adapted to take account of these changes. Section 108 of the Education Affairs Act (House of Assembly)¹³ and section 52 of the Audit Arrangements Act¹⁴ contain provisions similar to those dealt with in the previous draft. These sections have also been dealt with in the draft legislation contained in the Annexure.

3.3 The Constitutional Court compared section 113(1) of the Defence Act with section 57 of the South African Police Service Act,¹⁵ but did not rule on the constitutionality of section 57.¹⁶ Some guidelines on the constitutionality of the provisions in the draft legislation can nevertheless be gleaned from the decision of the Constitutional Court.

3.4 *It is submitted that the provisions recommended in the Annexure comply with the guidelines for constitutionality discussed in the Mohlomi case.*

(b) Prior notification of intention to sue

13 Act 70 of 1988.

14 Act 122 of 1992.

15 Act 68 of 1995. Par [19] of the **Mohlomi** case above. References between square brackets below are references to paragraphs of this case.

16 [18].

3.5 The conventional explanation for demanding prior notification of any intention to sue an organ of government is that, with its extensive activities and large staff which tends to shift, it needs the opportunity to investigate claims laid against it, to consider them responsibly and to decide, before getting embroiled in litigation at public expense, whether it ought to accept, reject or endeavour to settle them. Given its obviously useful and apparently legitimate purpose, Didcott, J, would have felt disinclined to rate this condition precedent as one intrinsically repugnant to section 22 of the interim Constitution had it stood alone or been accompanied by a lot more latitude than section 113(1) allowed in the time fixed for the start of the ensuing action and consequently for compliance with it a month earlier.¹⁷ Contrary to the wishes of several commentators, the previous draft recommended by the Commission did not provide for a lapse of time between the notice in writing of the intention to institute legal proceedings and the issue of summons. The previous report gave the following reasons for the omission of such a requirement:¹⁸

It appears that a statutory requirement that a period of notice be given before summons is issued will not have much effect in practice. A summons would certainly prompt a defendant to investigate the matter as soon as possible and to consider it thoroughly. There can be no objection to this. There is enough time available after summons to consider a matter and settle it if advisable. The costs of summons are not considerable. In practice a plaintiff will in his own interests allow a reasonable time between notice and summons, especially as a period of more than two years will usually be available after notice before the claim becomes prescribed. The Commission does not recommend that a period between notice and summons be required by statute.

The draft legislation in the Annexure does not provide for a period between notice and summons.

(c) Length of time limit

3.6 Rules that limit the time during which litigation may be launched are common in our legal system as well as many others. Inordinate delays in litigating damage the interests of

17 [9].

18 Par 8.8.4 at 25.

justice. Rules that prevent procrastination and the harmful consequences of it, serve a purpose to which no exception in principle can cogently be taken. The right is denied altogether whenever an action gets barred, but the prospect of such an outcome is inherent in every case, no matter how generous or meagre the allowance may have been. What counts rather is the sufficiency or insufficiency, the adequacy or inadequacy, of the room which the limitation leaves open in the beginning for the exercise of the right.¹⁹ Section 57 of the South African Police Service Act provides for notice within 12 calendar months. ***Clause 2(2)(b) of the draft legislation recommended in the Annexure provides for notice within six months.***

(d) Delay of running of prescription

3.7 One of the grounds which delays the commencement of the running of prescription is the creditor's lack of knowledge of the identity of the debtor and the facts from which the debt arises.²⁰ From a general equitable point of view, it seems unfortunate that this provision of the Prescription Act, at least, does not apply to expiry periods.²¹ ***Clause 2(3) of the draft legislation in the Annexure provides that the period shall not commence to run before the plaintiff has certain knowledge or could have had such knowledge by exercising reasonable care (similar to section 12 of the Prescription Act). If the plaintiff is a minor, insane or under curatorship, the period does not commence to run before his or her tutor or curator has the necessary knowledge or could have had the knowledge.***

(e) Dispensing power or power to condone

3.8 Section 57(5) of the South African Police Service Act provides that a court may dispense with the requirements or prohibitions contained in subsections (1) and (2) where the interests of

19 [12].

20 Ability of a creditor to acquire knowledge by reasonable care should always result in the running of prescription and exceptional cases should be dealt with under the court's power to condone failure to give notice. Cf **Abrahamse v East London Municipality and Another** 1997 (4) SA 613 (SCA) 633F-634B.

21 [13].

justice so require. This provision permits account to be taken of the claimant's fault or the lack of that and the prejudice suffered by the state or its absence. While paying due attention to the state's interests, section 57 is consequently much less stringent and detrimental to the interests of claimants than section 113(1) of the Defence Act.²² *Clause 2(4) of the draft legislation in the Annexure grants the court the power to condone failure to give notice in terms of the legislation if the court is satisfied that good cause exists for the failure by the creditor, tutor or curator to give the notice; or the defendant was not unreasonably prejudiced by the failure. The court may, subject to any law relating to the extinction of debts by prescription, grant leave to institute the legal proceedings subject to any conditions regarding notice to the defendant which the court may lay down.*

(f) Exceptions

3.9 According to the legislation recommended in the Commission's 1985 report the proposed legislation would not apply to debts dealt with in legislation listed in clause 5 of that legislation. All the listed legislation has since been replaced by comparable legislation. The exceptions deal with a debt in respect of which the provisions of section 36 of the Compensation for Occupational Injuries and Diseases Act²³ apply or a debt in terms of the Road Accident Fund Act²⁴ or in terms of items 1 and 2 of Schedule 1 to the Legal Succession to the South African Transport Services Act.²⁵ The 1985 report contains the following reasons for the exceptions:

3.9.1 Items 1 and 2 of Schedule 1 to the Legal Succession to the South African Transport Services Act, 1989, (Act No. 9 of 1989) deal with claims in respect of livestock killed or injured by a train or fire damage caused by burning objects emanating from a train. Both items require notice within three days. It is not necessary to prove negligence before liability for these claims arises. Liability differs from ordinary delictual liability in other respects as well. The possibility does exist that the usual delictual liability has been preserved.

22 [19]. See [7] for a reference to the question whether short notice causes prejudice to the other side.
23 Act 130 of 1993.
24 Act 56 of 1996.
25 Act 9 of 1989.

3.9.2 A specific practice has already come into being regarding debts in respect of which the provisions of section 36 of the Compensation for Occupational Injuries and Diseases Act 130 of 1993 or the Road Accident Fund Act 56 of 1996 apply. These provisions were not enacted for the protection of government institutions.

It was recommended in the 1985 report that the provisions of these Acts cover all cases, also if a government institution or his employee was the defendant.

3.10 During December 1997 the Department of Transport, the Compensation Commissioner and Spoornet were supplied with a background document and requested for their opinions whether an exception was justified in respect of the legislation in respect of which they have an interest and, if so, the reasons that justify such an exception.

3.11 Spoornet replied as follows on 16 January 1998:

Since becoming a public company in terms of the Companies Act, Transnet Ltd has striven to level the playing field in the transportation market. This has meant that from a legal perspective Transnet Ltd has not without due reason been entitled to additional requirements over and above that pertaining to its competitors.

(An exception for Spoornet) can be supported on the basis of addressing the particular requirements of the relationship between a railway operator and its neighbours, irrespective of whether the railway operator is State owned or not.

Spoornet consequently supports (such an exception) and would be prepared to discuss any further amendments required to bring statutory requirements in line with constitutional developments.

3.12 In a communication to Spoornet reference was made to the motivation in the Commission's previous report that liability in terms of items 1 and 2 of Schedule 1 to the Legal Succession to the South African Transport Services Act²⁶ was not ordinary delictual liability and the statement in the report that the possibility existed that the usual delictual liability had been preserved. It was pointed out that section 70(6) of the Railways and Harbours Control and

26 Act 9 of 1989.

Management (Consolidation) Act²⁷ expressly preserved the retention of the usual delictual claims as follows:

(6) The preceding provisions of this section shall not deprive any person of any right which he may have, apart from this section, to recover compensation from the Administration for any loss which he may have suffered as a result of such a fire as is mentioned in sub-section (1).

It was stated that it might be argued that items 1 and 2 of Schedule 1 excluded ordinary delictual liability and Spoornet was asked whether it would support provisions similar to section 70(6) quoted above to preserve liability not covered by the special provisions.

3.13 Discussions were held with a representative of Spoornet during March 1998. He is not sure whether ordinary liability has been preserved. He has no objection to the scrapping of the special notice requirements regarding Spoornet provided that the other special provisions should also be scrapped and claims be dealt with as ordinary delictual claims. However, he suspects that other parties will be worse off than they are under the present provisions and consultation with, for instance, the representatives of farmers is essential. He also supports a holistic approach where land transport as a whole would be considered in order to level the playing fields. Why should Spoornet be treated differently than private railway operators? Why should Spoornet alone be responsible for fencing and the building of railways and even subsidise road transport by a levy on diesel, while road transport firms have no special responsibilities regarding the maintenance of roads, fences and land adjacent to roads?

3.14 If ordinary delictual liability is retained there can be little doubt about the constitutionality of an additional remedy, even if this remedy is strictly limited. However, it does not appear to be desirable to reform the liability of railway transport services in isolation. This excludes a solution to merely state clearly that ordinary delictual liability is retained. It may also be argued that the special limitation periods regarding the South African Transport Services should not be removed without reforming the provisions regarding its liability as a whole. If the statutory provisions referred to in the paragraph 3.9.1 above exclude ordinary delictual liability there is serious doubt about the constitutionality of the provisions as inconsistent with sections

27 Act 70 of 1957.

34 and 36 of the 1996 Constitution. The period of three days within which the claims must be lodged is extremely short.²⁸ The minimum amendment necessary to sufficiently enhance constitutionality of the provisions in question appears to be a provision similar to clause 2(4) in the draft legislation in the Annexure that the court may condone failure to give notice if sound reasons exist for the failure or the defendant was not unreasonably prejudiced by the failure. ***It is submitted that an exception to preserve items 1 and 2 of Schedule 1 to the Legal Succession to the South African Transport Services Act 9 of 1989 is not acceptable. The reform of these provisions should receive the urgent attention of the responsible Department, especially since there is a possibility that the provisions are unconstitutional.***

3.15 The Compensation Commissioner and the Department of Transport did not respond to requests to supply their opinions whether an exception was justified in respect of the legislation in respect of which they have an interest and, if so, the reasons that justify such an exception.

3.16 Section 44 of the Compensation for Occupational Injuries and Diseases Act²⁹ provides that a right to benefits in terms of the Act lapses if the accident in question is not brought to the attention of the commissioner or of the employer or mutual association concerned, as the case may be, within 12 months after the date of such accident. This limitation appears to be reasonable but there appears to be insufficient reasons why the provisions of the draft legislation in the Annexure should not apply. Section 23 of the Road Accident Fund Act,³⁰ *inter alia*, provides that the right to claim compensation under section 17 from the Fund or an agent in respect of loss or damage arising from the driving of a motor vehicle in the case where the identity of either the driver or the owner thereof has been established, shall become prescribed upon the expiry of a period of three years from the date upon which the cause of action arose; that prescription of a claim for compensation shall not run against a minor, any person detained as a patient in terms of any mental health legislation, or a person under curatorship; and that no claim which has been lodged in terms of section 24 shall prescribe before the expiry of a period of five years from the date on which the cause of action arose. These limitation appear to be reasonable. However, in paragraph 10.1 of a White Paper of the Department of Transport dated

28 Cf *Mohlomi v Minister of Defence* 1997 (1) SA 124 (CC) 130F-G.

29 Act 130 of 1993.

30 Act 56 of 1996.

January 1998 it is proposed that a merits claim form must be lodged within 12 months of the accident, failing which there is no claim; the normal 3 year prescription period in the Prescription Act³¹ will apply but commence to run only upon final resolution of the merits. This provision may be constitutional, but a power to condone as proposed in clause 2(4) of the legislation in the Annexure is preferable in respect of failure to lodge a claim form within a year. Consider the case of someone in a coma for most of a year after an accident or a very young child who does not claim for something arising from the death of both his or her parents. There does not appear to be justification why the legislation recommended in the Annexure should not apply to these claims. *It is recommended that claims under the Compensation for Occupational Injuries and Diseases Act and the Road Accident Fund Act should be subject to the provisions proposed in the draft legislation in the Annexure.*

(g) Inconsistent provisions

3.17 To ensure a uniform arrangement clause 6(1) of the previous draft legislation provided that even provisions not expressly identified in the Bill should be repealed if they were inconsistent with the provisions of the draft legislation. The State Law Advisor changed this provision to read that in so far as a provision of the draft legislation was inconsistent with the provisions of another Act, the provisions of the draft legislation applied. *Clause 5 of the draft legislation in the Annexure (based on section 210 of the Labour Relations Act 66 of 1995) provides that if any conflict, relating to the matters dealt with in the legislation, arises between the legislation and the provisions of any other law save the interim Constitution, or Constitution, or any Act expressly amending the legislation, the provisions of the legislation will prevail.*

(h) Transitional provision

3.18 Clause 6(2) of the previous draft provided that the amendment or repeal of a law by the draft legislation should not affect any legal proceeding or a requirement regarding notice of legal

31 Act 68 of 1969.

proceedings in connection with a debt which had become due before the legislation came into operation. Such a provision may result in the application of provisions which may be unconstitutional after the coming into operation of the new legislation. In line with the form of the order in the *Mohlomi* case³² *the following wording is recommended in clause 4(2) of the draft legislation:*

The amendment or repeal of a law in terms of subsection (1) shall apply to all actions instituted either before or after the commencement of this Act which were not before such commencement barred by a provision amended or repealed by subsection (1) or finally determined by judgments delivered at first instance or on appeal or by settlements duly concluded.

4 Consultation

The Commission consulted widely on the legislation recommended in its previous report.³³ The Commission did not for the purposes of this supplementary report investigate the matter afresh. The legislation recommended in the Annexure is merely an adaptation of the legislation recommended in the previous report to take into account changes in legislation since the previous report and the decision by the Constitutional Court on the constitutionality of one of the provisions dealt with in the previous report. In order to expedite the submission of this report, no further consultation other than the limited consultation referred to in paragraph 3.10 above was undertaken by the Commission.

32 See also *Kettledas NO v Minister of Law and Order* 1998 (2) SA 76 (SE) 85H.

33 Cf par 3 at 4 of the previous report.

ANNEXURE: DRAFT LEGISLATION

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.

BILL

To provide for notice requirements in connection with, and other requirements for, the institution of legal proceedings in respect of certain debts against government institutions or persons for whose actions government institutions are liable in law; to repeal or amend certain Acts; and to provide for matters incidental thereto.

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

1. Definitions

In this Act, unless the context otherwise indicates —

- (i) “delict” includes an unlawful act for which a defendant is liable without fault in terms of statutory provisions;
- (ii) “government body” means —
 - (a) a municipality contemplated in section 151 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

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- (b) a traditional authority contemplated in section 211 of the Constitution of the Republic of South Africa, 1996;
 - (c) the South African Roads Board established by section 2 of the South African Roads Board Act , 1988 (Act No. 74 of 1988);
 - (d) South African National Parks established by section 5 of the National Parks Act, 1976 (Act No. 57 of 1976); and
 - (e) the Office of the Auditor-General established by section 3 of the Audit Arrangements Act, 1992 (Act No. 122 of 1992);
- (iii) “member of the Cabinet” means a member of the Cabinet contemplated in section 91 of the Constitution of the Republic of South Africa, 1996;
- (iv) "member of an Executive Council" means a member of the Executive Council of a province contemplated in section 132 of the Constitution of the Republic of South Africa, 1996;
- (v) “State” means the body consisting of the departments in Schedule 1 and organisational components in Schedule 2 to the Public Service Act, 1994 (Proclamation No. 103 of 1994).

2. Notice of intended legal proceedings must be given to government institution.

(1) Subject to the provisions of this Act, no legal proceeding for the recovery of a debt arising from delict shall be instituted against the State, a government body, a member of the Cabinet, a member of an Executive Council or other functionary of the State or of a government body in his or her official capacity or a person for whose actions the State or a government body is in law liable in respect of the debt in question, unless the person who or body which is sued

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(hereafter referred to as the defendant) has in terms of subsection (2) been given notice in writing of the intention to institute the legal proceedings in question or the defendant consents in writing to the institution of legal proceedings without such notice.

(2) The notice contemplated in subsection (1) shall —

- (a) set out briefly the facts relied on for the intended legal proceedings;
- (b) be delivered or sent by certified mail within six months from the date upon which the debt became due —
 - (i) if a department or organisational component of the State is involved, to the head of the department or organisation component mentioned in the second column of Schedule 1 or 2 to the Public Service Act, 1994 (Proclamation No. 103 of 1994); or
 - (ii) if a government body is involved to the chief executive officer of the body concerned; and
 - (iii) to any other defendant.

(3) For the purposes of paragraph (b) of subsection (2) a debt shall not be deemed to be due until the creditor (or his or her tutor or curator if he or she is a minor or insane or under curatorship) has knowledge of the identity of the debtor and of the facts from which the debt arises: Provided that a creditor or his or her tutor or curator, as the case may be, shall be deemed to have such knowledge if he or she could have acquired it by exercising reasonable care unless the debtor wilfully prevents him or her from acquiring such knowledge.

(4) If a defendant relies on a creditor's failure to give notice in terms of section 2(2) of the intended legal proceedings, a court having jurisdiction may condone the failure at the request of the creditor if the court is satisfied —

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- (a) that good cause exists for the failure by the creditor, tutor or curator; or
- (b) that the defendant was not unreasonably prejudiced by the failure

and the court may, subject to any law relating to the extinction of debts by prescription, grant leave to institute the legal proceedings subject to any conditions regarding notice to the defendant which the court may lay down.

- (5) The Court shall not have regard to non-compliance with the provisions of this section if such non-compliance is not raised by a defendant.

3. Prescription of debts.

Subject to the provisions of this Act, a debt shall be extinguished by prescription as provided in section 344 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), section 2(6)(b) of the Apportionment of Damages Act, 1956 (Act No. 34 of 1956) or the Prescription Act, 1969 (Act No. 68 of 1969).

4. Repeal and amendment of laws.

- (1) Subject to the provisions of subsection (2) the laws referred to in the Schedule are hereby amended or repealed to the extent set out in the third column of the Schedule.

- (2) The amendment or repeal of a law in terms of subsection (1) shall apply to all actions instituted either before or after the commencement of this Act which were not before such commencement barred by a provision amended or repealed by subsection (1) or finally determined by judgments delivered at first instance or on appeal or by settlements duly concluded.

5. Application of Act when in conflict with other laws

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If any conflict, relating to the matters dealt with in this Act, arises between this Act and the provisions of any other law save the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), or the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), or any Act expressly amending this Act, the provisions of this Act will prevail.

6. Short title.

This Act Shall be called the Limitation of Legal Proceedings against Government Institutions Act, 19__

SCHEDULE

ACTS AMENDED OR REPEALED BY SECTION 5

No and year of Act	Short title	Extent of amendment or repeal
Act No. 38 of 1927	Black Administration Act, 1927	The repeal of section 32A.
Act No. 57 of 1951	Merchant Shipping Act, 1951	1. The repeal of section 343; and 2. The amendment of section 344 by the deletion of subsection (4).
Act No. 44 of 1957	Defence Act, 1957	The repeal of section 113.
Act No. 8 of 1959	Correctional Services Act, 1959	The repeal of section 90.

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No and year of Act	Short title	Extent of amendment or repeal
Act No. 91 of 1964	Customs and Excise Act, 1964	<p>The substitution for section 96 of the following section:</p> <p>“96. Notice of action and period for bringing action</p> <p>(1) <u>Subject to the provisions of subsection (3)</u>, no legal proceedings shall be instituted against the State, the Minister, the Commissioner or an officer for anything done in pursuance of this Act until one month after delivery of a notice in writing setting forth clearly and explicitly the cause of action, the name and place of abode of the person who is to institute proceedings and the name and address of his <u>or her</u> attorney or agent, if any.</p> <p>(2) Subject to the provisions of <u>subsection (3) and section eighty-nine</u>, the period of extinctive prescription in respect of legal proceedings against the State, the Minister, the Commissioner or an officer on a cause of action arising out of the provisions of this Act shall be one year and shall begin to run on the date when the right of action first arose.</p> <p>(3) <u>The provisions of this section shall not apply to the recovery of a debt referred to in section 2(1) of the Limitation of Legal Proceedings against Government Institutions Act, 19 ..”.</u></p>

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No and year of Act	Short title	Extent of amendment or repeal
Act No. 94 of 1970	Limitation of Legal Proceeding (Provincial and Local Authorities) Act, 1970	The repeal of the whole.
Act No. 54 of 1971	National Roads Act, 1971	The amendment of section 25 by the deletion of subsection (1).
Act No. 18 of 1973	Mental Health Act, 1973	The amendment of section 68 by the deletion of subsection (4).
Act No. 57 of 1976	National Parks Act, 1976	The amendment of section 28 by the deletion of subsection (2).
Act No. 90 of 1979	Education and Training Act, 1979	The repeal of section 42A.
Act No. 65 of 1984	Public Service Commission Act, 1984	The repeal of section 11.
Act No. 70 of 1988	Education Affairs Act (House of Assembly), 1988	The repeal of section 108.
Act No. 122 of 1992	Audit Arrangements Act, 1992	The repeal of section 52.
Act No. 130 of 1993	Compensation for Occupational Injuries and Diseases Act, 1993	The repeal of section 44.
Act No. 38 of 1994	Intelligence Services Act, 1994	The repeal of section 26.
Proclamation 103 of 1994	Public Service Act, 1994	The repeal of section 39.
Act No. 68 of 1995	South African Police Service Act, 1995	The repeal of section 57.
Act No. 56 of 1996	Road Accident Fund Act, 1996	The repeal of section 23.