

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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No. 13245

THE PRESIDENCY

No. 1131

22 May 1991

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

No. 52 of 1991: Transnet Limited Amendment Act, 1991.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

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.

(Afrikaans text signed by the State President.)
(Assented to 14 May 1991.)

ACT

To amend section 1 of the Level Crossings Act, 1960, by the deletion or insertion of certain definitions; to amend section 2 of that Act in order to adjust the contributions to the Fund as circumstances require; to amend sections 3, 4, 5, 6, 7, 8 and 8bis of that Act to provide for the substitution of certain words; to insert section 10 of that Act in order to provide for the repeal of the Act and related matters; to amend section 1 of the Legal Succession to the South African Transport Services Act, 1989, to provide for the insertion or substitution of certain definitions; to amend section 2 of that Act to provide that section 190 of the Companies Act, 1973, shall not apply to the Company; to amend section 10 of that Act to extend the membership of Transmed; to amend section 12 of that Act to exempt the Company from the provisions of the Insurance Act, 1943; to amend section 14 of that Act to make certain provisions thereof applicable to the Corporation; to amend section 15 of that Act to make provision for the rendering of a service at the request of the Corporation or a transport authority; to amend section 16 of that Act to define more precisely the obligations of the State in regard to the pension funds of the South African Transport Services; to amend section 19 of that Act to alter the provisions relating to the issue of financial instruments that are guaranteed by the State; to amend section 21 of that Act to extend the authority of the Minister to make regulations; to amend section 22 of that Act to amplify the provisions relating to the protection of the name of the Corporation; to amend section 23 of that Act in order to increase the powers of the Corporation; to amend section 24 of that Act to make additional provision in connection with the constitution of the Board of Control of the Corporation; to amend section 25 of that Act to alter the provision relating to the identification of the assets of the Corporation; to amend section 26 of that Act to bring it into line with the provisions of section 15; to substitute section 27 of that Act to amend the provision relating to the State guarantee and to do away with the obligation of the State to annually make good the losses of the Corporation; to amend section 29 of that Act to alter the limitation placed on the liquidation of the Corporation; to amend section 31 of that Act to clarify the provisions thereof and to limit the extent of exemptions referred to therein; to amend section 32 of that Act to clarify the provisions thereof; to amend section 33 of that Act to alter the provisions relating to activities in a deeds registry; to amend section 35 of that Act to define exemption from the payment of certain charges; to amend section 36 of that Act to grant the State President the power to repeal section 33; to amend Schedule 1 to that Act to make provision for a further offence in respect of fare evasion; to amend Part 1 and Part 3 of Schedule 2 to that Act in connection with

the amendment, repeal and interpretation of certain laws; to amend the references to Railway Administration and the South African Transport Services in various Acts; to amend section 1 of the Transnet Pension Fund Act, 1990, to provide for the substitution of certain definitions; to amend section 3 of that Act to clarify the provisions thereof; to amend section 14 of that Act to extend the membership of the Fund; and to provide for incidental matters.

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

Amendment of section 1 of Act 41 of 1960, as amended by section 70 of Act 6 of 1965, section 6 of Act 6 of 1982 and section 4 of Act 13 of 1983

1. Section 1 of the Level Crossings Act, 1960, is hereby amended— 5
- (a) by the substitution for the definition of “financial year” of the following definition: 5
“‘financial year’ means the **[South African Transport Services] financial year of Transnet Limited;**”;
- (b) by the substitution for the definition of “Minister” of the following definition: 10
“‘Minister’ means the Minister of Transport and of Public Works and Land Affairs;”;
- (c) by the deletion of the definitions of “General Manager” and “South African Transport Services”; 15
- (d) by the insertion after the definition of “local authority” of the following definition: 15
“‘Managing Director’ means the Managing Director of Transnet Limited;”;
- (e) by the insertion after the definition of “structure” of the following definitions: 20
“‘South African Roads Board’ means the South African Roads Board established by section 2 of the South African Roads Board Act, 1988 (Act No. 74 of 1988); 25
‘Transnet Limited’ means the public company Transnet Limited, formed in terms of section 2 of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989);
‘Treasury’ means the central financial authority in the Public Service which is vested in the Department of Finance referred to in the Public Service Act, 1984 (Act No. 111 of 1984), and whose powers in relation to any matter are exercised by the Minister of Finance or an officer in that Department who, by virtue of a division of work in that Department, deals with that matter.”. 30

Amendment of section 2 of Act 41 of 1960, as amended by section 71 of Act 6 of 1965, section 9 of Act 8 of 1968, section 11 of Act 24 of 1971, section 6 of Act 33 of 1972, section 12 of Act 44 of 1974, section 15 of Act 29 of 1981, section 5 of Act 13 of 1983 and section 8 of Act 88 of 1988 35

2. Section 2 of the Level Crossings Act, 1960, is hereby amended—
- (a) by the substitution for subsection (2) of the following subsection: 40
“(2) During each financial year an amount agreed upon by the Treasury, Transnet Limited and the South African Roads Board, in consultation with the committee, shall be paid to the Fund in equal monthly instalments, of which—
- (a) one third shall be paid from the State Revenue Fund out of moneys appropriated by Parliament for this purpose; 45
- (b) one third shall be paid by Transnet Limited; and
- (c) one third shall be paid from the National Road Fund referred to in section 2 of the National Roads Act, 1971 (Act No. 54 of 1971).”;

- (b) by the deletion of subsection (7); and
- (c) by the substitution for the words "South African Transport Services", wherever they occur, of the words "Transnet Limited".

Amendment of sections 3, 4, 8 and 8bis of Act 41 of 1960, as amended by sections 72 and 73 of Act 6 of 1965 and section 13 of Act 44 of 1974

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3. The Level Crossings Act, 1960, is hereby amended by the substitution for the words "General Manager", wherever they occur in sections 3, 4, 8 and 8bis, of the words "Managing Director".

Amendment of sections 3, 4, 5, 6, 7, 8 and 8bis of Act 41 of 1960, as amended by sections 22 and 23 of Act 62 of 1961, sections 72, 73 and 74 of Act 6 of 1965, section 7 of Act 33 of 1972 and section 13 of Act 44 of 1974

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4. The Level Crossings Act, 1960, is hereby amended by the substitution for the words "South African Transport Services", wherever they occur in sections 3, 4, 5, 6, 7, 8 and 8bis, of the words "Transnet Limited".

Insertion of section 10 in Act 41 of 1960

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5. The following section is hereby inserted in the Level Crossings Act, 1960, after section 9:

"Repeal of Act

10. (1) The State President may repeal this Act, in whole or in part, by proclamation in the *Gazette*.

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(2) The State President may with regard to the termination of the Fund as a result of the repeal of this Act, by proclamation issue orders, which shall be binding on the State, Transnet Limited, the South African Roads Board, a local authority or any person mentioned in such an order, in respect of—

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- (a) the appropriation of any money remaining in the Fund; and
- (b) any other matter that it may be necessary or desirable to provide for."

Amendment of section 1 of Act 9 of 1989

6. Section 1 of the Legal Succession to the South African Transport Services Act, 1989 (hereinafter referred to as "the Legal Succession Act"), is hereby amended—

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"(a) by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means **[the Minister of Transport Affairs]** in Chapter V of this Act the Minister of Transport and in the remaining Chapters the Minister for Economic Co-ordination and Public Enterprises;"

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(b) by the insertion after the definition of "Minister" of the following definitions:

" 'regional services council' means a regional services council established in terms of section 3 of the Regional Services Councils Act, 1985; 'Registrar of Companies' means the Registrar of Companies referred to in section 7 of the Companies Act, 1973;"

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(c) by the addition after the definition of "Transmed" of the following definition:

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" 'transport authority' means—

- (i) any Department of State;
- (ii) a regional services council designated by the Minister of Transport as such by notice in the *Gazette*; and
- (iii) any company formed by the Corporation in terms of section 23(3)(j) and designated by the Minister of Transport as such by notice in the *Gazette*."

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Amendment of section 2 of Act 9 of 1989

7. Section 2 of the Legal Succession Act is hereby amended by the substitution for subsection (6) of the following subsection:

“(6) The provisions of sections 66, 190 and 344(d) of the Companies Act, 1973, shall not apply to the Company while the State is the only beneficial member and shareholder thereof.” 5

Amendment of section 10 of Act 9 of 1989

8. Section 10 of the Legal Succession Act is hereby amended by the addition of the following subsections:

“(10) Any employee of a company which forms part of the group of companies may, subject to the rules, become a member of Transmed. 10

(11) For the purposes of subsection (10) the following companies shall be deemed to form part of the group of companies:

- (a) The Company;
- (b) any company formed in terms of section 32 of this Act; 15
- (c) any subsidiary company of the Company; and
- (d) any company which conducts transport and harbour operations or any related operations and of which the Company or any of its subsidiary companies is a shareholder.

(12) In the application of subsection (11) the provisions of section 1(3)(a) of the Companies Act, 1973, shall apply.” 20

Amendment of section 12 of Act 9 of 1989

9. The following section is hereby substituted for section 12 of the Legal Succession Act:

“Insurance Fund 25

12. The South African Transport Services' insurance fund referred to in section 9(3) of the South African Transport Services Act, 1981, shall continue in existence as an insurance fund of the Company and the Company shall be endowed in regard to insurance with the same powers as the South African Transport Services and is exempted from the provisions of the Insurance Act, 1943, for a period of two years from the date referred to in section 3(1) or such longer period as may be stipulated by the Minister of Finance.” 30

Amendment of section 14 of Act 9 of 1989

10. Section 14 of the Legal Succession Act is hereby amended by the addition of the following subsections: 35

“(4) The provisions of subsections (1)(a)(iv) and (b), (2) and (3) are *mutatis mutandis* applicable to the Corporation; provided that the reference to the Minister shall be interpreted as a reference to the Minister of Transport and of Public Works and Land Affairs. 40

(5) The Company may, notwithstanding the provisions of any other Act, transfer the liquor licences and other authorities to which reference is made in paragraph (c) of subsection (1) to the Corporation, and the provisions of paragraph (d) shall in such an event *mutatis mutandis* be applicable to the Corporation.” 45

Substitution of section 15 of Act 9 of 1989

11. The following section is hereby substituted for section 15 of the Legal Succession Act:

“Provision of service at request of Corporation or transport authority

15. (1) Subject to the provisions of this section, the Company shall provide, at the request of the Corporation or a transport authority, a service that is in the public interest.

(2) The Company shall, at the request and cost of the Corporation or the transport authority concerned, conduct a technical and financial feasibility study with a view to the provision of a service referred to in subsection (1) and shall submit a written report thereon to the Corporation or the transport authority concerned. 5

(3) Should the Company and the Corporation or the transport authority concerned not succeed in concluding a contract setting out the terms under which a service in terms of this section shall be rendered, such terms shall be stipulated by an arbitration tribunal consisting of three arbitrators, one of whom shall be appointed by the Corporation or the transport authority, one by the Company and one by the Minister. 10 15

(4) The following persons are disqualified from acting as an arbitrator in terms of this section:

- (a) An employee of any of the parties to the arbitration;
- (b) a person in the service of the State; 20
- (c) a person who has an interest in the result of the arbitration or who appears in any way to be biased; and
- (d) a person who in terms of the Companies Act, 1973, is disqualified from being appointed as a director of a company.

(5) The terms stipulated by the arbitration tribunal in terms of subsection (3) shall, for all purposes, be deemed to constitute a contract concluded by the parties and may be enforced, amended or cancelled in the same manner as the terms of any other contract. 25

(6) The terms stipulated by the arbitration tribunal shall include such terms as would normally be included in a contract for the provision of the relevant service, including terms which— 30

- (a) oblige the Company to provide the service required;
- (b) present the Company with an opportunity to earn a reasonable profit;
- (c) provide for the granting by the Corporation or the transport authority of adequate security for payment for the service; 35
- (d) provide for a reasonable cash flow to the Company in respect of the provision of the service; and
- (e) stipulate the period during which the service shall be provided.

(7) The arbitration tribunal shall stipulate the terms after the parties concerned have been given an adequate opportunity of making submissions on all material aspects of the matter and with due regard to all matters on which the parties reached unanimity during the negotiations that preceded the arbitration. 40

(8) The provisions of the Arbitration Act, 1965, shall apply to any arbitration in terms of this section, except in so far as— 45

- (a) the provisions thereof are in conflict with the provisions of this Act or the instructions of the Minister issued in terms of subsection (9); or
- (b) the Minister excludes the application of any provision thereof. 50

(9) The Minister may issue instructions in connection with—

- (a) the reference of the matter to arbitration and the appointment of arbitrators by the parties in terms of subsection (3);
- (b) the procedure to be followed by the arbitration tribunal;

- (c) the powers and qualifications of the arbitrators;
- (d) the manner in which the arbitration tribunal shall arrive at decisions;
- (e) the liability of the parties for the costs of the arbitration; and
- (f) any other matter that may be necessary in order to effect the stipulation of reasonable terms for the provision of the service. 5
- (10) Instructions issued by the Minister in terms of subsection (9) shall be binding on the parties involved and the arbitration tribunal.
- (11) For the purposes of the application of this section, a service shall include— 10
- (a) making available a harbour works, railway line, pipeline, building, structure or movable property for the use of the Corporation or the transport authority;
- (b) the construction, maintenance or operation of a harbour works, railway line, pipeline, building or structure; 15
- (c) the acquisition of movable or immovable assets; and
- (d) the provision of any other service that forms part of the principal business of the Company or is related thereto.”.

Amendment of section 16 of Act 9 of 1989

12. Section 16 of the Legal Succession Act is hereby amended by the addition 20 of the following subsections, the existing section becoming subsection (1):

“(2) The guarantee of the State in terms of subsection (1) regarding the pension fund continued by section 2 of the Railways and Harbours Pensions Act, 1971, and the pension fund instituted by section 2 of the Railways and Harbours Pensions for Non-Whites Act, 1974, is limited to the amounts payable to such funds by the South African Transport Services immediately prior to the date referred to in section 3(1) in terms of sections 12(3) and 11(3) of the aforementioned Acts, respectively, as calculated by the State Actuary in consultation with an actuary appointed by the Minister, plus interest at such rate as shall be determined from time to time by the State Actuary. 25 30

(3) The rate of interest referred to in subsection (2) shall be at least 12 per cent per annum on the outstanding amount.

(4) The guarantee obligation of the State in respect of the aforementioned pension funds shall reduce as the Company in terms of its obligations arising from the provisions of section 3(2) pays the amounts plus interest referred to in subsection (2) to the pension funds, and shall lapse on the payment of the full amount.”. 35

Amendment of section 19 of Act 9 of 1989

13. Section 19 of the Legal Succession Act is hereby amended by the 40 substitution for subsection (1) of the following subsection:

“(1) Without derogating from its capacity in terms of its memorandum of association and the provisions of the Companies Act, 1973, or from any of its powers to issue financial instruments, the Company may for as long as the State [, whether directly or indirectly, on its own or together with employees of the Company,] holds all the issued equity shares of the Company, 45

[(a) with the consent of the Minister, [and] acting

[(b) after consultation] with the concurrence of the Minister of Finance [in respect of the timing of the issue],

issue financial instruments of whatever nature, including stock, securities, 50 bills, promissory notes, debentures, debenture stock, bonds, annuities and negotiable certificates of deposit that are guaranteed by the State in terms of subsection (2).”.

Amendment of section 21 of Act 9 of 1989

14. Section 21 of the Legal Succession Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) **[At the request of the Company the]** The Minister may promulgate regulations that are not in conflict with this Act in connection with the operation of the harbours of the Company.” 5

Amendment of section 22 of Act 9 of 1989

15. Section 22 of the Legal Succession Act is hereby amended—

- (a) by the deletion of subsection (2); and
 (b) by the substitution for subsection (3) of the following subsection: 10
- “**[(3)] (2)** No person may carry on business and no company or close corporation may be registered in terms of the Companies Act, 1973, or the Close Corporations Act, 1984, under or with a name that is the same as that of the Corporation or a **[shortened or]** translated form thereof or that accords in such degree therewith that it could be misleading.” 15

Amendment of section 23 of Act 9 of 1989

16. Section 23 of the Legal Succession Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) The main object and the main business of the Corporation are to ensure that, **[in the public interest]** at the request of the Department at Transport or any regional services council designated under section 1 as a transport authority, rail commuter services are provided **[in]** within, to and from the Republic **[of South Africa]** in the public interest.”; 20
- (b) by the insertion of the following subsections after subsection (1), the existing subsections (2) and (3) becoming subsections (4) and (5): 25
- “(2) The second object and secondary business of the Corporation are to generate income from the exploitation of assets transferred to the Corporation by the Minister under section 25.
 (3) In carrying out its objects and business the Corporation shall give due regard to the provisions of any applicable transport plan approved in terms of the Urban Transport Act, 1977.”; 30
- (c) by the substitution in subsection (3) for the word “Company”, where it appears before the words “shall have power”, of the word “Corporation”;
 (d) by the deletion of the word “and” at the end of paragraph (i) of subsection (3); 35
 (e) by the addition of the word “and” to paragraph (j) of subsection (3); and
 (f) by the addition of the following paragraph to subsection (3):
 “(k) generally, to do any other thing or perform any other act, whether within or outside the Republic, that may assist the Corporation in achieving its objects.” 40

Amendment of section 24 of Act 9 of 1989

17. Section 24 of the Legal Succession Act is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) At least— 45
- (a) one of the members of the Board of Control shall be an officer in the Department of Transport;
 (b) one of the members of the Board of Control shall be an officer in the Department of Finance;
 (c) one of the members of the Board of Control shall be nominated by the Association of Regional Services Councils; and 50
 (d) three of the members of the Board of Control shall have expertise and experience in the management of a private sector enterprise.”

Amendment of section 25 of Act 9 of 1989

18. Section 25 of the Legal Succession Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Right of ownership in the rail commuter assets of the South African Transport Services identified by the Minister of Mineral and Energy Affairs and Public Enterprises by notice in the *Gazette*, shall be transferred to the Corporation on the date referred to in section 3(1).”.

Amendment of section 26 of Act 9 of 1989

19. Section 26 of the Legal Succession Act is hereby amended—

(a) by the substitution for subsection (4) of the following subsection: 10

“(4) Should no agreement exist between the Department of Transport and the South African Transport Services in connection with the operation of rail commuter services on the date referred to in section 3(1), the provisions of section 15(3) to ~~15(5)~~ 15(10) shall apply *mutatis mutandis* to the continued operation by the Company of rail commuter services as if a contract to that effect had been concluded between the Company and the Corporation—

(a) until such time as an operating agreement has been entered into between the Company and the Corporation; or

(b) until the expiry of a period of written notice by the Corporation to the Company to cease the rendering of the services.”; and 20

(b) by the deletion of subsection (5).

Substitution of section 27 of Act 9 of 1989

20. The following section is hereby substituted for section 27 of the Legal Succession Act: 25

“Guarantee by State

27. Except in so far as section 35 of the Exchequer Act, 1975, provides otherwise, the Minister may on behalf of the State, for such period and on such conditions as he may determine, with the concurrence of the Minister of Finance, guarantee due performance by the Corporation of any contractual obligation incurred or to be incurred by the Corporation whether inside or outside the Republic.”. 30

Substitution of section 29 of Act 9 of 1989

21. The following section is hereby substituted for section 29 of the Legal Succession Act: 35

“Liquidation

29. For as long as the State is a shareholder of the Corporation, the [The] Corporation shall be liquidated or placed under judicial management only on the authority of an Act of Parliament.”. 40

Amendment of section 31 of Act 9 of 1989

22. Section 31 of the Legal Succession Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The provisions of sections 13, 18 and 19 of this Act shall apply *mutatis mutandis* to the Corporation; provided that the reference in section 19(1) to— 45

(a) the Minister shall be interpreted as a reference to the Minister of Transport and of Public Works and Land Affairs;

(b) 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.”; and 50

- (b) by the substitution for subsection (5) of the following subsection:
 “(5) The exemptions for which provision is made in subsection (4) shall apply only for so long as
[(a)] the State[, whether directly or indirectly; and
(b) the employees of the Corporation, whether in their own name or 5
by means of a trust,
together hold] holds all the issued equity shares of the Corporation.”.

Amendment of section 32 of Act 9 of 1989

23. Section 32 of the Legal Succession Act is hereby amended by the substitution for subsection (2) of the following subsection: 10

- “(2) The provisions of sections 4(2), (3) and (5) shall apply *mutatis mutandis* to the transfer of assets and the issue of shares in terms of subsection (1); provided that the reference in section 4 to—
(a) the Company shall be interpreted as a reference to a company formed in
terms of subsection (1); 15
(b) the State shall be interpreted as a reference to the Company.”.

Amendment of section 33 of Act 9 of 1989

24. Section 33 of the Legal Succession Act is hereby amended—

- (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph: 20
 “(c) to effect transfer of right of ownership in immovable property to a person who purchased such property in terms of one of the house-ownership schemes of the South African Transport Services prior to the date referred to in section 3(1); or”; and
 (b) by the substitution for subsection (2) of the following subsection: 25
 “(2) Notwithstanding the provisions of any law **[or regulation published under the Attorneys Act, 1979]**, any person in the employ of the Company **[who is admitted and enrolled as a conveyancer in terms of section 18 of the said Act]** may carry out any act in any deeds registry in the Republic of South Africa, including the preparation, lodgement and 30
 execution of any transfer deed or document as may be required of the Company in terms of subsection (1) with regard to the registration or transfer of immovable property or real rights.”.

Amendment of section 35 of Act 9 of 1989

25. Section 35 of the Legal Succession Act is hereby amended by the substitution for subsection (3) of the following subsection: 35

- “(3) The exemptions for which provision is made in this section shall apply—
 (a) to the Company only for as long as
[(i)] the State[, directly or indirectly; and 40
(ii) the employees of the Company, whether in their own name or indirectly by means of a trust,
together hold] holds all the issued equity shares of the Company;
 (b) to the Corporation only for as long as
[(i)] the State[, directly or indirectly; and 45
(ii) the employees of the Corporation, whether in their own name or indirectly by means of a trust,
together hold] holds all the issued equity shares of the Corporation;
 and
 (c) to a subsidiary of the Company or the Corporation, as the case may be, only for as long as— 50
 (i) the requirements of paragraph (a) or (b) above have been met; and
 (ii) the Company or the Corporation, as the case may be, whether on its own or together with the State **[or employees of the subsidiary (whether in their own name or indirectly by means of a trust), hold],** 55
holds all the issued equity shares of the subsidiary concerned.”.

Amendment of section 36 of Act 9 of 1989

26. Section 36 of the Legal Succession Act is hereby amended by the substitution for subsection (8) of the following subsection:

“Repeal of Provisions of this Act

(8) The State President may repeal, in whole or in part, by proclamation in the *Gazette*, sections 10, 12, 14, 17 **[and]**, 18 and 33 of this Act.” 5

Amendment of Schedule 1 to Act 9 of 1989

27. Schedule 1 to the Legal Succession Act is hereby amended—

(a) by the substitution in the Afrikaans text for item 12(1)(s) of the following item: 10

“(s) hom in ’n voertuig onder beheer van die Maatskappy bevind en op versoek van ’n gemagtigde werknemer **[versuim]** weier om ’n geldige reiskaartjie, magtigingsbrief of die toepaslike kontantbedrag vir die bepaalde reis wat onderneem word, te oorhandig; **[of]**” 15

(b) by the deletion of the word “or” at the end of item 12(1)(s);

(c) by the insertion of the word “or” at the end of item 12(1)(t); and

(d) by the insertion of the following item after item 12(1)(t):

“(u) is present on station premises under the control of the Company and who— 20

(i) intends to travel by train from such station premises; or

(ii) has completed a train journey at such station premises, and refuses, upon being requested to do so by an authorized employee of the Company, to produce or present a relevant ticket, a letter of authority, cash or other acceptable means of payment for such journey.” 25

Amendment of Part 1 of Schedule 2 to Act 9 of 1989

28. Part 1 of Schedule 2 to the Legal Succession Act is hereby amended by the deletion of the references to the amendment, repeal and interpretation of the following laws: 30

(a) Advertising on Roads and Ribbon Development Act, 1940;

(b) Transport (Co-ordination) Act, 1948;

(c) National Roads Act, 1971;

(d) Urban Transport Act, 1977; and

(e) Transport Advisory Council Act, 1987. 35

Amendment of Part 3 of Schedule 2 to Act 9 of 1989

29. Part 3 of Schedule 2 to the Legal Succession Act is hereby amended by the deletion of the references to the amendment, repeal and interpretation of the Transport (Co-ordination) Act, 1948.

Amendment of section 9 of Act 21 of 1940, as amended by section 3 of Act 16 of 1962 and section 29 of Act 54 of 1971 and substituted by section 1 of Act 6 of 1976 40

30. Section 9 of the Advertising on Roads and Ribbon Development Act, 1940, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) a structure erected by the **[Railway Administration]** South African Rail Commuter Corporation Limited on land under its control;” 45

Amendment of section 9A of Act 21 of 1940, as inserted by section 2 of Act 6 of 1976

31. Section 9A of the Advertising on Roads and Ribbon Development Act, 1940, is hereby amended by the substitution for paragraph (ii) of subsection (1) of the following paragraph:

“(ii) a structure erected by the **[Railway Administration] South African Rail Commuter Corporation Limited** on land under its control;” 5

Amendment of section 11 of Act 21 of 1940, as amended by section 12 of Act 22 of 1944, section 6 of Act 16 of 1962, section 29 of Act 54 of 1971 and section 4 of Act 2 of 1979

32. Section 11 of the Advertising on Roads and Ribbon Development Act, 1940, is hereby amended by the substitution for subsection (4A) of the following subsection: 10

“(4A) The provisions of subsections (1), (2), (3) and (4) shall not apply in relation to land under the control of the **[Railway Administration] South African Rail Commuter Corporation Limited.**” 15

Amendment of section 4 of Act 54 of 1971, as amended by sections 46 and 47 of Act 97 of 1986

33. Section 4 of the National Roads Act, 1971, is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) The provisions of sections 12 and 13 shall apply *mutatis mutandis* in respect of the division of land which is specified in a notice issued under subsection (1)(b) and which is not under the control of the **[Railway Administration] South African Rail Commuter Corporation Limited**, and the erection, construction or establishment of a structure or any other thing on or over, or below the surface of, such land, respectively, as if the whole of such land was a building restriction area.” 20 25

Amendment of section 12 of Act 54 of 1971

34. Section 12 of the National Roads Act, 1971, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If land or any part of land (except land or any part of land under the control of the **[Railway Administration] South African Rail Commuter Corporation Limited**) is situated in a building restriction area, a surveyor-general shall not approve the diagram or general plan of any division (whether for the establishment or extension of a township or for any other purpose) of that land unless the commission has approved such division in writing.” 30 35

Amendment of section 13 of Act 54 of 1971, as amended by section 2 of Act 5 of 1982

35. Section 13 of the National Roads Act, 1971, is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) a structure erected by the **[Railway Administration] South African Rail Commuter Corporation Limited** on land under its control;” 40

Amendment of section 10 of Act 9 of 1983

36. Section 10 of the Perishable Products Export Control Act, 1983, is hereby amended by the substitution for paragraph (g) of the following paragraph:

“(g) make investigations regarding conveyance and cold storage requirements for perishable products and make recommendations thereon to 45

[the South African Transport Services, and any other] any department of State or any interested person;”.

Amendment of section 3 of Act 58 of 1987

37. Section 3 of the Transport Advisory Council Act, 1987, is hereby amended— 5

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: 5
 “(a) one shall be designated by the Minister as chairman and one as vice-chairman, neither of whom shall be in the service of the State or of the South African **[Transport Services] Rail Commuter Corporation Limited;**” 10
- (b) by the substitution for paragraph (i) of subsection (1) of the following paragraph:
 “(i) **[two]** one shall be **[persons]** a person nominated by the South African **[Transport Services] Rail Commuter Corporation Limited [of whom one shall represent the commercial interests thereof];**” 15
- (c) by the deletion of the word “and” at the end of subparagraph (xi) of paragraph (k) of subsection (1);
- (d) by the insertion of the word “and” at the end of subparagraph (xii) of paragraph (k) of subsection (1); and 20
- (e) by the addition to paragraph (k) of subsection (1) of the following subparagraph:
 “(xiii) one shall be a person nominated by an association or associations which in the opinion of the Minister represent railway interests.” 25

Amendment of section 9 of Act 58 of 1987 25

38. The following section is hereby substituted for section 9 of the Transport Advisory Council Act, 1987:

“Remuneration of members and co-opted members of Council and committees

9. A member or a co-opted member of the Council or a committee thereof (other than a member who is in the full-time service of the State or the South African **[Transport Services] Rail Commuter Corporation Limited**) shall be paid, out of moneys appropriated by Parliament for the purpose, such remuneration and allowances in respect of his service as a member of the Council or committee thereof as the Minister with the concurrence of the Minister of Finance may determine.” 30 35

Amendment of section 1 of Act 62 of 1990

39. Section 1 of the Transnet Pension Fund Act, 1990, is hereby amended—

- (a) by the substitution for the definition of “Fund” of the following definition: 40
 “ ‘Fund’ means the **[South African Transport Services] Transnet Pension Fund** established in terms of section 2 of this Act;” and
- (b) by the substitution for the definition of “employer” of the following definition: 45
 “ ‘employer’ means the Company or any other company **[that is formed in terms of section 32 of the Legal Succession to the South African Transport Services Act, 1989]** of which an employee is a member of the Fund;”.

Amendment of section 3 of Act 62 of 1990 50

40. The following section is hereby substituted for section 3 of the Transnet Pension Fund Act, 1990:

“Obligations payable from revenue

3. Obligations which, in terms of regulations promulgated in terms of the Railways and Harbours Pensions Act, 1971, and the Railways and Harbours Pensions for Non-Whites Act, 1974, read in conjunction with section 36(7) of, and item (10)(a) of Schedule 2, Part 7, to, the Legal Succession to the South African Transport Services Act, 1989, are payable out of the revenue of the employer, shall continue to be payable out of such revenue.” 5

Amendment of section 14 of Act 62 of 1990

41. The following section is hereby substituted for section 14 of the Transnet Pension Fund Act, 1990: 10

“Employees of companies forming part of group of companies

14. (1) An employee of any of the companies which form part of the group of companies and who is a member of the Fund, may, subject to the Rules, continue to enjoy membership of the Fund if he is transferred or seconded from one company which forms part of the group of companies to another company which forms part of the group of companies. 15

(2) An employee of any of the companies which form part of the group of companies, may, subject to the Rules, become a member of the Fund. 20

(3) For the purposes of this section the following companies shall be deemed to form part of the group of companies:

- (a) The Company;
- (b) any company formed in terms of section 32 of this Act; 25
- (c) any subsidiary company of the Company; and
- (d) any company which conducts transport and harbour operations or any related operations and of which the Company or any of its subsidiary companies is a shareholder.

(4) The provisions of section 1(3)(a) of the Companies Act, 1973, shall apply in the application of subsection (3).” 30

Short title

42. This Act shall be called the Transnet Limited Amendment Act, 1991.