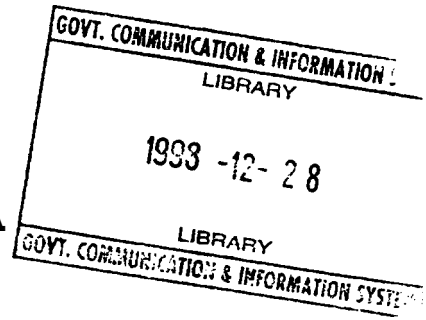




REPUBLIC OF SOUTH AFRICA



# GOVERNMENT GAZETTE

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## STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 1251.

7 October 1998

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

No. 70 of 1998: Road Transport Appeal Matters Amendment Act, 1998.

No. 1251.

7 Oktober 1998

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

No. 70 van 1998: Wysigingswet op Aangeleenthede betreffende Padvervoerappèlle, 1998.

**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.

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# ACT

To amend the Cross-Border Road Transport Act, 1998, so as to make undone, retrospectively to 1 April 1998, the repeal of the Transport Deregulation Act, 1988, thereby, amongst others, reinstating the National Transport Commission with effect from that date, and to provide for that Commission's determination of appeals under the Cross-Border Road Transport Act, 1998, noted on or after 1 April 1998 but before a date to be determined by the Minister of Transport; to amend the Transport Appeal Tribunal Act, 1998, in relation to the accountability of the Director-General of Transport, and to effect certain consequential amendments necessitated by the present state of the Republic's national land transport legislation; and to provide for incidental matters.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Substitution of section 34 of Act 4 of 1998**

1. The following section is hereby substituted for section 34 of the Cross-Border Road Transport Act, 1998:

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**“Appeals**

**34.** (1) Where the Regulatory Committee has published or otherwise made known its decision in respect of any application for the granting, renewal, amendment or transfer of a cross-border road transport permit or a cabotage permit for freight or passengers—

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(a) the applicant, if aggrieved thereby;  
(b) any other holder of such a permit who is affected by the decision; or  
(c) any person otherwise interested in or affected by the decision, may, in the prescribed manner and within the prescribed period after the decision was published or otherwise made known by the Regulatory Committee, appeal against that decision, subject to section 53(1)(b).

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(2) An appeal brought in terms of subsection (1), must be lodged with and will be heard and determined by—

(a) the Tribunal, if noted on or after a date determined for that purpose by the Minister by notice in the *Gazette*, which the Minister is hereby authorised to do;

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(b) the National Transport Commission contemplated in section 53(2)(a), if noted before that date.”

**Substitution of section 53 of Act 4 of 1998**

2. The following section is hereby substituted for section 53 of the Cross-Border Road Transport Act, 1998:

**“Partial repeal of Act 74 of 1977, and savings**

**53.** (1) Subject to subsection (2), the Road Transportation Act, 1977, is hereby repealed in so far as it relates to cross-border transport. 5

(2) Despite subsection (1)—

- (a) all appeals in terms of the Road Transportation Act, 1977, which immediately before the commencement of this Act were pending before or lodged with the National Transport Commission in existence under section 2 of the Transport Deregulation Act, 1988 (Act No. 80 of 1988), will be disposed of by that Commission as provided for in the Road Transportation Act, 1977, as if the Road Transportation Act, 1977, had not been repealed; 10
- (b) the provisions of sections 8(1A), (2) and (3) and 9(1) and (2) of the Road Transportation Act, 1977, will be applied, subject to the changes necessary in the context and in so far as those provisions are not inconsistent with this Act, with regard to all appeals brought in terms of section 34(2)(b) of this Act.”. 15

**Amendment of section 1 of Act 39 of 1998** 20

3. Section 1 of the Transport Appeal Tribunal Act, 1998 (hereafter called the Tribunal Act), is hereby amended—

- (a) by the substitution for the definition of “Board” of the following definition: “‘board’ means the body which, in terms of national land transport legislation, is charged with responsibility with regard to the granting, issue, renewal, amendment and transfer of permissions for the operation of public land transport in the Republic;”; 25
- (b) by the substitution for the definition of “intraprovincial transport” of the following definition: “‘intraprovincial transport’ means public transport conducted in such manner that the passengers are picked up and set down entirely within the boundaries of a single province;”; and 30
- (c) by the insertion after the definition of “Minister” of the following definition: “‘national land transport legislation’ means legislation enacted by Parliament under the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), which governs land transport other than ‘cross-border transport’ as defined in section 1 of the Cross-Border Land Transport Act, 1998 (Act No. 4 of 1998), in each province of the Republic, whether in conjunction with a law enacted by the province’s legislature, or not;”. 35

**Substitution of section 2 of Act 39 of 1998** 40

4. The following section is hereby substituted for section 2 of the Tribunal Act:

**“Application of Act**

**2.** The provisions of this Act will not apply to any appeal concerning a matter arising from intraprovincial transport if, in terms of any law enacted by the legislature of the province concerned, such an appeal is to be determined by an appeal body established by or under that law or any other law of that legislature.”. 45

**Amendment of section 11 of Act 39 of 1998**

5. Section 11 of the Tribunal Act is hereby amended by the substitution for the expression “the National Land Transport Act, 1998,” of the expression “national land transport legislation”. 50

**Amendment of section 12 of Act 39 of 1998**

6. Section 12 of the Tribunal Act is hereby amended—
- (a) in subsection (1)—
    - (i) by the substitution for the expression “the National Land Transport Act, 1998,” where it occurs in the portion preceding paragraph (a), of the expression “national land transport legislation”; and 5
    - (ii) by the substitution for the word “Board” wherever it occurs in paragraph (b), of the word “board”;
  - (b) in subsection (2), by the substitution for the expression “the National Land Transport Act, 1998,” of the expression “national land transport legislation”; 10  
and
  - (c) in subsection (3), by the substitution for the word “Board” of the word “board”.

**Amendment of section 13 of Act 39 of 1998**

7. Section 13 of the Tribunal Act is hereby amended by the substitution for the word “Board” where it occurs in paragraph (a), of the word “board”. 15

**Amendment of section 14 of Act 39 of 1998**

8. Section 14(4)(a) of the Tribunal Act is hereby amended—
- (a) by the substitution for the expression “the National Land Transport Act, 1998,” of the expression “national land transport legislation”; and 20
  - (b) by the substitution for the word “Board” of the word “board”.

**Amendment of section 16 of Act 39 of 1998**

9. Section 16 of the Tribunal Act is hereby amended—
- (a) by the substitution for subsection (3) of the following subsection: 25  
“(3) All moneys received by the Tribunal [**under**] in terms of this Act must be paid into the National Revenue Fund [and the Director-General is the accounting officer of such expended moneys].”; and
  - (b) by the addition after subsection (3) of the following subsection: 30  
“(4) The Director-General is the accounting officer for all moneys so received and all payments made from moneys appropriated by Parliament for the purposes of the Tribunal.”.

**Amendment of section 17 of Act 39 of 1998**

10. Section 17(1) of the Tribunal Act is hereby amended by the substitution for the word “Board” where it occurs in paragraph (a), of the word “board”.

**Amendment of section 18 of Act 39 of 1998** 35

11. Section 18(3) of the Tribunal Act is hereby amended by the substitution for the expression “the National Land Transport Act, 1998,” of the expression “national land transport legislation”.

**Substitution of long title of Act 39 of 1998**

12. The following long title is hereby substituted for the long title of the Tribunal Act: 40  
“To provide for the establishment of the Transport Appeal Tribunal to consider and to decide appeals noted [**under the National Land Transport Act, 1998, and under**] in terms of national land transport legislation and in terms of the Cross-Border Road Transport Act, 1998; and for matters connected therewith.”.

**Short title and commencement**

- 13.** (1) This Act is called the Road Transport Appeal Matters Amendment Act, 1998.  
(2) Sections 1 and 2 will be regarded and treated for all purposes as having come into operation on 1 April 1998.  
(3) Sections 3 to 12 inclusive come into operation on the date on which the Tribunal Act comes into operation. 5