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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1760.

24 Junie 1992

No. 1760.

24 June 1992

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

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

No. 86 van 1992: Algemene Wysigingswet op Vervoer, 1992.

No. 86 of 1992: Transport General Amendment Act, 1992.

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.

ACT

To amend the Merchant Shipping Act, 1951, so as to delete the power of the Minister of Transport to appoint port welfare committees; to amend the National Road Safety Act, 1972, so as to abolish the National Road Safety Council, and transfer the functions and powers of the council to the Director-General: Transport, who shall perform and exercise them subject to the control and directions of the Minister of Transport; and to amend the Transport Advisory Council Act, 1987, so as to amend the constitution of the Transport Advisory Council; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 18 June 1992.)

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

Amendment of section 6 of Act 57 of 1951, as amended by section 6 of Act 30 of 1959, section 3 of Act 40 of 1963, section 3 of Act 5 of 1976 and section 15 of Act 58 of 1987

1. Section 6 of the Merchant Shipping Act, 1951, is hereby amended—
 (a) by the deletion of subsection (6);
 (b) by the substitution for subsections (8) and (9) of the following subsections, respectively:

10 “(8) The members of **[every port welfare committee and]** every committee referred to in subsection (7) shall be appointed by the Minister in accordance with the regulations, and the said councils and committees shall perform their functions in accordance with the regulations.

15 (9) There shall be paid to members of **[any port welfare committee and]** any committee appointed under subsection (7) such allowances towards subsistence and transport as may be prescribed by the regulations made under this Act, or, if they are members of the public service, such allowances towards subsistence and transport as are prescribed by or under the laws governing the public service.”; and

20 (c) by the deletion of subsection (10).

Amendment of section 1 of Act 9 of 1972, as amended by section 1 of Act 59 of 1981 and section 19 of Act 84 of 1986

- 25 2. Section 1 of the National Road Safety Act, 1972, is hereby amended—

- (a) by the deletion of the definition of "Council";
 (b) by the deletion of the definition of "fixed date";
 (c) by the deletion of the definition of "Managing Committee";
 5 (d) by the substitution for the definition of "Minister" of the following definition:
 " 'Minister' means the Minister of Transport **[Affairs]**;"
 (e) by the deletion of the definition of "National Transport Commission";
 (f) by the deletion of the definition of "public service";
 (g) by the deletion of the definition of "Republic"; and
 10 (h) by the deletion of the definition of "Road Safety Council".

Repeal of sections 2, 3 and 4 of Act 9 of 1972

3. Sections 2, 3 and 4 of the National Road Safety Act, 1972, are hereby repealed.

Substitution of section 5 of Act 9 of 1972

- 15 4. The following section is hereby substituted for section 5 of the National Road Safety Act, 1972:

"Object and execution

- 20 5. (1) The object of this Act is to promote road safety in the Republic.
 (2) The Minister determines the policy that shall be followed with regard to the promotion of road safety.
 (3) The Director-General shall perform his functions and exercise his powers subject to the control and directions of the Minister."

Substitution of section 6 of Act 9 of 1972

- 25 5. The following section is hereby substituted for section 6 of the National Road Safety Act, 1972:

"Functions of Director-General

- 30 6. The **[Council]** Director-General shall—
 (a) prepare a comprehensive research programme to effect road safety, carry it out systematically **[after consultation with the Council for Scientific and Industrial Research and the National Transport Commission as to the sequence of the carrying out of such programme, and, as part of the carrying out of that programme]** and assign research projects to persons who, in
 35 **[the]** his opinion **[of the Council]**, are best equipped to carry them out;
 (b) undertake the collection of information in connection with road safety and the making available thereof to authorities and the persons concerned and the public generally;
 40 (c) give guidance regarding road safety by means of the organizing of congresses, symposiums, summer schools and study weeks, by means of mass-communication media and in any other manner deemed fit by the **[Council]** Director-General;
 45 (d) consult with authorities and persons concerned in a road safety system in order to **[assist the Minister in the co-ordination and activation of]** co-ordinate and activate the combating of **[road accidents]** traffic collisions;
 (e) **[at the request of the Minister]** enquire into **[and report and make recommendations on]** any matter falling within the objects of this Act;
 50 (f) perform **[such]** any other **[tasks falling]** task which falls within the objects of this Act **[as the Minister may impose upon the Council]**;

- (g) make recommendations to the Minister on the carrying out of a resolution passed by the Council but to which no effect is given or for some legal reason no effect can be given].”.

Substitution of section 7 of Act 9 of 1972, as amended by section 2 of Act 46 of 1974 and section 4 of Act 59 of 1981

6. The following section is hereby substituted for section 7 of the National Road Safety Act, 1972:

“Powers of Director-General

7. In order to [achieve its objects and to] perform [its] his functions the [Council] Director-General may—
- 10 [(a) delegate or assign to any officer or employee of the Department of Transport contemplated in section 4(1) any power or duty conferred or imposed upon it by or under this Act: Provided that the Council shall not be divested of any power or duty so
- 15 delegated or assigned and may amend or withdraw any decision made by such an officer or employee in the exercise or performance of any power or duty so delegated or assigned]
- (b) purchase or sell, or acquire or dispose of in any other manner, or hire or let or hypothecate any movable or immovable property: Provided that the purchasing and selling of immovable property shall only take place with the approval of the Minister granted with the concurrence of the Minister of State Expenditure;
- 20 (c) open accounts with banking institutions, and arrange, with the approval of the Minister granted with the concurrence of the Minister of State Expenditure, for bank overdrafts;
- 25 (d) invest with the [Public Debt Commissioners] Corporation for Public Deposits established by section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984), or in such other manner as the Minister may direct, any moneys not required for immediate use or as a reasonable working balance;
- 30 (e) produce or acquire publicity material, including films, for dissemination by [itself] himself or any other person;
- (f) finance research in connection with road safety;
- 35 (g) disseminate information in connection with road safety by means of the press, the radio and television;
- (h) publish a periodical to promote road safety and pay rewards for matter inserted therein;
- (i) obtain the services of advertising institutions for the promotion of road safety;
- 40 (j) assist local authorities which do not have the necessary staff therefor, in the laying out of grounds for the training of learner motor vehicle drivers;
- (k) assist in providing training facilities for motor vehicle drivers in cases where such facilities are not provided by some authority;
- 45 (l) give guidance to associations or bodies of persons [having objects similar to those of the Council] working towards the promotion of road safety;
- (m) organize congresses, symposiums, summer schools and study weeks and, if necessary, pay the costs of the preparations therefor, and remunerate persons performing thereat;
- 50 (n) with the approval of the Minister, take any other steps that may be necessary to achieve [its] the object of this Act.”.

Repeal of sections 8, 9, 10, 11, 12 and 13 of Act 9 of 1972

7. Sections 8, 9, 10, 11, 12 and 13 of the National Road Safety Act, 1972, are hereby repealed.

Substitution of section 14 of Act 9 of 1972

5 8. The following section is hereby substituted for section 14 of the National Road Safety Act, 1972:

“Passing of assets, rights, liabilities and obligations from National Road Safety Council to State

10 14. (1) As from the **[fixed]** date of the commencement of section 8 of the Transport General Amendment Act, 1992, all assets, rights, liabilities and obligations of the National Road Safety Council established by section 2 of this Act shall, subject to the provisions of this Act and without payment of transfer duty, stamp duty or other fees, become assets, rights, liabilities and obligations of the **[Council]** State, and any reference in any law or document to the **[first-**
15 **mentioned]** council concerned shall be construed as a reference to the **[Council]** State.

20 (2) The transfer of land in terms of subsection (1) shall be effected by the Registrar of Deeds by means of the entries, notes and endorsements he deems necessary in or on the relevant register, title deed or other document.”

Substitution of section 15 of Act 9 of 1972, as amended by section 6 of Act 59 of 1981 and section 1 of Act 67 of 1991

25 9. The following section is hereby substituted for section 15 of the National Road Safety Act, 1972:

“Establishment and control of Central Road Safety Fund

30 15. (1) The **[Council shall establish a]** fund **[to be]** established under this section and which is known as the Central Road Safety Fund shall continue to exist and into **[which]** it shall be paid—

- (a) all moneys which in terms of section 14 become an asset of the **[Council]** State, and all moneys derived from the realization of **[any assets of the Council]** such asset;
 (b) all moneys received by the **[Council]** Fund by virtue of the provisions of section 25;
 35 (c) moneys appropriated by Parliament for the purposes of **[the Council]** this Act;
 (d) all other moneys which may accrue to the **[Council]** Fund from any other source.

40 (2) The Fund shall be administered by the **[Council]** Director-General, and the moneys in the Fund shall, subject to the provisions of **[subsections (3) and (5)]** subsection (3), be utilized to defray the expenses incurred by the **[Council]** Director-General in the performance of **[its]** his functions and the exercise of **[its]** his powers.

45 (3) The **[Council]** Director-General shall not incur any expenses except in accordance with an estimate of expenditure approved by the Minister, with the concurrence of the Minister of State Expenditure, in terms of subsection (4).

50 (4) Once during every financial year (which shall end on the thirty-first of March), at such time as the Minister may direct, the **[Council]** Director-General shall submit to the Minister, for his approval, granted with the concurrence of the Minister of **[Finance]** State Expenditure and of the Minister of Mineral and Energy Affairs **[and Public Enterprises]** estimates of the income and expenditure of the **[Council]** Fund during the ensuing financial year, and the **[Council]** Director-General may also, during the course of a financial
 55

year, submit to the Minister, for his approval, granted with such concurrence supplementary estimates of expenditure for that year.

5 (5) The remuneration and allowances paid to officers and employees of the Department of Transport for the purposes of the performance of their functions in terms of this Act shall be recovered from the Fund.”.

Substitution of section 16 of Act 9 of 1972

10 10. The following section is hereby substituted for section 16 of the National Road Safety Act, 1972:

10 “**Keeping of records, preparation of statement of accounts and balance sheet, and audit**

15 16. (1) The **[Council]** Director-General shall cause proper records to be kept of all moneys received in terms of section 15(1) or expended in terms of section 15(2) **[by it, and of all its assets and liabilities]**, and of all **[its]** the financial transactions entered into for the purposes of this Act and of the assets and liabilities referred to in section 14, and shall as soon as possible after the end of each financial year cause statements of account and a balance sheet to be prepared showing, with all appropriate particulars, the moneys received in terms of section 15(1) and the expenditure incurred in terms of section 15(2) **[by it]** during, and **[its]** the assets and liabilities referred to in section 14 at the end of, that financial year.

20 (2) The records, statements of account and balance sheet referred to in subsection (1) shall be audited by the **[Controller and]** Auditor-General **[at such remuneration as may be agreed upon or, in the absence of agreement, as the Minister of Finance may determine]**.”.

Repeal of sections 17, 21, 23 and 24 of Act 9 of 1972

30 11. Sections 17, 21, 23 and 24 of the National Road Safety Act, 1972, are hereby repealed.

Substitution of section 25 of Act 9 of 1972, as substituted by section 2 of Act 67 of 1991

12. The following section is hereby substituted for section 25 of the National Road Safety Act, 1972:

35 “**Payment to Fund**

40 25. Money which shall by virtue of the provisions of section 1(2)(a)(ii) of the Central Energy Fund Act, 1977 (Act No. 38 of 1977), be utilized for the purposes of **[the Council]** this Act, shall be paid to the **[Council]** Fund monthly [at such times and] in such amounts as the Minister may determine **[on the recommendation of the Council and]** with the concurrence of the Minister of Finance and of the Minister of Mineral and Energy Affairs **[and Public Enterprises]**.”.

Substitution of section 26 of Act 9 of 1972

45 13. The following section is hereby substituted for section 26 of the National Road Safety Act, 1972:

“**Delegation**

50 26. (1) The Director-General may, subject to such conditions as he may deem necessary—
 (a) delegate to an officer employed by the Department of Transport any power conferred upon him in terms of this Act; or
 (b) authorize an officer employed by the Department of Transport to perform any duty assigned to him in terms of this Act.

5 (2) Any person to whom any power has been thus delegated or who has been authorized to perform any duty shall exercise that power or perform that duty subject to the directions of the Director-General, and the Director-General may at any time revoke such delegation or authorization.

(3) Any delegation under subsection (1) shall not prevent the Director-General from exercising that power or performing that duty himself."

10 **Substitution of section 27 of Act 9 of 1972, as amended by section 10 of Act 59 of 1981**

14. The following section is hereby substituted for section 27 of the National Road Safety Act, 1972:

"Regulations

15 27. The Minister may **[after consultation with the Council]** make regulations **[as to]** regarding—

[(a) the convening and control of, and the procedure and quorum at, meetings of the Council and the Managing Committee]

(b) any matter which is in terms of this Act required or permitted to be prescribed by regulation;

20 (c) generally any matter which he considers **[it]** necessary or expedient to prescribe for the effective exercise or performance by the **[Council or the Managing Committee]** Director-General of [its] his powers and functions in terms of this Act."

Transitional provision

25 15. From the date of the commencement of this section the members of the National Road Safety Council established by section 2 of the National Road Safety Act, 1972 (Act No. 9 of 1972), shall cease to be members of the said council and shall not be entitled in terms of that Act to the payment of any remuneration or allowances.

30 **Amendment of section 1 of Act 58 of 1987**

16. Section 1 of the Transport Advisory Council Act, 1987, is hereby amended by the substitution for the definition of "Minister" of the following definition:
" 'Minister' means the Minister of Transport **[Affairs];**".

Substitution of section 3 of Act 58 of 1987

35 17. The following section is hereby substituted for section 3 of the Transport Advisory Council Act, 1987:

"Constitution of Council

40 **3. (1) The Council shall consist of not more than 21 members, appointed by the Minister —**

(a) of whom at least 14 shall be persons who are not in the full-time service of the State and who are nominated by associations which in the opinion of the Minister —

(i) are involved in the transportation of persons or goods on land;

45 (ii) are involved in the transportation of persons or goods at sea;

(iii) are involved in the transportation of persons or goods in the air;

(iv) represent organized agriculture;

50 (v) represent organized commerce and industry;

- (vi) represent the interests of owners or drivers of motor-cars;
- (vii) have special knowledge of or experience in transport engineering; and
- 5 (viii) represent employees;
- (b) of whom a further number of not more than seven persons, shall be persons whom he deems fit to be thus appointed.
- (2) The Minister shall designate one of the members referred to in subsection (1) as chairman and one as vice-chairman.
- 10 (3) For the purpose of subsection (1) —
- (a) the persons appointed by the Minister shall be persons who, in the opinion of the Minister, on account of their training or experience have special knowledge with regard to national or international transport matters, or industrial, commercial, legal,
- 15 consumer or financial matters, or in the conduct of public affairs;
- (b) the Minister shall appoint at least one person from each of the categories of interest groups mentioned in subsection (1)(a)(i) to (viii).
- 20 (4) (a) To enable the Minister to make the appointments contemplated in subsection (1)(a), the Director-General shall by notice in writing, request the associations referred to in that subsection to submit to him in writing within 30 days after the date of the request the names of no fewer than three persons in respect of the appointments required to be made.
- 25 (b) If no or an insufficient number of names are submitted as required in terms of paragraph (a), or if the Minister is of the opinion that the persons nominated in terms of subsection (1)(a) do not comply with the provisions of subsection (3)(a), the Minister may, subject to the provisions of subsection (3), appoint any person whom he deems fit as a member of the Council, or request the association
- 30 concerned to nominate other suitable persons.”.

Amendment of section 4 of Act 58 of 1987

18. Section 4 of the Transport Advisory Council Act, 1987, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- 35 “(1) The **[Chairman, the vice-chairman and the]** members referred to in **[paragraph (k) of]** section 3(1), including the chairman and the vice-chairman referred to in section 3(2), shall
- 40 each hold office under such conditions and for such period, but not exceeding **[four]** two years, as the Minister may determine at the time of the appointment of such member, but shall be eligible for reappointment: Provided that the Minister may at any time terminate the membership of any such member if in his opinion there are sound reasons for doing so.”;
- 45 (b) by the deletion of subsection (2); and
- (c) by the substitution for subsection (3) of the following subsection:
- 50 “(3) Every vacancy on the Council arising from a circumstance referred to in section 5(2) or caused by the death of a member, or for any other reason whatsoever, shall, subject to the provisions of section 3 and **[subsections (1) and (2)]** subsection (1) of this section, be filled by the appointment by the Minister of another person as a member of the Council, and every member so appointed shall hold office for such period as the Minister may determine.”.

55 Amendment of section 5 of Act 58 of 1987

19. Section 5 of the Transport Advisory Council Act, 1987, is hereby amended by the insertion of the word “or” at the end of paragraph (d) of subsection (1) and the deletion of paragraph (e) of subsection (1).

Amendment of section 6 of Act 58 of 1987

20. Section 6 of the Transport Advisory Council Act, 1987, is hereby amended—

- 5 (a) by the substitution for paragraph (a) of subsection (4) of the following paragraph:
- “(a) **[the determination of a quorum for and]** the procedure at meetings of the Council and the committees thereof; and”;
- and
- 10 (b) by the addition of the following subsection:
- “(5) The chairman may issue directives with regard to the determination of a quorum for meetings of the Council and the committees thereof.”.

Amendment of section 7 of Act 58 of 1987

21. Section 7 of the Transport Advisory Council Act, 1987, is hereby amended—

- 15 (a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
- “(a) The management committee shall consist of the chairman **[and], the vice-chairman [of the Council, and five members of the Council (of whom no fewer than two shall be persons referred to in section 3(1)(k)) designated by the Minister on the recommendation of the Council]** and such other members of the Council as the Minister may from time to time determine of whom at least two persons shall be designated by the Minister on the recommendation of the Council .”;
- 20 (b) by the insertion after paragraph (a) of subsection (2) of the following paragraph:
- “(aA) The chairman of the Council shall also be the chairman of the management committee and the vice-chairman of the Council shall also be the vice-chairman of the management committee.”;
- 25 and
- (c) by the substitution for the words preceding the proviso to paragraph (c) of subsection (4) of the following words:
- 30 “The decision of **[not fewer than five]** the majority of the members present at a meeting of the management committee shall constitute a decision thereof.”.
- 35

Amendment of section 8 of Act 58 of 1987

22. Section 8 of the Transport Advisory Council Act, 1987, is hereby amended—

- 40 (a) by the substitution for subsection (2) of the following subsection:
- “(2) The Council may from among its members appoint such persons **[but not fewer than five]** as members of any such committee as it may deem fit.”; and
- 45 (b) by the substitution in subsection (4) for the words preceding the proviso of the following words:
- “Any such committee may with the consent of the Council or of the chairman of the Council co-opt any person or persons **[with the approval of the Minister]** to serve on the committee for a period determined by the committee, or to attend a particular meeting of the committee.”.
- 50

Substitution of section 9 of Act 58 of 1987, as amended by section 38 of Act 52 of 1991

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

- 55 **“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

5 State or the South African 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]** State Expenditure may determine.”.

Repeal of section 13 of Act 58 of 1987

24. Section 13 of the Transport Advisory Council Act, 1987, is hereby repealed.

10 Transitional provision

25. The members of the Transport Advisory Council appointed under section 3 of the Transport Advisory Council Act, 1987 (Act No. 58 of 1987), before the date of the commencement of this section, shall cease to be members of the said Council as from that date and shall not be entitled to the payment of any
15 remuneration or allowances in terms of that Act unless the person concerned is again appointed under that section by the Minister as a member of the said Council.

Short title and commencement

26. (1) This Act shall be called the Transport General Amendment Act, 1992,
20 and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may in terms of subsection (1) be fixed in respect of different provisions of this Act.