

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 odd numbered pages as the other language is printed on even numbered pages.



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THE PRESIDENCY

No. 1074

15 April 1992

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

No. 47 of 1992: Legal Succession to the South African Transport Services Amendment Act, 1992.



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LEGAL SUCCESSION TO THE SOUTH AFRICAN
TRANSPORT SERVICES AMENDMENT ACT, 1992

Act No. 47, 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 Legal Succession to the South African Transport Services Act, 1989, so as to define or further define certain expressions and to delete a definition; to rectify certain outdated references and wrong cross-references; to authorize the Minister of Transport to issue directives clarifying, elaborating upon or giving specific content to the objectives of the South African Rail Commuter Corporation Limited; to further regulate the constitution of the Board of Control of the Corporation; to compel the Board of Control of the Corporation to take into consideration the said directives in the management of the Corporation; to extend the matters in respect of which the Minister may make regulations; and to provide that the Minister may on his own initiative declare any provision of the Companies Act, 1973, applicable to the Corporation; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 7 April 1992.)

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

Amendment of section 1 of Act 9 of 1989, as amended by section 6 of Act 52 of 1991

- 5 1. Section 1 of the Legal Succession to the South African Transport Services Act, 1989 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the insertion after the definition of “Government” of the following definition:
- 10 “ ‘local government body’ means a local government body as defined in section 1 of the Interim Measures for Local Government Act, 1991 (Act No. 128 of 1991).”;
- (b) by the deletion of the definition of “regional services council”; and
- (c) by the substitution for the definition of “transport authority” of the following definition:
- 15 “ ‘transport authority’ means—
- (i) any Department of State;
- (ii) a **[regional services council]** local government body designated by the Minister of Transport as such by notice in the *Gazette* **[and**
- 20 (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***.”.

LEGAL SUCCESSION TO THE SOUTH AFRICAN
TRANSPORT SERVICES AMENDMENT ACT, 1992

Act No. 47, 1992

Amendment of section 14 of Act 9 of 1989, as amended by section 10 of Act 52 of 1991

2. Section 14 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

- 5 “(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]**.”.

Amendment of section 23 of Act 9 of 1989, as amended by section 16 of Act 52 of 10 1991

3. Section 23 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 15 “(1) The main object and the main business of the Corporation are to ensure that, at the request of the Department of Transport or any **[regional services council]** local government body designated under section 1 as a transport authority, rail commuter services are provided within, to and from the Republic in the public interest.”;
- (b) by the substitution in subsection (5) for the words preceding paragraph
 20 (a) of the following words:
 “Without derogating from the generality of the provisions of subsections (1), **[and]** (2) and (4), the Corporation shall have power—”;
- (c) by the substitution for paragraph (j) of subsection (5) of the following
 25 paragraph:
 “(j) to form companies or acquire interests therein and to finance them, for the purpose of realizing or advancing its **[main object]** objects, and to transfer all or any portion of its business, assets and liabilities to such companies; and”;
- (d) by the addition of the following subsection:
 30 “(6) The Minister may in respect of a specific financial year issue directives clarifying, elaborating upon or giving specific content to the objectives of the Corporation.”.

Amendment of section 24 of Act 9 of 1989, as amended by section 17 of Act 52 of 35 1991

4. Section 24 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 40 “(1) The affairs of the Corporation shall be managed by a Board of Control of not more than **[ten]** 11 members including the chairman, who shall be appointed and dismissed by the Minister.”;
- (b) by the insertion in subsection (2) after paragraph (b) of the following
 paragraph:
 “(bA) one of the members of the Board of Control shall be an officer in the Department of State Expenditure;”;
- (c) by the addition of the following subsection:
 45 “(7) The Board of Control shall ensure that any directive issued under section 23(6) is taken into consideration in the management of the affairs of the Corporation during the financial year concerned.”.

Amendment of section 25 of Act 9 of 1989, as amended by section 18 of Act 52 of 50 1991

5. Section 25 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- 55 “(3) As consideration for the assets referred to in subsection (1), the Corporation shall issue fully paid-up shares in the Corporation to the State, and the rights attached to such shares shall be exercised by the Minister.”.

LEGAL SUCCESSION TO THE SOUTH AFRICAN
TRANSPORT SERVICES AMENDMENT ACT, 1992

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Substitution of section 30 of Act 9 of 1989

6. The following section is hereby substituted for section 30 of the principal Act:

“Regulations

- 5 **30.** The Minister may, by notice in the *Gazette*, promulgate regulations that are not in conflict with this Act, in connection with—
- (a) the activities, powers, functions and duties of **[members]** the Corporation, the Board of Control or a member of the Board of Control;
- 10 (b) the holding of, and procedures at, meetings of the Board of Control and any committee thereof;
- (c) the exemption of the Corporation from the application of any law that does not apply to the State;
- 15 (d) **[the operating powers of the Corporation; and]** the limitation or prohibition of the exercise of the capacity or powers of the Corporation;
- (e) the conditions or restrictions subject to and the manner in which the Board of Control shall manage the affairs of the Corporation;
- 20 (f) the contents of the annual financial statements; and
- [e]** (g) any matter considered desirable for the purpose of the realization of the **[main object]** objects of the Corporation.”.

Amendment of section 31 of Act 9 of 1989, as amended by section 22 of Act 52 of 1991

- 25 7. Section 31 of the principal 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]**—
- 30 (a) the reference in sections 18(1) and 19(1) to the Minister shall be interpreted as a reference to the Minister of Transport **[and of Public Works and Land Affairs]**;
- (b) the reference in section 19(1) to the memorandum of association and the provisions of the Companies Act, 1973, shall be interpreted as a reference to the capacity and powers of the Corporation in terms of section 23.”; and
- 35 (b) by the substitution for subsection (3) of the following subsection:
- “(3) The Minister may, **[at the request of]** in consultation with the Board of Control, by notice in the *Gazette* declare that any provision of the Companies Act, 1973, shall be made applicable to the Corporation with such amendments as he may stipulate and he may, **[at the request of]** in consultation with the Board of Control, amend or revoke such notice.”.
- 40

Short title

- 45 8. This Act shall be called the Legal Succession to the South African Transport Services Amendment Act, 1992.