

REPUBLIC OF SOUTH AFRICA

TRANSPORT LAWS REPEAL BILL

*(As introduced in the National Assembly (proposed section 75); explanatory summary of
Bill published in Government Gazette No. 33328 of 2 July 2010)
(The English text is the official text of the Bill)*

(MINISTER OF TRANSPORT)

[B 19—2010]

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BILL

To repeal certain obsolete or redundant transport laws.

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

Repeal of laws

- 1.** (1) The laws specified in Schedule 1 are hereby repealed.
- (2) The laws specified in Schedule 2 are hereby repealed to the extent set out in the third column of that Schedule. 5

Short title and commencement

- 2.** This Act is called the Transport Laws Repeal Act, 2010, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

Schedule 1

Number and year of law	Short title
Act No. 7 of 1914	Railways and Harbours Strike and Service Amendment Act, 1914
Act No. 37 of 1939	Railway Construction Act, 1939
Act No. 17 of 1945	Railway Construction Act, 1945
Act No. 37 of 1955	Railway Expropriation Act, 1955
Act No. 48 of 1957	Merchant Shipping (Certificates of Competency) Amendment Act, 1957
Act No. 49 of 1957	Railway Construction Act, 1957
Act No. 51 of 1957	National Roads and Transport (Co-ordination) Amendment Act, 1957
Act No. 21 of 1960	Railway Construction Act, 1960
Act No. 57 of 1961	Railway Construction Act, 1961
Act No. 19 of 1962	National Roads and Transport (Co-ordination) Amendment Act, 1962
Act No. 58 of 1963	Second Railway Construction Act, 1963
Act No. 2 of 1964	Railway Construction Act, 1964
Act No. 54 of 1964	Railways and Harbours Acts Amendment Act, 1964
Act No. 5 of 1965	Railway Construction Act, 1965
Act No. 17 of 1966	Railway Construction Act, 1966
Act No. 18 of 1966	Railways and Harbours Acts Amendment Act, 1966
Act No. 38 of 1968	Railway Construction Act, 1968
Act No. 25 of 1971	Railway Purchase Act, 1971
Act No. 59 of 1971	Transport (Co-ordination) Amendment Act, 1971
Act No. 82 of 1971	Railway Construction Act, 1971
Act No. 83 of 1971	Second Railway Construction Act, 1971
Act No. 33 of 1972	Railways and Harbours Acts Amendment Act, 1972
Act No. 77 of 1972	Railway Construction Act, 1972
Act No. 28 of 1973	Sishen-Saldanha Bay Railway Construction Act, 1973
Act No. 47 of 1973	Railways and Harbours Acts Amendment Act, 1973
Act No. 71 of 1973	Railway Construction Act, 1973
Act No. 44 of 1974	Railways and Harbours Acts Amendment Act, 1974
Act No. 46 of 1974	National Road Safety Amendment Act, 1974
Act No. 46 of 1975	Railways and Harbours Acts Amendment Act, 1975
Act No. 8 of 1976	Railways and Harbours Acts Amendment Act, 1976
Act No. 40 of 1976	National Road Safety Amendment Act, 1976
Act No. 72 of 1976	Sishen-Saldanha Bay Railway Construction Amendment Act, 1976
Act No. 99 of 1976	Saldanha Bay Harbour Acquisition and Equipment Act, 1976
Act No. 47 of 1977	Railway and Harbour Purchase Act, 1977
Act No. 69 of 1977	Railways and Harbours Acts Amendment Act, 1977
Act No. 73 of 1977	Transport (Co-ordination) Amendment Act, 1977
Act No. 64 of 1978	Railways and Harbours Acts Amendment Act, 1978
Act No. 80 of 1979	Railways and Harbours Acts Amendment Act, 1979
Act No. 65 of 1980	Railway Construction Act, 1980
Act No. 30 of 1981	Railway Construction Act, 1981
Act No. 61 of 1981	Second Railway Construction Act, 1980
Act No. 7 of 1982	Railway Construction Act, 1982
Act No. 75 of 1982	Second Railway Construction Act, 1982
Act No. 13 of 1983	South African Transport Services Amendment Act, 1983
Act No. 5 of 1984	South African Transport Services Amendment Act, 1984

Number and year of law	Short title
Act No. 93 of 1984	Second South African Transport Services Amendment Act, 1984
Act No. 44 of 1985	South African Transport Services Amendment Act, 1985
Act No. 75 of 1985	Railway Construction Act, 1985
Act No. 94 of 1985	Second Railway Construction Act, 1985
Act No. 46 of 1986	South African Transport Services Amendment Act, 1985
Act No. 91 of 1987	South African Transport Amendment Act, 1987

Schedule 2

Number and year of law	Short title	Extent of repeal
Act No. 27 of 1930	Railways and Harbours Service and Superannuation Fund Acts Amendment Act, 1930	The repeal of section 1
Act No. 19 of 1931	Railways and Harbours Service and Superannuation Fund Acts Amendment Acts, 1931	The repeal of sections 1 and 2
Act No. 49 of 1949	Railways and Harbours Acts Amendment Acts, 1949	The repeal of section 10 and 14
Act No. 63 of 1951	Railways and Harbours Acts Amendment Act, 1951	The repeal of section 7
Act No. 45 of 1952	Railways and Harbours Acts Amendment Act, 1952	The repeal of section 1
Act No. 62 of 1962	Railways and Harbours Acts Amendment Act, 1962	The repeal of section 4
Act No. 7 of 1963	Railways and Harbours Acts Amendment Act, 1963	Section 2(1) and (2)
Act No. 6 of 1965	Railways and Harbours Acts Amendment Act, 1965	Sections 6, 7, 8 to 10, 19, 70 to 74 and 75
Act No. 8 of 1968	Railways and Harbours Acts Amendment Act, 1968	Section 9
Act No. 32 of 1969	Railways and Harbours Acts Amendment Act, 1969	The repeal of sections 1, 2 and 6
Act No. 89 of 1976	Second Railways and Harbours Act Amendment Act, 1976	Section 2
Act No. 6 of 1982	South African Transport Services Amendment Act, 1982	Sections 6, 7, 8, 9, 10, 18, 19 and 20
Act No. 52 of 1991	Transnet Limited Amendment Act, 1991	Sections 1, 2, 3, 4 and 5
Act No. 82 of 1995	Transport Second General Amendment Act, 1995	The repeal of sections 1 and 2

MEMORANDUM ON THE OBJECTS OF THE TRANSPORT LAWS REPEAL BILL, 2010

1. BACKGROUND

1.1. The South African Law Reform Commission (SALRC) has been mandated with the task of revising the South African statute book with a view to identifying and recommending for repeal or amendment laws that are inconsistent with the equality clause in the Constitution of the Republic of South Africa, 1996, or redundant and obsolete.

1.2 In Discussion Paper 114 of the SALRC the following is mentioned:

“1.12 Statutory law revision is the process of repealing statutes that are no longer of practical utility. The purpose of the revision process is to modernise and simplify the statute book, thereby reducing its size and saving the time of legal professionals and others who make use of it. This in turn helps to avoid unnecessary costs. It also ensures that people are not misled by obsolete laws camouflaged as ‘live’ law. If Acts still feature in the statute book and are referred to in textbooks, people reasonably enough assume those Acts still serve a purpose.

1.13 Legislation identified for repeal is selected on the basis that it is no longer of practical utility. Usually this is or because these laws no longer have any legal effect on technical grounds or because they are spent, unnecessary or obsolete. But sometimes they are selected because, they do continue to have legal effect, the purposes for which they were enacted, either no longer exist, or are currently being met by alternative means.”.

1.3 The SALRC identified a number of laws administered by the Department of Transport that are obsolete or redundant and that need to be repealed. The Bill therefore seeks to repeal those laws.

2. ANALYSIS

2.1 The Bill contains two Schedules.

Schedule 1

2.2 This Schedule lists Acts that may be repealed in their entirety. So, for instance, the Schedule seeks to repeal some 20 Railway Construction Acts, dating back to 1939. These Acts authorised the construction of and equipment for railway lines at certain places in the country. Having achieved the purpose for which they were enacted, these Acts are spent and may be repealed.

2.3 The Schedule also seeks to repeal Acts that no longer serve any purpose. For example, the Railway and Harbours Strike and Service Amendment Act, 1914 (Act No. 7 of 1914), granted employees who did not take part in the 1914 strike, special leave, a bonus, a reward or special promotion. Since this Act no longer serves any purpose it may be repealed.

2.4 Some of the Acts have become obsolete and may for that reason be repealed. For example, section 15 is the only remaining provision in the Railway Expropriation Act, 1955 (Act No. 37 of 1955), the other provisions having been repealed over the years. The application of section 15 depends on the existence of a provision in another Act and that Act itself has been repealed. Thus, section 15 can no longer be applied and the Act in question can therefore be repealed.

2.5 The other Acts listed in Schedule 1 are of the same nature as the examples given.

Schedule 2

2.6 Schedule 2 seeks to repeal certain provisions of the laws listed therein. The provisions that stand to be repealed have either become obsolete, or will become obsolete since the legislation they refer to stands to be repealed by virtue of Schedule 1.

2.7 For example, the application of section 1 of the Railway and Harbours Service and Superannuation Fund Acts Amendment Act, 1930 (Act No. 27 of 1930), which section

stands to be repealed, is dependent on a provision in another Act. That other Act has already been repealed. Thus the said section serves no purpose and can be repealed.

2.8 A further example is the proposed repeal of section 1, 2 and 6 of the Railways and Harbours Acts Amendment Act, 1969 (Act No. 32 of 1969). Those sections refer to legislation which stands to be repealed by virtue of Schedule 1 and can therefore be repealed.

2.9 The provisions of the other Acts listed in Schedule 2 are of the same nature as the provisions mentioned in the previous paragraph and can therefore also be repealed.

3. CONSULTATION

The Bill was published for comments in *Government Gazette* No. 31864 on 13 February 2009, Notice No. 150 of 2009. Comments were received from Transnet, the Passenger Rail Agency of South Africa (PRASA) and the Office of the Chief State Law Adviser.

4. FINANCIAL IMPLICATIONS

None.

5. IMPLICATIONS FOR VULNERABLE GROUPS

None.

6. PARLIAMENTARY PROCEDURE

6.1 The State Law Advisers and the Department of Transport are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

6.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

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