

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**NATIONAL PORTS
AUTHORITY BILL**

[B 5B—2003]

(As agreed to by the Portfolio Committee on Transport (National Assembly))

[B 5C—2003]

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AMENDMENTS AGREED TO
NATIONAL PORTS AUTHORITY BILL
[B 5B—2003]

CLAUSE 2

1. On page 6, from line 27, to omit paragraph (a) and to substitute:
 - (a) promote the development of an effective and productive South African ports industry that is capable of contributing to the economic growth and development of our country;
2. On page 6, from line 31, to omit paragraph (c) and to substitute:
 - (c) promote and improve efficiency and performance in the management and operation of ports;

CLAUSE 3

1. On page 7, from line 4, to omit subsection (2) and to substitute:

(2) As soon as this Act takes effect the Shareholding Minister must ensure that the necessary steps are taken for the incorporation of the National Ports Authority of South Africa as a company contemplated in subsection (3).
2. On page 7, from line 28, to omit subsection (5).

CLAUSE 4

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Conversion of Authority

4. (1) Notwithstanding sections 32, 66, 190 and 344(d) of the Companies Act, on a date after the incorporation of National Ports Authority (Pty) Ltd, and with the concurrence of the Minister, the Shareholding Minister may take the necessary steps to convert the company into a public company, styled “National Ports Authority Limited”, vested with the authority to own, manage, control and administer ports within the Republic.

(2) Where the National Ports Authority (Pty) Ltd is converted as contemplated in subsection (1), the State’s rights as a shareholder of the Authority are to be exercised by the Shareholding Minister and, where required by this Act, with the concurrence of the Minister.

CLAUSE 11

1. On page 9, in line 53, to omit “and regulation”.
2. On page 10, in line 18, after “body” to insert “or organ of state”.

CLAUSE 15

1. On page 11, in line 30, to omit “The” and to substitute “Subject to sections 14 and 17, the”.
2. On page 11, from line 32, to omit subsection (2).
3. On page 11, after line 40, to add:
 - (b) The person contemplated in paragraph (a) must preferably have special knowledge and experience, contemplated in section 14(2).

CLAUSE 18

1. On page 12, from line 36, to omit subsections (1), (2) and (3) and to substitute:
 - (1) The chairperson and the other members of the Board hold office for a period determined by the Shareholding Minister, but not exceeding three years.
 - (2) (a) The chairperson may be reappointed for further periods not exceeding three years each.
 - (b) The other members of the Board may be reappointed to ensure continuity, but may not serve for more than six consecutive years.
2. On page 12, after line 53, to add:
 - (6) The Shareholding Minister may extend the terms of office of members of the Board upon the expiry of their terms of office for such period as may be necessary, not exceeding three months, to finalise the appointment of a new board.

CLAUSE 27

1. On page 15, from line 50, to omit “National Ports Authority (Pty) Ltd” and to substitute “Transnet Limited or any of its Divisions”.

CLAUSE 29

1. On page 16, in line 29, after “body” to insert “, vested with legal personality,”.

CLAUSE 30

1. On page 16, in line 32, to insert:
 - (1) The main functions of the Regulator are to—
 - (a) exercise economic regulation of the ports system in line with government’s strategic objectives;
 - (b) promote equity of access to ports and to facilities and services provided in ports;

(c) monitor the activities of the Authority to ensure that it performs its functions in accordance with this Act.

2. On page 16, in line 33, to omit paragraph (a) and to substitute:
 - (a) hear appeals and complaints contemplated in sections 46 and 47, respectively, and investigate complaints contemplated in section 48;
3. On page 16, in line 34, to omit paragraph (b).
4. On page 16, after line 41, to add:
 - (e) promote regulated competition;
 - (f) regulate the provision of adequate, affordable and efficient port services and facilities.
5. On page 16, after line 51, to add:
 - (h) the filing of prices charged by the provider of any port service other than the Authority.

CLAUSE 31

1. On page 17, in line 18, to omit the heading and to substitute:

Nomination and appointment of members of Regulator
2. On page 17, in line 19, to omit “of not more than four” and to substitute “a minimum of six and a maximum of 12,”.
3. On page 17, after line 21, to insert:
 - (2) The Minister must call for nominations of members to the Regulator in the national media and appoint the members from the persons so nominated.
 - (3) Notwithstanding subsection (2), the Minister may appoint persons other than those nominated.
4. On page 17, in line 24, after “commerce,” to insert “ports,”.
5. On page 17, after line 42, to add:
 - (8) The Minister may extend the terms of office of members of the Regulator upon the expiry of their terms of office for such period as may be necessary, not exceeding three months, to finalise the appointment of a new board.

CLAUSE 32

1. On page 17, in line 43, to omit the heading and to substitute:

Disclosure of interests and certain prohibitions
2. On page 17, from line 44, to omit subsections (1) and (2).

CLAUSE 33

1. On page 18, in line 17, to omit “given” and to substitute “giving”.

CLAUSE 42

1. On page 20, after line 12, to add:
 - (c) fees charged for the filing of complaints or appeals with the Regulator.

CLAUSE 57

1. On page 23, in line 31, after “body” to insert “or organ of state”.

CLAUSE 64

1. On page 25, in line 42, after “may” to insert “, with the concurrence of the Minister,”.

CLAUSE 66

1. On page 26, in line 35, to omit the second “of”.

CLAUSE 67

1. On page 26, in line 41, after “safety,” to insert “security,”.
2. On page 26, from line 44, to omit paragraph (b) and to substitute:
 - (b) the terms of a long-term lease which existed immediately before this section took effect are substantially prejudicial to the operation of a port, including terms providing for unreasonable low rentals or containing no restrictions on sub-letting or no provision confining the use of the property to a use relating to the relevant port, the Authority may in writing addressed to the lessee direct that the applicable terms be renegotiated in order to remove the prejudice; or

CLAUSE 73

1. On page 28, in line 18, after “fees” to insert “, in accordance with a tariff determined in terms of section 72,”.
2. On page 28, after line 25, to add:
 - (vi) port and ship security;

CLAUSE 80

1. On page 31, from line 39, to omit paragraph (a).
2. On page 31, in line 41, to omit paragraph (b).
3. On page 31, in line 47, to omit paragraph (f).
4. On page 31, in line 49, to omit paragraph (h).
5. On page 31, after line 52, to insert:
 - (f) a framework for economic participation in port operations and services by public entities, private entities and public-private partnerships;

6. On page 31, in line 57, after “of” to insert “safety, security and”.
7. On page 32, before line 1, to insert the following paragraph:
 - (a) the manner in which control of a port must be exercised and the grounds on which access to a port may be refused;
8. On page 32, after line 13, to insert:
 - (g) the maintenance by the Authority of security within ports;
 - (h) places of refuge for vessels;
9. On page 32, in line 34, to omit “properly” and to substitute “effectively and efficiently”.

CLAUSE 88

1. On page 34, from line 19, to omit “National Ports Authority Act, 2003” and to substitute “National Ports Act, 2005”.

CLAUSE 90

1. On page 34, in line 34, to omit “National Ports Authority Act, 2003” and to substitute “National Ports Act, 2005”.

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