

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.

(English text signed by the President)
(Assented to 6 June 2024)

ACT

To amend the National Land Transport Act, 2009, to insert certain definitions and amend others; to provide for non-motorised and accessible transport; to bring the Act up to date with developments since the implementation of the Act; to provide for certain powers of provinces to conclude contracts for public transport services; to expand the powers of the Minister to make regulations and introduce safety measures; to amend other transport-related legislation to bring it in line with the Act; to clarify or simplify various provisions or solve problems that have arisen since the implementation of the Act and to provide for matters connected therewith.

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

Amendment of section 1 of Act 5 of 2009

1. Section 1 of the National Land Transport Act, 2009 (hereinafter referred to as the principal Act), is hereby amended— 5

(a) by the insertion after the definition of “adapted light delivery vehicle” of the following:

- “ **‘association’** means a group of operators—
- (a) which has been formed not for gain;
- (b) whose object is to promote the interests of its members; and 10
- (c) whose funds are to be applied in promoting those interests;”;

(b) by the substitution for the definition of “contracting authority” of the following definition:

- “ **‘contracting authority’** means— 15
- (a) the Department;
- (b) a province, subject to sections 11(1)(c)(xxvi), 11(6), 11(8), 11(9) and 11(10); and
- (c) a municipality, subject to section 11(1)(c)(xxvi), 11(2), **[and (5)]** 11(8), (9) and 11(10);”;

- (c) by the insertion after the definition of “designed or modified” of the following definition:
 - “**‘electronic hailing service’ or ‘e-hailing service’** means a public transport service operated by means of a motor vehicle, which—
 - (a) is available for hire by hailing while roaming; 5
 - (b) may stand for hire at a rank; and
 - (c) is equipped with an electronic e-hailing technology-enabled application, as contemplated in section 66A;”.
- (d) by the substitution for the definition of “integrated public transport network” of the following: 10
 - “**‘integrated public transport network’** means a system in a particular area that integrates public transport services between modes, including non-motorised transport, with through-ticketing and other appropriate mechanisms, that may be implemented in a phased manner, to provide users of the system with the optimal solutions to be able to travel from their origins to destinations in a seamless manner with integrated pedestrian access for all passengers, and may, in appropriate municipalities, include— 15
 - (a) integrated rapid public transport networks, being high-quality networks of car competitive public transport services that are fully integrated regardless of mode, and may or may not have a dedicated right of way, with or without bus rapid transit systems; and 20
 - (b) bus rapid transit systems, which are high volume bus corridors served by an integrated feeder system;”;
- (e) by the substitution for paragraph (c) of the definition of “metered taxi service” of the following paragraph: 25
 - “(c) is equipped with a sealed meter, in good working order, for the purpose of determining the fare payable, that is calibrated for such fare or complies with any other requirements applicable to such meters as prescribed by the Minister under section 66(4)(cA);” 30
- (f) by the insertion after the definition of “municipal public transport” of the following:
 - “**‘Municipal Regulatory Entity’** means a municipality to which the operating licensing function contemplated in section 11(1)(a)(viii) has been assigned;” 35
- (g) by the insertion after the definition of “non-contracted service” of the following definition:
 - “**‘non-motorised transport’** means transport by any mode other than a motor vehicle including, but not limited to, walking, cycling and animal-drawn vehicles and motorised or non-motorised wheelchairs;” 40
- (h) by the insertion after the definition of “organ of state” of the following definition:
 - “**‘Passenger Rail Agency’** means the Passenger Rail Agency of South Africa established in terms of section 23 of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989);” 45
- (i) by the substitution for the definition of “regulatory entity” of the following:
 - “**‘regulatory entity’** means the National Public Transport Regulator, a Provincial Regulatory Entity, or a [municipality to which the operating licence function has been assigned] Municipal Regulatory Entity;”;
- (j) by the deletion of the definition of “South African Rail Commuter Corporation”; 50
- (k) by the deletion of the definition of “special categories of passengers”; and

- (l) by the insertion after the definition of “Systems Act” of the following definition:

“ **targeted categories of passengers**’ means—

- (i) persons with disabilities; and
- (ii) the elderly, pregnant women, scholars, young children and those who are limited in their movements by children;”.

Amendment of section 5 of Act 5 of 2009

2. Section 5 of the principal Act is hereby amended by the deletion in subsection (4) of the word “and” at the end of paragraph (i), by the addition of the word “and” at the end of paragraph (j) and by the addition of the following paragraph: 10

“(k) promote measures to ensure the safety of pedestrians and all forms of passengers using public transport by means of regulations or the publication of guidelines or standards or through other appropriate measures.”.

Amendment of section 8 of Act 5 of 2009

3. Section 8 of the principal Act is hereby amended— 15

- (a) by the substitution in subsection (1) for paragraph (d) of the following paragraph:

“(d) a process to be followed for offering alternative services in place of existing services to holders of operating licences or permits under section 39, including identifying operators contemplated in section 41(2) and involving them in the negotiation process contemplated in that section;”;

- (b) by the insertion in subsection (1) after paragraph (f) of the following paragraphs:

“(fA) fees payable for any application made in terms of this Act or any decal or document issued in terms of this Act; and
 (fB) codes of conduct for operators or drivers of public transport services, which may differ in respect of different types of services or different categories of operators or drivers;”;

- (c) by the substitution in subsection (1) for paragraph (h) of the following paragraph: 30

“(h) colour coding and branding of vehicles used for public transport where national uniformity is required;”;

- (d) by the substitution in subsection (1) for paragraph (n) of the following paragraph: 35

“(n) meetings of the National Public Transport Regulator, Provincial Regulatory Entities and Municipal Regulatory Entities;”;

- (e) by the substitution in subsection (1) for paragraph (y) of the following paragraph:

“(y) guidelines and desired outcomes for vehicles and facilities to accommodate the needs of targeted categories of passengers, including the provision of minimum standards required in any aspect of the public transport network to achieve that objective, and requirements for planning authorities to produce universal access plans for all modes of public transport and safety measures to protect pedestrians and users of public transport;”;

- (f) by the insertion in subsection (1) after paragraph (bb) of the following paragraph:

“(bbA) administrative or procedural matters necessary to enable public transport operators to obtain the required operating licences; and”;

(g) by the insertion after subsection (1) of the following subsection:

“(1A) The regulations contemplated in subsection (1)(bbA) may differ in respect of different types of public transport or different categories of operators, and may include, but shall not be limited to—
 (a) the imposition of a moratorium on applications for operating licences or the issuing of such licences for specified periods; and
 (b) the criteria that must be met or considered by the regulatory entities in order for such applicants to qualify for an operating licence.”.

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Amendment of section 9 of Act 5 of 2009

4. Section 9 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (d) of the following paragraph: 10

“(d) produce an annual report on the state of transport affairs in the province in the prescribed manner containing the prescribed information and submit it to the Minister **[in]** within the prescribed time.”.

Amendment of section 10 of Act 5 of 2009

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5. Section 10 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) after paragraph (e) of the following paragraph:

“(eA) colour coding and branding of vehicles used for public transport in the province, subject to any regulations made by the Minister in terms of section 8(1)(h);”;

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(b) by the substitution in subsection (1) for paragraph (f) of the following paragraph:

“(f) the composition, powers and duties of Provincial Regulatory Entities, and”; and

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(c) by the addition of the following subsection:

“(5) Before making any regulations contemplated in subsection (1), the MEC must publish a draft of such regulations for public comment in the relevant provincial Gazette, and must consider any comments received in response to such publication.”.

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Insertion of new section 10A in Act 5 of 2009

6. The following section is hereby inserted in the principal Act after section 10:

“Accessible and non-motorised transport

10A. (1) The Minister, all MECs and planning authorities must take steps in performing their functions under this Act to promote accessible transport and non-motorised transport.

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(2) For the purposes of this section, “accessible transport” means transport that is accessible to all persons in the area, including, but not limited to, targeted categories of passengers, pedestrians and cyclists to their intended destinations in a safe and convenient manner, and in relation to infrastructure means the design of facilities that are usable by all people to the greatest extent possible, with or without the need for adaptation or specialised design.”.

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Amendment of section 11 of Act 5 of 2009

7. Section 11 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1)(c) for subparagraph (v) of the following subparagraph:
 - “(v) financial planning with regard to land transport within or affecting its area, in consultation with state-owned rail operators in the case of rail matters, with particular reference to transport planning, infrastructure, operations, services, maintenance, monitoring and administration, with due focus on rehabilitation and maintenance of infrastructure;”;
 - (b) by the substitution in subsection (1)(c) for subparagraph (xiv) of the following subparagraph:
 - “(xiv) ensuring that there is provision for the needs of **[special]** targeted categories of passengers in planning and providing public transport infrastructure, facilities and services to meet their needs, in so far as possible by the system provided for mainstream public transport;”;
 - (c) by the substitution in subsection (1)(c) for subparagraph (xix) of the following subparagraph:
 - “(xix) in relation to the planning functions contemplated in paragraph (iv) **[include]** provide for service level planning for passenger rail on a corridor network basis in **[consultation]** agreement with the **[South African Rail Commuter Corporation]** Passenger Rail Agency or other rail service providers;”;
 - (d) by the substitution in subsection (1)(c) for subparagraph (xxii) of the following subparagraph:
 - “(xxii) formulating and **[apply]** applying travel demand management measures for its area;”;
 - (e) by the substitution in subsection (1)(c) for subparagraph (xxiv) of the following subparagraph:
 - “(xxiv) determining concessionary fares for **[special]** targeted categories of passengers **[in the prescribed manner]**;”;
 - (f) by the substitution in subsection (1)(c) for subparagraph (xxvi) of the following subparagraph:
 - “(xxvi) concluding subsidised service contracts, commercial service contracts, **[and]** negotiated contracts **[contemplated in section 41(1)]** and stopgap contracts contemplated in section 41A, with operators for services within their areas of jurisdiction, subject to subsection (9);”. and
 - (g) by the addition of the following subsections:
 - “(8) Where a subsidised service contract, interim contract, current tendered contract or negotiated contract was concluded in terms of the Transition Act, in this subsection called an old order contract, and is still in force, and a municipality has not yet concluded one or more contracts to replace the old order contract or is not in the process of negotiating with operators to do so, the relevant province must engage with the operator concerned and the municipality or municipalities in whose areas the services are provided and must ensure that either the province or the municipality concludes appropriate new contracts to replace all old order contracts and where appropriate, the Minister must intervene or issue a directive to the province or municipality under section 5(6).
 - (9) The contracts referred to in subsection (1)(c)(xxvi)—

- (a) must be designed in accordance with the integrated transport plans of the relevant municipalities, if such plans have been prepared and submitted to the MEC in terms of section 36(1); or
- (b) must be designed by the province in collaboration with the municipality, where such a plan has not been prepared and submitted to the MEC, as part of a capacity building programme for the municipality to conclude or manage the contracts or parts or aspects thereof, where those municipalities lack the necessary capacity. 5
- (10) For the purposes of subsections (1)(c)(xxvi) and (8) the Minister— 10
 - (a) may prescribe a process or procedures to be followed in negotiating or tendering for the contracts;
 - (b) may issue directives in terms of section 5(6) to provinces or municipalities to initiate, expedite or facilitate contracting arrangements; and 15
 - (c) must consult with the MEC, where appropriate, who must ensure that there is connectivity between services provided in different municipal areas to promote seamless movement of passengers.”

Amendment of section 12 of Act 5 of 2009 20

8. Section 12 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 25
 - “(1) A province may pass legislation or enter into an agreement with one or more municipalities in the province to provide for the joint exercise or performance of their respective powers and functions contemplated in this Act and may establish a provincial entity or similar body in this regard, subject to the Constitution and this section.”; and
- (b) by the addition of the following subsections:
 - “(4) A provincial entity contemplated in subsection (1) must at least be responsible for— 30
 - (a) the functions as set out in section 11(1)(b)(ii), (iii), (iv), (vi) and (vii) and 11(1)(c)(vi), (ix), (xi), (xii), (xix), (xx), (xxii) and (xxvii);
 - (b) the promotion and support of non-motorised transport; and
 - (c) any other function which may be agreed upon by the province and the municipalities who are members of the provincial entity. 35
 - (5) A provincial entity contemplated in subsection (1) may perform its functions in a municipality outside of or adjacent to the province, in agreement with—
 - (a) the relevant municipalities; and
 - (b) the other relevant province or provinces, after consultation with the Minister. 40
 - (6) The agreement contemplated in subsection (1) must provide for governance, institutional mechanisms and funding for the functioning of the provincial entity.
 - (7) The MEC must publish the agreement contemplated in subsection (1) and any subsequent amendments thereof in the relevant provincial Gazette.” 45

Amendment of section 13 of Act 5 of 2009

9. Section 13 of the principal Act is hereby amended—

- (a) by the deletion in subsection (1) of the word “and” at the end of paragraph (d), 50 the addition of the word “and” at the end of paragraph (e) and the addition of the following paragraphs:

“(f) members of the South African Police Service contemplated in section 5(2) of the South African Police Service Act, 1995 (Act No. 68 of 1995), including members of metropolitan and municipal police services contemplated in Chapter 12 of that Act; and
 (g) traffic officers contemplated in section 3A of the National Road Traffic Act.”. 5

Substitution of section 15 of Act 5 of 2009

10. The following is hereby substituted for section 15 of the principal Act:

“Intermodal planning committees

15. (1) Every municipality that is establishing an integrated public transport network or has significant passenger rail services in its area must, by not later than the prescribed date, establish an intermodal planning committee consisting of the prescribed technical officials and prescribed representatives of state-owned rail operators [**other public transport modes, users and organised business**]. 15

(2) The function of an intermodal planning committee is to co-ordinate and integrate public transport [**between the models**], as well as all other aspects relating to the integrated transport plan of the municipality and to perform other prescribed functions in order to achieve the objects of this Act. 20

(3) Where there are significant passenger rail services in the area, the intermodal planning committee must facilitate the conclusion of appropriate service level agreements between the municipality and the Passenger Rail Agency as contemplated in section 11(1)(c)(xix).

(4) Where a provincial entity is established as contemplated in section 12(1), it must perform the functions of the intermodal planning committee contemplated in this section for the municipalities which are members of the entity, including the functions set out in section 11(1)(c)(xix) for those municipalities.”. 25

Amendment of section 17 of Act 5 of 2009 30

11. Section 17 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Every [**municipality to which the operating licence function has been assigned under section 11(2)**] Municipal Regulatory Entity must—”.

Amendment of section 18 of Act 5 of 2009 35

12. Section 18 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) A [**municipality to which the operating licensing function has been assigned under section 11(2)**] Municipal Regulatory Entity must receive and decide on applications relating to operating licences for services wholly within [**their areas**] the area of jurisdiction of the municipality concerned, excluding applications that must be made to the National Public Transport Regulator [or a] and applications for intraprovincial services where the services cross the boundary of that municipality, which must be made to the Provincial Regulatory Entity.” 40

(b) by the substitution for subsection (3) of the following subsection: 45

- “(3) **[Such]** Subject to section 39, such a municipality may give notice in the prescribed manner that it will no longer receive applications for operating licences for new services except in accordance with invitations given by it for specified services on specified routes or in specified areas in accordance with its integrated transport plan, either for the purpose of concluding a contract or because those routes or areas are already adequately served.”; and 5
- (c) by the addition of the following subsection:
 “(6) A Municipal Regulatory Entity must obtain and keep up to date the information contemplated in section 24(1)(c) insofar as it relates to its functions.”. 10

Amendment of section 20 of Act 5 of 2009

13. Section 20 of the principal Act is hereby amended—
- (a) by the insertion after subsection (1) of the following subsection:
 “(1A) The National Public Transport Regulator consists of not more than seven non-executive members appointed by the Minister, who are accountable to the head of the Department and who, in performing their functions, exercise an independent discretion.”; 15
- (b) by the substitution for subsections (2) and (3) of the following subsections, respectively: 20
- “(2) The members of the National Public Transport Regulator **[consists of designated officials of the Department, appointed]** contemplated in subsection (1A) may be appointed either on a full-time or part-time basis, **[whose]** and must be appointed on the grounds of their specialised knowledge, training or experience, which taken collectively, at least covers— 25
- (a) public transport;
- (b) transport economics;
- (c) accounting, auditing or actuarial science;
- (d) the law; 30
- (e) tourism transport; and
- (f) vehicle standards and specifications.
- (3) The prescribed quorum of members of the National Public Transport Regulator **[contemplated in subsection (2)]** must take decisions of that Regulator.”; and 35
- (c) by the insertion after subsection (3) of the following subsections:
 “(3A) The Minister must designate one of the members of the National Public Transport Regulator as a chairperson.
 (3B) A member of the National Public Transport Regulator— 40
- (a) holds office for not more than five years and may be re-appointed for one further term; and
- (b) may resign by giving one month’s written notice to the Minister.
- (3C) A member of the National Public Transport Regulator must be paid out of the funds of the Department such remuneration as the Minister, with the concurrence of the Minister of Finance, may determine.”. 45

Amendment of section 21 of Act 5 of 2009

14. Section 21 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1)(b) for subparagraph (i) of the following subparagraph: 50
- “(i) interprovincial transport.” and
- (b) by the deletion in subsection (1) of the word “and” at the end of paragraph (c), insertion of the word “and” at the end of paragraph (d) and addition of the following paragraphs:

- “(e) invite comments and complaints from interested parties, including the general public, and take appropriate action in response thereto;
- (f) advise the Minister on the treatment of all passengers using public transport, including targeted categories of passengers; and
- (g) obtain and keep up to date the information contemplated in section 24(1)(c) insofar as it relates to the functions of the National Public Transport Regulator.”; 5
- (c) by the substitution for subsection (2) of the following subsection:
 - “(2) The National Public Transport Regulator must produce and regularly update a standardised procedures manual for itself and for Provincial Regulatory Entities, **[municipalities,] Municipal Regulatory Entities and** contracting authorities **[and the Transport Appeal Tribunal]** in respect of their activities in terms of this Act, subject to this Act.”; 10
 - and
- (d) by the addition of the following subsection: 15
 - “(7) The National Public Transport Regulator may issue a written request to a Provincial Regulatory Entity, Municipal Regulatory Entity or planning authority which has not fulfilled or is not fulfilling its obligations under this Act, describing the extent of the failure to fulfil its obligations and stating any steps required to meet those obligations, and that entity or authority must comply with such request, or as an alternative the National Public Transport Regulator may request the Minister to issue such a directive under section 5(6).” 20

Amendment of section 23 of Act 5 of 2009

- 15. Section 23 of the principal Act is hereby amended— 25
 - (a) by the substitution of the following for subsection (2):
 - “(2) The Provincial Regulatory Entity consists of not more than seven non-executive members appointed by the MEC who are accountable to the head of the provincial department with regard to administrative and employment issues and who in performing their quasi-judicial functions exercise an independent discretion.”; and 30
 - (b) by the insertion after subsection (2) of the following subsections:
 - “(2A) The members of the Provincial Regulatory Entity contemplated in subsection (2) may be appointed either on a full-time or part-time basis, and must be appointed on the grounds of their specialised knowledge, training or experience, which taken collectively, at least covers— 35
 - (a) public transport;
 - (b) transport economics;
 - (c) accounting, auditing or actuarial science; 40
 - (d) the law; and
 - (e) vehicle standards and specifications.
 - (2B) The prescribed quorum of members of the Provincial Regulatory Entity must take decisions of that Entity.
 - (2C) The MEC must designate one of the members of the Provincial Regulatory Entity as chairperson. 45
 - (2D) A member of a Provincial Regulatory Entity—
 - (a) holds office for not more than five years and may be re-appointed for one further term; and
 - (b) may resign by giving one month’s written notice to the MEC. 50
 - (2E) A member of the Provincial Regulatory Entity must be paid out of the funds of the provincial department such remuneration as the MEC, with the concurrence of the MEC responsible for financial affairs in the province, may determine.”.

Amendment of section 24 of Act 5 of 2009

16. Section 24 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) Each Provincial Regulatory Entity must—
- (a) monitor and oversee public transport in the province; 5
 - (b) receive and decide on applications relating to operating licences for intra-provincial transport [**where no municipality exists to which the operating licence function has been assigned**], but excluding applications that must be made to the National Public Transport Regulator in terms of section 21 or to a Municipal Regulatory Entity in terms of section 18; 10
 - (c) obtain and keep up to date the prescribed information in the Operating Licence Administrative System contemplated in section 6 insofar as it relates to its functions on the following:
 - (i) Particulars of associations operating in its area, their members and the vehicles operated by them; 15
 - (ii) particulars of operators operating in its area who are not members of those associations and the vehicles operated by them, in this section called non-members; and
 - (iii) in the case of minibus taxi-type services, particulars of the routes operated by the associations and non-members operating in its areas, the descriptions of which routes must correlate with those in the relevant integrated transport plans; 20
 - (d) invite comments and complaints from interested parties, including the general public, and take appropriate action in response thereto; and
 - (e) advise the MEC on the treatment of all passengers using public transport, including targeted categories of passengers.” 25

Amendment of section 27 of Act 5 of 2009

17. Section 27 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

- “(5) The municipal manager [**or chief executive officer**] of such a municipality must submit, annually to its council, for approval estimates of expenditure to be defrayed from the fund, and may make no payment from that fund except in accordance with such estimates or with the prior approval of that council.” 30

Amendment of section 35 of Act 5 of 2009

18. Section 35 of the principal Act is hereby amended by the deletion of subsection (9). 35

Amendment of section 36 of Act 5 of 2009

19. Section 36 of the principal Act is hereby amended—
- (a) by the insertion in subsection (4) of the word “and” at the end of paragraph (f); and 40
 - (b) by the deletion of paragraph (g) of subsection (4).

Amendment of section 39 of Act 5 of 2009

20. Section 39 of the principal act is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 45

“When a planning authority in rationalising public transport services in its area concludes, based on its integrated transport plan, that there is a surplus of legally operated services by operators on a particular route as a result of which an existing non-contracted public transport service is no

longer required, the planning authority **[must]** may, where possible, and after consultation with affected operators and after undertaking other prescribed public participation procedures, take the following actions, but must not be limited to those actions.”;

- (b) by the substitution for subsection (2) of the following subsection: 5
 “(2) The Minister may make regulations on the procedures to be followed in proceeding under subsection (1) **[and (2)]**.”; and
- (c) by the addition of the following subsection:
 “(3) Before rationalising public transport services in terms of subsection (1), the planning authority must consult relevant regulatory entities and take steps to apply law enforcement measures to reduce or prevent the operation of illegal services on a particular route, and where appropriate, the regulatory entity must on request of the planning authority, take measures under section 78 to cancel operating licences and permits that are not in use on that route.”. 10
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Amendment of section 41 of Act 5 of 2009

21. Section 41 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
 “Contracting authorities may enter into one or more negotiated contracts or a combination of such contracts with operators in their areas, once only, with a view to—”;
- (b) by the insertion after subsection (1) of the following subsection:
 “(1A) Where a negotiated contract is concluded in terms of subsection (1), the contracting authority is not precluded from— 25
 (a) concluding other such contracts with different operators or in respect of different routes, even if such routes are in the same area;
 (b) providing in such contract for the services to be provided under the contract to be increased or amended in a phased manner during the period of the contract: Provided that the total duration of the contract does not extend beyond 12 years; or 30
 (c) concluding stopgap contracts contemplated in section 41A.”;
- (c) by the substitution for subsection (2) of the following subsection:
 “(2) The negotiations envisaged by **[subsections (1) and (2)]** subsection (1) must where appropriate include affected operators [in the area] on the relevant route or routes subject to interim contracts, subsidised service contracts, commercial service contracts, existing negotiated contracts and operators of unscheduled services and non-contracted services, but the contracting authority may exclude from the negotiations operators or classes of operators— 40
 (a) in terms of regulations made under section 8(1)(d); or
 (b) where the contracting authority has made an offer in writing to an individual operator or class of operators in the prescribed manner and they have rejected the offer in writing within 42 days or have failed to respond to the offer within that time.”; 45

- (d) by the substitution for subsection (3) of the following subsection:
 “(3) A negotiated contract contemplated in subsection (1) **[or (2)]** shall be for a period not longer than 12 years.”; and
- (e) by the addition of the following subsection:
 “(6) Section 42(6) applies with the necessary changes to negotiated contracts contemplated in this section.” 5

Insertion of new section 41A in Act 5 of 2009

22. The following section is hereby inserted in the principal Act after section 41:

“Stopgap contracts

41A. (1) A contracting authority may enter into a stopgap contract 10
 which—

- (a) is a separate contract from the proposed negotiated contract and from any existing contract concluded under the Transition Act or this Act
- (b) is a contract with a duration of not more than three years; 15
- (c) can be concluded in the process of conducting negotiations for a negotiated contract, or while establishing a network contemplated in section 41(1)(a), to provide continuity of services; and
- (d) may be concluded with an operator operating a contract concluded under the Transition Act or any other operator or operators. 20

(2) The duration of such a stopgap contract will not be counted as part of the 12 year period mentioned in section 41(3).”

Amendment of section 42 of Act 5 of 2009

23. Section 42 of the principal Act is hereby amended—
- (a) by the substitution of the following for subsection (4): 25
 “(4) Only a contracting authority may enter into a subsidised service contract with an operator, and only if the services to be operated in terms thereof, have, subject to section 80(1)(a) of the Systems Act, been put out to public tendering and awarded by the entering into of a contract in accordance with prescribed procedures in accordance with other applicable national or provincial laws.”; and 30
 - (b) by the substitution in subsection (6) for paragraphs (a) and (b) of the following paragraphs, respectively:
 “(a) prescribe requirements for tender and contract documents to be used for subsidised service contracts which **[must] may be made** 35
 binding on contracting authorities unless the Minister agrees in writing that an authority may deviate from the requirements in a specific case on written application by that authority;
 - (b) provide model tender and contract documents, and publish them in the *Gazette*, for subsidised service contracts as a minimum requirement for contracting authorities who may not **[deviate] leave** 40
out material provisions from **[the model tender and contract]** those documents, unless this is agreed to in writing by the Minister in a specific case on written application by the relevant contracting

authority, but those documents may differ for different authorities or situations;”.

Amendment of section 43 of Act 5 of 2009

24. Section 43 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 5

“(1) A contracting authority may enter into a commercial service contract with an operator, subject to section 80(1)(a) of the Systems Act, by placing a notice in the Provincial *Gazette* and in a newspaper generally circulating in the area where the services are to be operated, inviting tenders from operators for the operation of that service.”. 10

Repeal of section 45 of Act 5 of 2009

25. Section 45 of the principal Act is hereby repealed.

Amendment of section 46 of Act 5 of 2009

26. Section 46 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 15

“Where there is an existing interim contract, current tendered contract or negotiated contract as defined in the Transition Act in the area of [**the relevant contracting authority, that authority may**] a municipality, that municipality or the relevant province, as determined under section 11 may—”; 20

(b) by the deletion of subsection (2); and

(c) by the substitution of the following for subsection (3):

“(3) The Minister may make regulations providing for the transition of existing contracting arrangements and the transfer of the contracting function in terms of this section, section 11 or section 41, including the transfer or amendment of existing permits or operating licences to give effect to [**its**] the provisions of the aforesaid sections [**in the case of an assignment under section 11(2)**].” 25

Substitution of section 47 of Act 5 of 2009 30

27. The following is hereby substituted for section 47 of the principal Act:

“Conversion of permits to operating licences and of indefinite period operating licences to definite period licences, and rationalisation of operating licences

47. (1) All permits and operating licences issued before the date of commencement of this Act, issued for a definite period remain valid but lapse when that period expires, provided that if such permit or operating licence is still valid on a date calculated as seven years from the date of commencement of [**this Act**] the National Land Transport Amendment Act, 2018, it will lapse on that date unless converted to an operating licence, in the case of a permit, or renewed for a period not longer than seven years in the case of an operating licence, before that date, and such applications for conversion or renewal must be made to the regulatory entity that is responsible for receiving applications for operating licences for the relevant services. 35 40 45

(2) All permits and operating licences issued for an indefinite period remain valid, subject to sections 48 and 49, but lapse seven years after the

date of commencement of **[this Act]** the National Land Transport Amendment Act, 2018, but the holder may apply within that period in the case of a permit for its conversion to an operating licence valid for a period not exceeding seven years, or, in the case of an operating licence, for its renewal for a period not exceeding seven years, to the entity that is responsible for receiving applications for operating licences for the relevant services. 5

(3) Despite subsections (1) and (2), where the services authorised by a permit or operating licence were not provided continuously for 180 days prior to the date of commencement of this Act, the permit or operating licence must be cancelled by following the procedure in section 78. 10

(4) The holder of any permit or operating licence that lapses or is cancelled in terms of this Part is not entitled to any compensation by virtue of its lapsing.

[(5) No operator may receive any subsidy or other financial assistance from any sphere of government, unless that operator's permits, where applicable, have been rationalised in terms of this section and sections 48 and 49.] 15

(5) Where the holder of a permit applies for renewal, amendment or transfer of the permit in terms of section 58, that holder must apply simultaneously for conversion of the permit to an operating licence, and the applications must be dealt with simultaneously. 20

(6) Regulatory entities must take immediate steps to put in place the necessary administrative processes to convert permits and renew operating licences to implement this section. 25

(7) The Minister may make regulations providing for—

- (a) procedures for conversion of permits and renewal of operating licences as contemplated in this section; and
- (b) other procedural or other administrative arrangements to implement the matters contemplated in this section.”. 30

Amendment of section 48 of Act 5 of 2009

28. Section 48 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2)(a) In the case of permits for scheduled non-contracted services specified in integrated transport plans, the Minister may make regulations, after consulting the National Public Transport Regulator, providing a process for the integration of those services with contracted services, and in the process converting them to commercial service contracts. 35

(b) The integration and conversion contemplated in paragraph (a) must be done by the National Public Transport Regulator. 40

(c) The regulations contemplated in paragraph (a) may differ in respect of different types of services, different areas or peak periods as opposed to off-peak periods.”.

Amendment of section 49 of Act 5 of 2009

29. Section 49 of the principal Act is hereby amended— 45

(a) by the substitution for subsection (1) of the following subsection:

“(1) Permits and operating licences issued for minibus taxi-type services remain valid, subject to section 47(1) and (2) **[and subsection (3) of this section]**.”;

(b) by the substitution in subsection (2) for paragraph (b) of the following paragraph: 50

“(b) acquire a new vehicle that complies with the Department's requirements for recapitalisation and with the National Road Traffic Act, in which case the operator shall be entitled to an operating

licence for the new vehicle authorising the same services on submission of a valid tax clearance certificate, and such operating licence must specify in detail the route or routes to be operated, which must be those operated by the operator for the period of 180 days prior to the date of application, and the holder must submit the permit or operating licence for the replaced vehicle to the Department for cancellation: Provided that where the new vehicle has more capacity than the replaced vehicle the Minister may prescribe that more than one permit or operating licence held by that holder must be surrendered for cancellation to make up for the increase in capacity of the new vehicle." 5 10

- (b) by the deletion of paragraph (c) of subsection (2); and
- (c) by the deletion of subsection (3).

Substitution of section 51 of Act 5 of 2009

30. The following is hereby substituted for section 51 of the principal Act: 15

“Entities that must issue operating licences

51. An operating licence must only be issued on application made in terms of this Act by the National Public Transport Regulator, a Provincial Regulatory Entity or a **[municipality to which the operating licence function has been assigned]**, Municipal Regulatory Entity as the case may be, after considering all of the factors mandated by this Act.”. 20

Amendment of section 53 of Act 5 of 2009

31. Section 53 of the principal Act is hereby amended—

- (a) by the insertion in subsection (1) after paragraph (b) of the following paragraph: 25
 - “(bA) a staff service provided by means of a vehicle owned by the employer contemplated in section 68(3);”;
- (b) by the substitution in subsection (1) for paragraph (c) of the following paragraph: 30
 - “(c) farmers carrying their own workers from one place where they perform work in the course of their farming activities to another place where they will perform such work in vehicles of which they are the sole owners;”;
- (c) by the addition after subsection (1) of the following subsection: 35
 - “(1A) The exemptions contemplated in subsection (1)(bA), (c), (d), (f) and (g) will not apply where the relevant conveyance is provided for a fare or any other consideration or reward.”;
- (d) by the substitution for subsection (2) of the following subsection: 40
 - “(2) The MEC may make regulations providing for information to be recorded or provided to the National Public Transport Regulator, Provincial Regulatory Entity, **[municipality to which the operating licence function has been assigned]** a Municipal Regulatory Entity or other persons or institutions regarding conveyance in terms of a service contemplated in subsection (1).”.

Amendment of section 54 of Act 5 of 2009 45

32. Section 54 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection: 50
 - “(2) A person wishing to undertake a service provided wholly within the area of jurisdiction of a Municipal Regulatory Entity must apply to that Entity.”;

(b) by the substitution in subsection (5) for paragraph (e) of the following paragraph:

“(e) specify the vehicle or **[exact type]** category of vehicle to be used for providing the services concerned; and”.

Amendment of section 56 of Act 5 of 2009 5

33. Section 56 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Where a contracting authority has concluded a negotiated contract, subsidised service contract or commercial service contract with an operator, or a stopgap contract contemplated in section 41A, the relevant regulatory entity[,] must issue to the operator an operating licence for each vehicle involved in the contract, or where the operator already **[has]** holds an operating licence for such a vehicle, such entity must amend the operating licence if necessary to accommodate the services in the contract.”. 10

Amendment of section 57 of Act 5 of 2009 15

34. Section 57 of the principal Act is hereby amended—

(a) by the deletion in subsection (1) of the word “and” at the end of paragraph (e) and the insertion after paragraph (e) of the following paragraphs:

“(eA) recommendations or documents submitted with the application by the applicant or any other interested party; 20
 (eB) particulars recorded in terms of section 21(1)(g) or 24(1)(c);
 (eC) whether the applicant has contravened any code of conduct for operators prescribed under section 8(1)(fB), or the drivers employed by that holder habitually contravene any code of conduct for drivers so prescribed; and”; and 25

(b) by the insertion in subsection (2)(b) after subparagraph (v) of the following subparagraphs:

“(vA) particulars recorded in terms of section 18(6);
 (vB) whether the applicant has contravened any code of conduct for operators prescribed under section 8(1)(fB), or the drivers employed by that holder habitually contravene any code of conduct for drivers so prescribed; and”. 30

Amendment of section 59 of Act 5 of 2009

35. Section 59 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading: 35
“Publication of [decisions] applications”; and

(b) by the substitution for subsection (1) of the following subsection:

“(1) Regulatory entities must, in the prescribed manner, give notice of receipt of an application for or in connection with an operating licence, except an application for a contracted service contemplated in section 56, an application to renew an operating licence under section 58, an application to replace a vehicle under section 73, an application for a temporary operating licence contemplated in section 60 or any other application that is prescribed as not requiring such publication, and in that notice state the prescribed particulars and allow interested persons an opportunity to comment and make representations within the prescribed period.”. 40
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Amendment of section 60 of Act 5 of 2009

36. Section 60 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection: 50

“(2) A holder of an operating licence or permit who is not authorised by subsection (1)(a) or (b) to undertake a service to or from a special event, **[may]** must apply to the prescribed entity for a temporary

- operating licence in the prescribed manner, and need not comply with section 62(1)(b), (c) or (f) in relation to such an application.”;
- (b) by the substitution in subsection (9) for the words preceding paragraph (a) of the following words:
- “The Minister [**must**] may make regulations providing that temporary operating licences in terms of this section may be granted and issued by municipalities or other bodies, institutions or officials specified in the regulations on application, after consulting those municipalities or other bodies or institutions, and may also provide for—”; and
- (c) by the addition of the following subsection:
- “(10) A regulatory entity may delegate its functions in terms of this section to an official or member of the entity.”.

Amendment of section 62 of Act 5 of 2009

37. Section 62 of the principal Act is hereby amended by the deletion of paragraph (f) of subsection (1). 15

Amendment of section 64 of Act 5 of 2009

38. Section 64 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) An operating licence may only be issued to and held by—

(a) the person registered, in terms of the National Road Traffic Act, as the owner or operator of the vehicle, as defined in that Act, and specified in the operating licence; or

(b) a tourist transport operator accredited in terms of section 81, if the vehicle complies with section 84, even if another person is so registered as the owner or operator of the vehicle.”.

Amendment of section 66 of Act 5 of 2009

39. Section 66 of the principal Act is hereby amended—

(a) by the deletion of subsection (2);

(b) by the deletion in subsection (4) of the word “and” at the end of paragraph (c) and the insertion of the following paragraph in that subsection after paragraph (c):

“(cA) standards or requirements for meters to be installed in metered taxis, including the following:

(i) The manner in which the meter must be calibrated and sealed after calibration;

(ii) measures to ensure accurate readings of meters; and

(iii) information that the meter must provide to passengers; and”;

(c) by the addition of the following subsection:

(5) Meters must have the facility to—

(a) estimate distances and fares, taking into account distance and time, and must communicate such estimate to passengers in advance, and

(b) communicate the fare to passengers at the conclusion of the journey.”

Insertion of section 66A in Act 5 of 2009

40. The following section is hereby inserted in the principal Act after section 66:

“Electronic hailing services

66A. (1) In the case of electronic hailing services—

- (a) vehicles are hailed or pre-booked electronically using an e-hailing or technology-enabled application; and
- (b) the regulatory entity granting an operating licence for such service may specify the area for picking up of passengers, subject to section 57(5). 5
- (2) The vehicle may not operate an e-hailing service where the application for the vehicle is not working properly.
- (3) The e-hailing or technology-enabled application must— 10
 - (a) have the facility to estimate fares and distances, taking into account distance and time, and must communicate the estimate to passengers in advance electronically;
 - (b) communicate the final fare to the passenger or passengers at the conclusion of the trip electronically, and 15
 - (c) provide the prescribed details of the driver of the vehicle to the passenger or passengers electronically.
- (4)(a) The Minister or the MEC may make regulations prescribing— 20
 - (i) measures to ensure accurate readings of the e-hailing or technology-enabled application;
 - (ii) information regarding the driver and the vehicle that must be communicated to passengers;
 - (iii) other information that the e-hailing or technology-enabled application must provide to passengers; and
 - (iv) any other matter affecting the standard or quality of operation of e-hailing services. 25
- (b) The Minister must make regulations prescribing special markings or other requirements for vehicles used for e-hailing services.
- (5) The operating licence may authorise the use of more than one service or type of service as contemplated in section 50(2): Provided that the operator and the vehicle comply with the requirements of this Act relating to such services. 30
- (6) Where a person conducts a business providing an e-hailing software application, that person— 35
 - (a) may not permit an operator to use that application for a vehicle for which the operator does not hold a valid operating licence or permit for the vehicle, or whose operating licence or permit has lapsed or been cancelled; and
 - (b) must disconnect the e-hailing application forthwith and keep it disconnected until a valid operating licence has been obtained for the vehicle. 40
- (7) A person who fails to comply with subsection (6) commits an offence.”.

Amendment of section 67 of Act 5 of 2009

- 41.** Section 67 of the principal Act is hereby amended— 45
 - (a) by the insertion of the following subsection after subsection (1):
 - “(1A) Before granting an application for an operating licence authorising a charter service, the relevant regulatory entity must be satisfied that—
 - (a) there will be a need for the charter service or services applied for by the operator that cannot be supplied by any other type of public transport service already being provided; or 50

- (b) the service will be provided on a regular basis in terms of a contract, letter of appointment or other arrangement; and must refuse the application if not so satisfied, and if it grants the application, must attach appropriate conditions to prevent abuse of the licence.”; 5
- (b) by the deletion of subsection (3); and
- (c) by the addition of the following subsection:
 - “(4) When converting a permit authorising services described as “organized parties” to an operating licence under section 47, the relevant regulatory entity must describe the services in the operating licence as charter services if they fall within the definition of such services in section 1.”. 10

Amendment of section 68 of Act 5 of 2009

- 42. Section 68 of the principal Act is hereby amended by the addition of the following subsections: 15
 - “(3) Where a staff service is provided by means of a vehicle owned by the employer and the employees are not charged any fare, consideration or reward for the conveyance, an operating licence is not required for the conveyance.
 - (4) Where a staff service is provided by means of a vehicle in terms of a contract between the employer and an operator, the operator requires an operating licence, but applications relating to such a service need not be published in terms of section 59.”. 20

Amendment of section 73 of Act 5 of 2009

- 43. Section 73 of the principal Act is hereby amended by the substitution for subsection (2) of the following: 25
 - “(2) The authorised official must allow the replacement and issue to the holder an amended operating licence, or in the case of a permit, a new operating licence, subject to sections 47, 48 and 49, if the replacing vehicle—
 - (a) is a motor car, minibus or midibus; or
 - (b) in the case of a bus, has the same capacity as or less capacity than the replaced vehicle or a capacity which does not exceed that of the replaced vehicle by more than 40%; and
 - (c) is properly licensed and certified as roadworthy in compliance with the National Road Traffic Act.”. 30

Amendment of section 74 of Act 5 of 2009 35

- 44. Section 74 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (a) in of the following paragraph:
 - “(a) The entity that issued an operating licence or an [employee] official authorised by it may, on application by the holder, grant written authorisation, where the vehicle specified in that operating licence or permit has become defective temporarily, or where the vehicle has been sold, stolen or destroyed and the operator is in the process of obtaining a replacement vehicle, for the holder to use another vehicle in place of the defective sold, stolen or destroyed vehicle, subject to subsections (2), (3) and (6).”.

Amendment of section 75 of Act 5 of 2009 45

- 45. Section 75 of the principal Act is hereby amended by the deletion of subsection (3).

Amendment of section 79 of Act 5 of 2009

46. Section 79 of the principal Act is hereby amended—
- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
 - “Subject to subsection (3), in the case of an operating licence or permit that has not been granted on the basis of a contract, the relevant entity may, at any time, withdraw, amend or suspend the operating licence or permit for such a period as it may deem fit, if the holder or employee of the holder—”; and
 - (b) by the insertion in subsection (2) after paragraph (a) of the following paragraphs:
 - “(aA) has contravened a provision of this Act or the National Road Traffic Act that is, in the opinion of that entity serious enough to warrant the withdrawal, amendment or suspension;
 - (aB) has contravened any code of conduct for operators prescribed under section 8(1)(fB), or if the drivers employed by that holder habitually contravene any code of conduct for drivers so prescribed;”

Amendment of section 81 of Act 5 of 2009

47. Section 81 of the principal Act is hereby amended by the insertion of the following subsections after subsection (2):
- “(2A) The prescribed particulars of applications for accreditation must be published in the Gazette and interested persons must be given the opportunity to comment on the applications within the prescribed period.
 - (2B) The National Public Transport Regulator must consider any comments received under subsection (2A) before granting or refusing the application.”.

Substitution of section 84 of Act 5 of 2009

48. The following is hereby substituted for section 84 of the principal Act:

“Vehicles used for tourist transport services

- 84.** (1) An accredited tourist transport operator may use any motor vehicle to provide tourist transport services, provided that it is suitable for those services and that an operating licence has been issued for it under subsection (2), and that the vehicle displays a special token, tag, decal or equipment issued by the National Public Transport Regulator in the prescribed form and manner.
- (2) The National Public Transport Regulator must issue an operating licence for a vehicle to be used by an accredited operator in the prescribed manner, either when accrediting the operator or on later application made by an accredited operator, in the prescribed manner, using the prescribed form and on payment of the prescribed fee, and on proof submitted to it in the prescribed manner that—
- (a) the vehicle is properly registered and licensed in terms of the National Road Traffic Act;
 - (b) a valid and current roadworthy certificate has been issued for the vehicle in terms of the National Road Traffic Act;
 - (c) the vehicle is suitable in all respects for the type of tourist service envisaged;
 - (d) the vehicle and passengers who will be carried are adequately insured with a registered insurer; and
 - (e) the vehicle is otherwise acceptable according to the National Public Transport Regulator.

(3) Such an operating licence may be issued by an official of the Department designated to do so by the National Public Transport Regulator.

(4) The National Public Transport Regulator may impose conditions when issuing such an operating licence including, but not limited to, the use and maintenance of the vehicle, which conditions must be specified on the licence, and must issue with the licence a token, tag, decal or other equipment as contemplated in subsection (1) or as prescribed.”

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Amendment of section 86 of Act 5 of 2009

49. Section 86 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph: 10

“(b) a **[municipality to which the operating licence function has been assigned,]** Municipal Regulatory Entity as appointed by **[that authority]** the municipality concerned,”.

Amendment of section 90 of Act 5 of 2009

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50. Section 90 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) of the following paragraph after paragraph (l):

“(lA) if the person provides an e-hailing software application and permits the operator to use that application for a vehicle for which the operator does not hold a valid operating licence or permit, or where the operating licence or permit for the vehicle has lapsed or been cancelled, without disconnecting the e-hailing application and keeping it disconnected until a valid operating licence has been obtained for the vehicle, in contravention of section 66A(6);”;

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(b) by substituting the following in subsection (2) for paragraph (a) of the following paragraph:

“(a) paragraphs (a), (b), (d), (e), (lA) or (o) of subsection (1), a term of imprisonment not exceeding two years, or a fine not exceeding R100 000, may be imposed;”.

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Amendment of section 92 of Act 5 of 2009

51. Section 92 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The following persons may appeal to the Transport Appeal Tribunal against **[an] any** act, direction or decision of **[an] a regulatory entity [that has granted or refused an application relating to an operating licence]**, in the manner and within the time prescribed:”;

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(b) by the addition of the following subsection:

“(4) Where the decision contemplated in subsection (1) was taken by a Municipal Regulatory Entity, an appeal may be noted with the Transport Appeal Tribunal despite section 62 of the Systems Act.”.

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Amendment of section 93 of Act 5 of 2009

52. Section 93 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) Any transport authority established in terms of the Transition Act will cease to be a juristic person independent from the relevant municipality or municipalities, on a date to be determined by the Minister, and those municipalities must amend or restructure their administration as soon as possible **[after the determined date]**, to bring them in line with this Act.”.

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Schedule

Amendment of laws

(Section 53)

No. and year of Act	Short title	Extent of amendment
Act No. 9 of 1989	Legal Succession to the South African Transport Services Act, 1989	1. Amendment of section 23 by the substitution in subsection (1) for paragraph (a) of the following paragraph: “(a) ensure that, at the request of the Department of Transport or a municipality, rail commuter services are provided within, to or from the Republic in the public interest, subject to the agreements contemplated in section 11(1)(c)(xix) of the National Land Transport Act, 2009 (Act No. 5 of 2009), and operational budget availability; and”.
Act No. 74 of 1977	Road Transportation Act, 1977	1. Repeal of sections 26, 26A and 27.

