



Republic of Namibia
Annotated Statutes

Road Transportation Act 74 of 1977 (RSA)

[\(RSA GG 5589\)](#)

brought into force in South Africa and South West Africa
on 1 January 1978 by RSA GN 361/1977 [\(RSA GG 5837\)](#)

APPLICABILITY TO SOUTH WEST AFRICA: Section 46 states "The provisions of this Act and any amendment thereof shall apply also in the Territory, including the Eastern Caprivi Zipfel." Section 1 defines "Administration", "local authority", "province", "Republic" and "Territory" accordingly.

TRANSFER TO SOUTH WEST AFRICA: The administration of this Act was transferred to SWA by the Executive Powers (Transport) Transfer Proclamation (AG 14/1978), dated 15 March 1978. Section 3(1)(i) of the transfer proclamation excluded the reference to the "Republic" in the Act from the operation of section 3(1) of the General Proclamation, meaning that "Republic" retained the meaning given to it in the definition section of the Act (South Africa and SWA). None of the amendments to the Act in South Africa after the date of transfer were made expressly applicable to SWA.

as amended by

Road Transportation Amendment Act 29 of 1980 [\(OG 4357\)](#)

brought into force on 1 May 1981 by AG 15/1981 [\(OG 4454\)](#);

subsequently repealed by the Road Traffic and Transport Act 22 of 1999 [\(GG 2251\)](#)

Section 7(1) of Act 29 of 1980 contained a transitional provision which came into effect six months after the date when Act 29 of 1980 came into force:

"(1) Any provision term, condition or requirement of any permit granted and issued under the principal Act, or deemed to have been so granted and issued, according to which -

- (a) only persons who are members of a population group or population groups specified in the said permit may be conveyed by means of the motor vehicle to which the said permit relates;
- (b) only goods of persons who are members of a population group or population groups specified in the said permit may be conveyed by means of the motor vehicle to which the said permit relates;
- (c) different portions of the motor vehicle to which the said permit relates are required to be set aside for the conveyance of persons who are members of different population groups,

is hereby abolished and declared to be null and void."

Road Transportation Amendment Act 18 of 1981 [\(OG 4570\)](#)

came into force on date of publication: 21 December 1981

Road Transportation Amendment Act 16 of 1982 [\(OG 4722\)](#)

brought into force on 15 December 1983 by AG 23/1983 [\(OG 4850\)](#)

Road Transportation Amendment Proclamation, AG 33 of 1985 [\(OG 5060\)](#)

sections 3, 9 and 24 came into force on the date of publication: 15 June 1985;

sections 1(a), (b), (c), (e), (f), (g), (h), (i) and (j), 2, 4-8 and 10-22

were brought into force on 3 November 1989 by AG Proc. 60/1989 [\(OG 5848\)](#);

sections 1(d) and 23 were repealed by the Second Road Transportation Act 20 of 1988 [\(OG 5650\)](#) without ever coming into force

National Transport Corporation Act 21 of 1987 [\(OG 5439\)](#)

relevant provision brought into force on 1 July 1988 by AG GN 19/1988 [\(OG 5567\)](#);

Act 21 of 1987 was subsequently repealed by the National Transport Services Holding Company Act 28 of 1998 [\(GG 1961\)](#) with effect from 1 April 1999

Road Transportation Amendment Act 8 of 1988 [\(OG 5561\)](#)

came into force on date of publication: 21 June 1988

Second Road Transportation Act 20 of 1988 (OG 5650)

came into force on date of publication: 30 December 1988

also amends the Road Transportation Amendment Proclamation, AG 33 of 1985 (OG 5060)

Road Transportation Amendment Proclamation, AG 61 of 1989 (OG 5849)

brought into force on 29 November 1989 by AG 69/1989 (OG 5870)

Section 43 of AG Proc. 61 of 1989 contains the following transitional provisions:

“(1) Anything done under any provision of the Act at any time before the commencement of this Proclamation by the National Transport Commission mentioned in section 3 of the Transport Co-ordination Act, 1948 (Act No.44 of 1948), shall be deemed to have been done under the corresponding provision of the Act by the Road Transportation Board of South West Africa established [sic] by section 4 of the Act.

(2) Any application for a permit under any provision of the Act submitted to the said National Transport Commission in connection with which there has not yet been decided on the date immediately before the commencement of this Proclamation, shall be continued before the Local Transportation Board of South West Africa as if any such application were submitted to the said Transportation Board on the date of such commencement.”

Air Services Amendment Act 6 of 1991 (GG 216)

came into force on date of publication: 31 May 1991

This Act, as amended, is repealed by the Road Traffic and Transport Act 22 of 1999 (GG 2251). However, the repeal of this Act and its amendments by section 112 of the Road Traffic and Transport Act 22 of 1999 is not yet in force insofar as these laws relate to passenger transport. See GN 52/2001 (GG 2503). Thus, this Act currently remains in force as it related to passenger transport. The Act is presented here in full to provide context for the aspects that remain in force.

ACT

To provide for the control of certain forms of road transportation and for matters connected therewith.

*(Afrikaans text signed by the State President)
(Assented to 7 June 1977)*

ARRANGEMENT OF SECTIONS

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Schedule

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

[AG Proc. 61 of 1989 makes a number of substitutions to accord with the replacement of multiple local road transportation boards by a single national board. In some cases, minor discrepancies in the directions for such substitutions have been ignored where the intention is clear; examples are where the substitution directions refer to "a" instead of "the" in respect of the phrase which is to be substituted, or where a word in the phrase to be substituted was misspelt in the original Gazette. Where the intention is not clear, annotation notes have been added.]

Definitions

1. (1) In this Act, unless the context otherwise indicates -

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[definition of “Administrator” deleted by AG Proc. 61 of 1989]

“authorized officer” means an inspector, any member of the South West African Police, any member of the South African Police serving as such a member in the Territory, or any person in the service of a local authority whose duty it is to inspect motor vehicles or licences for motor vehicles or to control traffic;

[definition of “authorised officer” substituted by AG Proc. 33 of 1985 and amended by AG Proc. 61 of 1989]

“board” means the Road Transportation Board of South West Africa established by section 4;

[definition of “board” substituted by AG Proc. 61 of 1989]

“bus” means a motor vehicle designed or adapted for the conveyance of more than nine persons (including the driver);

“carrier” means a person whose business it is to convey persons or goods for reward;

[definition of “class” deleted by Act 29 of 1980]

“commission” means the Transportation Commission of Namibia referred to in section 2A;

[definition of “commission” substituted by AG Proc. 61 of 1989 and substituted with amendment markings by Act 6 of 1991]

[definition of “competent board” deleted by AG Proc. 61 of 1989]

“decentralized industry” means a factory or workshop situated within an area declared to be a decentralized industrial area under section 2(c);

“distinguishing mark” means a distinguishing mark contemplated in section 24(1)(e);

“exempted area” means an area declared to be an exempted area under section 2(b);

“exempted goods” means goods declared to be exempted goods under section 2(d);

“goods” includes livestock;

“goods vehicle” means a motor vehicle designed or adapted for the conveyance of goods;

[definition of “hired motor vehicle” deleted by AG Proc. 33 of 1985]

“holder”, in relation to a permit, means the person in whose favour such permit was issued;

“inspector” means a road transportation inspector designated as such under section 11;

“local authority” means a municipality established under the Municipal Ordinance, 1963 (Ordinance No. 13 of 1963), village management board established under the Village Management Boards Ordinance, 1963 (Ordinance No. 14 of 1963), and the Peri-Urban Development Board established by section 2 of the Peri-Urban Development Board Ordinance, 1970 (Ordinance No. 19 of 1970).

[The definition of “local authority” is substituted by AG Proc. 61 of 1989. The Local Authorities Act 23 of 1992 repealed the Municipal Ordinance 13 of 1963, the Village Management Boards Ordinance 14 of 1963 and the Peri-Urban Development Board Ordinance 19 of 1970.]

[definition of “Minister” deleted by AG Proc. 61 of 1989]

“motor-car” means a motor vehicle designed or adapted for the conveyance of not more than nine persons (including the driver);

“motor vehicle” means any vehicle (other than a motor bicycle) designed or adapted for propulsion or haulage on a road by means of any power other than human or animal power and without the aid of rails, and includes any trailer, but does not include such vehicle also designed or adapted exclusively for towing another vehicle, and not used for the conveyance of goods;

“owner”, in relation to a motor vehicle registered in any area under the law governing the registration of motor vehicles in force in that area, means the person who for the purposes of that law is its owner;

“permit” means a public permit, private permit or temporary permit;

“private permit” means a private road carrier permit granted under section 18;

[definition of “province” deleted by AG Proc. 61 of 1989]

“public permit” means a public road carrier permit granted under section 13;

“public road” means any road declared or recognized as a public road under any law, and includes any road, street or thoroughfare or other place (whether a thoroughfare or not) to which the public or any section of the public has a right of access;

“railway service” means a transportation service operated over any line of railway by or on behalf of TransNamib Limited or any private person or any juristic person;

[definition of “railway service” amended by Act 21 of 1987 and substituted by AG Proc. 61 of 1989]

“regulation” means a regulation made under section 30;

[definition of “Republic” deleted by AG Proc. 61 of 1989]

“road transportation” means, subject to the provisions of subsection (2) -

- (a) the conveyance of persons or goods on a public road by means of a motor vehicle for reward;
- (b) the conveyance of persons or goods on a public road by means of a motor vehicle in the course of any industry or trade or business;
- (c) the conveyance of persons on a public road by means of a hired bus;

[paragraph (c) of the definition of “road transportation” substituted by AG Proc. 33 of 1985]

- (d) the conveyance of goods on a public road by means of a hired motor vehicle;
- (e) in the case of persons or goods which are conveyed from any neighbouring country, including the Republic of South Africa or Walvis Bay, outside the Territory to or through the Territory, the conveyance as referred to in paragraph (a), (b), (c) or (d) from any point on a public road on the border between the Territory and any such neighbouring country,

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including the Republic of South Africa or Walvis Bay, to any place in the Territory or through the Territory to any or the same point on any such border;

[paragraph (e) of the definition of “road transportation” inserted by AG Proc. 61 of 1989]

“road transportation service” means a transportation service operated over a public road, by means of a motor vehicle and for reward, under a public permit;

“temporary permit” means a temporary road carrier permit granted under section 20;

“Territory” means the territory of South West Africa;

“this Act” includes the regulations;

“trailer” means a vehicle designed or adapted for the conveyance of persons or goods;

[definition of “transportation area” deleted by AG Proc. 61 of 1989]

“transportation facilities” means a railway service or road transportation service;

“unauthorized road transportation” means road transportation not authorized by any permit and includes road transportation undertaken by the holder of a permit otherwise than in accordance with the provisions of such permit.

(2) For the purposes of this Act, the conveyance of persons or goods contemplated in the definition of “road transportation” in subsection (1) shall be deemed not to include the following, namely -

- (a) the conveyance of farm products (excluding processed farm products of which the conveyance has been prohibited under section 2(e)) by the producer thereof who is a farmer, by means of a motor vehicle of which he is the sole owner;
- (b) the conveyance by an individual farmer (including a partnership or company carrying on farming operations) by means of a motor vehicle of which he is the sole owner, of such farmer's requisites to a place situated within the Republic where he carries on farming operations and where he intends using them, or his farm labourers, including their families -

[introductory phrase in paragraph (b) substituted by Act 16 of 1982]

- (i) from any place where they have been recruited to any place where he may require them in his farming operations; or
- (ii) from any place where they are or have been employed in his farming operations to any other place where he may require them in his farming operations or where another farmer may require them in his farming operations, or to the place where they have been recruited; or
- (iii) between any place where they have been or are to be so employed and the railway station or bus stop most convenient for their conveyance to any other place to which they are to be conveyed by rail or by bus or to the place where they are to be so employed; or

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(iii)*bis* between any place where they are so employed and any other place within the Territory to do any shopping or to attend any church service or funeral or for purposes of any sports or recreational meeting; or

[subparagraph (iii)*bis* inserted by Act 18 of 1981]

(iv) between any place where they have been recruited and the railway station or bus stop most convenient for their conveyance to any other place to which they are to be conveyed by rail or by bus,

and for the purposes of this paragraph labourers employed by a co-operative society, registered as such under the law relating to co-operative societies, of which such farmer is a member, or prisoners as defined in section 1 of the Prisons Act, 1959 (Act No. 8 of 1959), who are or have been or are to be employed by a farmer in his farming operations, shall be deemed to be such farmer's farm labourers;

[The Prisons Act 8 of 1959 was replaced by the Prisons Act 17 of 1998, which was replaced in turn by the Correctional Service Act 9 of 2012.]

- (c) any conveyance (other than the conveyance of persons or goods for reward) by a local authority by means of a motor vehicle of which such local authority is the owner, within the area of its jurisdiction and between such area and any other area controlled by such local authority or in which it provides any public service or carries on any undertaking;
- (d) the conveyance by a local authority, by means of a motor vehicle of which such local authority is the owner, of prisoners as defined in section 1 of the Prisons Act, 1959, who are or have been or are to be employed by such local authority;
- (e) the conveyance, by means of a motor vehicle, of a patient to any place where he is to receive medical treatment from a person authorized to administer such treatment in terms of any law relating to the medical profession, or from any place where he has received such treatment;
- (f) the conveyance (including the towing), by means of a motor vehicle, of another motor vehicle which has become defective, to a place for its repair or storage, or of persons or goods who or which were being conveyed by means of such other motor vehicle at the time when it became defective, to that place or any other place, provided, if the conveyance of such persons or goods by means of such other motor vehicle at the time when it became defective constituted road transportation, such conveyance was authorized by a permit, and their conveyance by means of the first-mentioned motor vehicle is undertaken in accordance with the provisions of such permit and such permit is carried on such first-mentioned motor vehicle for production on demand to any authorized officer;
- (g) the conveyance by any person, by means of a motor vehicle of which he is the owner, of goods belonging to any other person, as a consideration for a similar reciprocal conveyance performed or to be performed by such other person, where the conveyance, if done by either party by means of a motor vehicle of which he is the owner, and in respect of his own goods, would not constitute road transportation;
- (h) the conveyance of persons as contemplated in the definition of "lift club" in section 1(1) of the Compulsory Motor Vehicle Insurance Act, 1972 (Act 56 of 1972);

[Paragraph (h) is substituted by Act 16 of 1982. The Compulsory Motor Vehicle Insurance Act 56 of 1972 (RSA GG 3532) was repealed by the Motor Vehicle Accidents Act 84 of 1986 (RSA GG 10419),

which applied to South West Africa. After Independence, Act 84 of 1956 was repealed by the Motor Vehicle Accidents Act 30 of 1990 (GG 132), which was repealed by the Motor Vehicle Accidents Fund Act 4 of 2001 (GG 2547), which was repealed in turn by the Motor Vehicle Accident Fund Act 10 of 2007 (GG 3970).

(i)

[paragraph (i) deleted by Act 16 of 1982]

(j) the conveyance by an hotel of its own guests only and their personal effects between such hotel and the nearest or most convenient railway station, airways terminal, airport or port, by means of a motor vehicle identified in the manner prescribed by regulation and of which the hotel is the sole owner;

(k) the conveyance, in the course of any industry or trade or business, of persons and goods (excluding the conveyance of an employee between his place of residence and his place of work) by means of a motor-car if no reward is received for such conveyance;

(k)*bis* the conveyance by any person who carries on any industry, trade or business, of his employees from any place where they perform any work in the course of that industry, trade or business to any other place where they are so to perform any work, by means of a motor vehicle of which he is the owner;

[paragraph (k)*bis* inserted by Act 16 of 1982]

(l)

[paragraph (l) substituted by Act 18 of 1981 and deleted by AG Proc. 61 of 1989]

(l)*bis* the conveyance by any person (except a carrier) who carries on any industry trade or business, of his own goods in the course of such industry, trade or business or of goods which he has undertaken to maintain, clean, renovate, repair or alter for any other person in the course of such industry, trade or business by means of a goods vehicle (except a trailer) of which the gross vehicle mass does not exceed two thousand five hundred kilograms;

[paragraph (l)*bis* substituted by Act 18 of 1981 and by AG Proc. 33 of 1985]

(l)*ter* the conveyance by means of a goods vehicle (except a trailer) of which the gross vehicle mass does not exceed two thousand five hundred kilograms by a carrier of his own spare parts and his own tools required for the repair of his own vehicles, and of his own defective spare parts to a workshop for the repair thereof;

[paragraph (l)*ter* inserted by AG Proc. 33 of 1985]

(m) the conveyance, in connection with the performance of his duties, by an employee of the State or a State-aided body or a local authority, by means of a motor vehicle of which such employee is the owner and which is used by him in the performance of those duties, of any person in respect of whose conveyance that employee is entitled to receive any reward from the State or such State-aided body or local authority;

(n) the conveyance on school days of school children and teachers to or from the school which they attend, as well as the conveyance of school children and teachers for the purpose of sports or recreation or on holiday, sightseeing or educational tours by

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means of a bus of which such school is the sole owner or which, in terms of an agreement is set apart for the use of that school;

[paragraph (n) substituted by AG Proc. 33 of 1985]

(n)*bis* the conveyance by a university, technikon, technical college, teachers' training college or other tertiary educational institution (hereinafter referred to as an educational institution) of its own students and staff for educational, cultural or sport purposes by means of a motor-car or a bus of which that educational institution is the owner or by means of a bus which in terms of an agreement is set apart for the use of that educational institution: Provided that in the case of such conveyance by means of a bus employed in terms of an agreement, a document shall be carried in that bus in which an official of the educational institution concerned who has been authorized thereto, confirms that the passengers on such bus are enrolled students of, or staff attached to, that educational institution;

[paragraph (n)*bis* inserted by AG Proc. 33 of 1985]

- (o) the conveyance of any coffin or corpse, excluding the conveyance of coffins for the purpose of supplementing stock;
- (p) the conveyance for reward, by TransNamib Limited by means of any goods vehicle of which it is the owner, of goods that have been or are to be conveyed by rail, between any railway station and any place situated within a radius of twenty-five kilometres from such railway station;

[paragraph (p) amended by AG Proc. 61 of 1989]

- (q) the conveyance at rail rates by TransNamib Limited, by means of any goods vehicle of which it is the owner, of goods dispatched from or destined for a decentralized industry and which have been tendered to and accepted by it for conveyance by rail, from the railway station of dispatch to the railway station of destination;

[paragraph (q) amended by AG Proc. 61 of 1989]

- (r) the conveyance by TransNamib Limited, by means of a motor vehicle of which it is the owner, of its employees or goods in the course of its business and otherwise than for reward, and of goods within its area of jurisdiction as defined in section 1 of the National Transport Cooperation Act, 1987 (Act No. 21 of 1987);

[Paragraph (r) is substituted by AG Proc. 61 of 1989. The National Transport Corporation Act 21 of 1987 was repealed by the National Transport Services Holding Company Act 28 of 1998.]

- (s) the conveyance for reward, by a person who has been summoned to appear at any place as a witness in a criminal case, of any other person who has been summoned to appear as a witness in that case or in any other criminal case, whether at the same place and on the same day or at any other place or on any other day, to or from the place at which the person conveyed has been summoned so to appear, by means of a motor vehicle of which the first-mentioned person is the owner;
- (t) the conveyance for reward, by any person who has been summoned to appear at any place on any day to give evidence before any commission with reference to which the provisions of the Commissions Act, 1947 (Act No. 8 of 1947), have been declared to be applicable, or before any body established under any law in terms of which that body is empowered to summon persons to appear before it to give evidence, to or from the place at which such person has been summoned to appear,

of any other person who has been summoned to appear before such commission or body to give evidence on the same day and at the same place, by means of a motor vehicle of which the first-mentioned person is the owner;

- (u) the conveyance for reward, by a person who is required to proceed to an appointed place for the purpose of undergoing any training or performing any service or duty in terms of the Defence Act, 1957 (Act No. 44 of 1957), or any regulation made thereunder, or who is returning from such a place after undergoing such training or performing such service or duty, of another person proceeding to that place for such a purpose or returning from that place after having proceeded to that place for such a purpose, by means of a motor vehicle of which the first-mentioned person is the owner;

[The Defence Act 44 of 1957 has been replaced by the Defence Act 1 of 2002.]

- (v) the conveyance in the manner prescribed by regulation by a decentralized industry in the course of its business of its own goods by means of one goods vehicle only, the carrying capacity of which does not exceed eight thousand kilograms and of which the decentralized industry is the owner, provided such goods vehicle is registered and identified in the manner prescribed by regulation;
- (w) the conveyance in the manner and on the conditions prescribed by regulation of goods solely within the boundaries of an exempted area by means of a motor vehicle which is registered within such exempted area under the law governing the registration of motor vehicles in force in that area, provided such motor vehicle is identified in the manner prescribed by regulation;

[paragraph (w) substituted by Act 18 of 1981]

- (x) the conveyance of goods for reward by a carrier in the manner and on the conditions prescribed by regulation exclusively within an area with a radius of forty kilometres from such carrier's business address from where business is actually undertaken, by means of a motor vehicle which is identified in the manner prescribed by regulation and which is registered within the area concerned under the law governing the registration of motor vehicles in force in that area;

[paragraph (x) substituted by Act 18 of 1981 and by Act 16 of 1982]

- (y) the conveyance by a person who carries on any industry or trade or business, in the course of that industry or trade or business, within an area with a radius of 80 kilometres from any place where he actively carries on such industry, trade or business, of his own goods or of goods which he has undertaken to maintain, clean, renovate, repair or alter for any other person in the course of such industry, trade or business from any place within that area to any destination of those goods within that area or to any railway station within that area, by means of a motor vehicle of which such person is the owner, which is registered within the area concerned under the law governing the registration of motor vehicles in force in that area and which is identified in the manner prescribed by regulation, provided that, in the case where the said person carries on his industry, trade or business at more than one place, the place from where the goods concerned are being conveyed and the said destination or railway station are not situated in any other such area;

[paragraph (y) substituted by Act 18 of 1981, Act 16 of 1982 and AG Proc. 33 of 1985]

- (z) the conveyance in the manner and on the conditions prescribed by regulation of exempted goods, by means of a motor vehicle -

- (i) which is registered in the Territory under the law governing the registration of motor vehicles in the Territory;
 - (ii) whose owner is domiciled within the Territory; and
 - (iii) which is identified in the manner prescribed by regulation,
- by any person who is domiciled in the Territory, or any company registered in the Territory, actively carrying on business from a place situated in the Territory;

[paragraph (z) substituted by AG Proc. 61 of 1989]

(aa)

[paragraph (aa) deleted by AG Proc. 61 of 1989]

- (bb) the conveyance of any person who must necessarily be conveyed in connection with any conveyance, whether of persons or of goods, which in terms of any preceding paragraph does not constitute road transportation.

General powers of the Administrator-General

2. (1) The Administrator-General may by notice in the *Official Gazette* -

[introductory phrase of subsection (1) amended by Act 20 of 1988]

(a)

[paragraph (a) deleted by AG Proc. 61 of 1989]

- (b) declare any area defined in such notice to be an exempted area;
- (c) declare any area defined in such notice to be a decentralized industrial area;
- (d) declare any goods defined in such notice to be exempted goods within the areas defined in such notice;
- (e) for the purposes of section 1(2)(a) prohibit the conveyance of a specific processed farm product or of a specified kind or category of processed farm products;
- (e)*bis* for the purposes of the conveyance of goods by a railway service only, prohibit the board, notwithstanding anything to the contrary contained in this Act, from considering any application for the granting or amendment (excluding the amendment so as to authorize the permanent replacement of a motor vehicle under this Act) of a public permit or private permit for the conveyance of goods or any category of goods to or from a specified place or area or between specified places or areas as specified in such notice;

[paragraph (e)*bis* inserted by Act 20 of 1988 and amended by AG Proc. 61 of 1989]

- (f) declare any public road between any two places or areas or between any place and any area, and described in such notice, to be a transportation route and, with effect from a date specified in such notice, not being a date earlier than twenty-one days after the publication of the notice in the *Official Gazette*, prohibit the conveyance of goods between such places or areas or such place and such area, as the case may be,

under any permit for the conveyance of goods issued under this Act, and notwithstanding anything to the contrary contained in any such permit, on any public road other than the road so declared to be a transportation route;

- (g) prohibit the conveyance of any goods, or of any specified kind or category of goods, under any permit for the conveyance of goods issued under this Act, and notwithstanding anything to the contrary contained in any such permit, on any specified day, or between specified hours of any day, within any specified area or over any specified route: Provided that no prohibition under this paragraph shall come into operation earlier than twenty-one days after the publication of the relevant notice in the *Official Gazette*;

- (g)*bis* prohibit the conveyance of goods which are loaded on any goods vehicle in a specified manner from a specified date, notwithstanding anything to the contrary contained in any permit which was issued in terms of this Act: Provided that no prohibition under this paragraph shall come into operation earlier than twenty-one days after the publication of the relevant notice in the *Official Gazette*;

[paragraph (g)*bis* inserted by AG Proc. 33 of 1985]

- (h) for the purposes of section 27 appoint a committee in the manner and for the period and constituted as prescribed by regulation;
- (i) amend or withdraw any notice published under any preceding paragraph of this section.

(2) A notice issued under paragraph (e)*bis* of subsection (1), shall, notwithstanding anything to the contrary contained in any law or the common law, apply also in relation to any application received before the date of the notice in question, but has not yet been granted.

[subsection (2) inserted by AG Proc. 61 of 1989, with effect from 30 December 1988 (section 2(2) of AG Proc. 61 of 1989)]

[Section 2 is amended globally by AG Proc. 61 of 1989.]

Establishment and constitution of Road Transportation Commission of South West Africa

[The heading of section 2A has not been amended, but it now seems to conflict with subsection (1) as amended, which states that the "Road Transportation Commission of South West Africa" is to continue to exist under the name "Transportation Commission of Namibia".]

2A. (1) The commission known as the Road Transportation Commission of South West Africa shall with effect from the commencement of the Air Services Amendment Act, 1991 continue to exist under the name Transportation Commission of Namibia.

[Subsection (1) substituted by Act 6 of 1991, which contains the following transitional provision in section 17(2):

"(2) The amendment of section 2A of the Road Transportation Act, 1977 by subsection (1) [referring to subsection 17(1) of Act 6 of 1991] shall not have any effect on the constitution of the commission referred to in the said section 2A as constituted at the commencement of this Act, and any member of the said commission shall continue to hold office until expiry of the period for which he or she was appointed or until he or she vacates office."

(2) The commission shall consist of a chairman appointed by the Administrator-General who shall be an advocate or attorney who has practised in the law for a period of at least five years and at least two, but not more than four other persons so appointed who shall be persons who possess wide experience of, and have shown ability in connection with, transport, industrial,

commercial or financial matters or in the conduct of public affairs and who is not a member of the board or is not a person referred to in paragraphs (a), (b), (c) and (d) of subsection (1) of section 5.

(3) A member of the commission shall vacate his office if -

- (a) he becomes subject to a disqualification referred to in paragraph (a), (b), (c) or (d) of subsection (1) of section 5;
- (b) he resigns by notice in writing addressed to the Administrator-General; or
- (c) he, in the opinion of the Administrator-General, is unable to perform efficiently his duties and he is removed by the Administrator-General from office.

(4) A member of the commission who is not full-time in the government service shall hold his office for a period of five years, but shall be eligible for re-appointment at the expiration of his period of office.

(5) A member of the commission who is not full-time in the government service shall receive such remuneration and allowances as may be determined by the Administrator-General.

(6) Whenever a member of a commission has recused himself in any particular matter, the Administrator-General may appoint any person whom he considers suitable, to act with regard to the particular matter in place of that member, and any such appointment shall, in the case of a person who is not full-time in the government service, be subject to such conditions as to remuneration and otherwise, as the Administrator-General may determine.

(7) The commission shall hold meetings at such times and places as may be determined by the chairman from time to time.

- (8) (a) The majority of the members of the commission who shall include the chairman shall form a quorum for a meeting of the commission.
- (b) A decision of the majority of the members of the commission present at any meeting thereof shall constitute a decision of the commission: Provided that in the event of an equality of votes the chairman shall, in addition to his deliberative vote, have a casting vote.

(9) The administrative functions connected with the functions of the commission shall be performed by officers in the government service made available for such purpose by the Secretary of Transport.

[section 2A inserted by AG Proc. 61 of 1989]

General powers of the commission

3. (1) The commission may -

- (a) investigate any matter relating to road transportation in the Territory and submit recommendations thereon to the Administrator-General;
- (b) at the request of the Administrator-General, investigate and report upon any other matter falling within the scope of this Act;
- (c)

[paragraph (c) deleted by AG Proc. 61 of 1989]

(d)

[paragraph (d) deleted by AG Proc. 61 of 1989]

(e)

[paragraph (e) deleted by AG Proc. 61 of 1989]

(f) perform the other functions assigned to it by this Act and, with the approval of the Administrator-General, take such other steps as it may deem necessary for the proper administration of this Act;

(g)

[paragraph (g) substituted by Act 16 of 1982 and deleted by AG Proc. 61 of 1989]

(2)

[subsection (2) deleted by AG Proc. 61 of 1989]

[Section 3 is amended globally by AG Proc. 61 of 1989.]

Establishment and constitution of Road Transportation Board of South West Africa

4. (1) There is hereby established a road transportation board to be called the Road Transportation Board of South West Africa.

(2) The board shall consist of a chairman and two other members appointed by the Administrator-General who shall be persons who possess wide experience of, and have shown ability in, transport, industrial, commercial or financial matters or in the conduct of public affairs and who are not members of the commission.

(3) (a) A member of the board who is full-time in the government service shall hold office during the Administrator-General's pleasure, and any other member of the board shall be appointed for a period of two years, and shall, subject to the provisions of this Act, hold office on such conditions as to remuneration and otherwise, as the Administrator-General may determine when such member is appointed.

(b) Different periods or conditions may be determined under paragraph (a) in respect of different members of the board.

(4) When a member of the board vacates his office or is removed therefrom or is temporarily unable to perform his functions as such, the Administrator-General may appoint, subject to the provisions of section 5, any person whom he considers suitable, to act in place of such member for a period, not exceeding 12 months, and any such appointment shall, in the case of a person who is not full-time in the government service, be subject to such conditions as to remuneration and otherwise, as the Administrator-General may determine.

(5) When a member of the board has recused himself in any particular matter, the Administrator-General may appoint, subject to the provisions of section 5, any person whom he considers suitable, to act with regard to that particular matter in place of such member, and any such appointment shall, in the case of a person who is not full-time in the government service, be

subject to such conditions as to remuneration and otherwise, as the Administrator-General may determine.

(6) A person whose period of office as member of the board has expired shall be re-eligible for appointment.

[Section 4 is amended by Act 16 of 1982 and by AG Proc. 33 of 1985, and substituted by AG Proc. 61 of 1989. Section 5(2) of AG Proc. 61 of 1989 contains the following transitional provision:

“A person who was a member of the Local Road Transportation Board, Windhoek, on the date immediately before the commencement of this Proclamation shall be deemed to have been appointed under section 4 of the Act, as amended by subsection (1) of this section, as a member of the Road Transportation Board of South West Africa as if the provisions of subsection (1) were in operation on the date on which he has been appointed as member of the said Transportation Board.”]

Disqualifications for office as, and termination of office of, member of the board

5. (1) No person shall be appointed as a member of the board -
- (a) if he is an unrehabilitated insolvent; or
 - (b) if he has been convicted of an offence and sentenced to imprisonment without the option of a fine; or
 - (c) if he is an employee of TransNamib Limited; or

[paragraph (c) amended by AG Proc. 61 of 1989]

- (d) if he or any of his near relations is financially interested in any business of road transportation or is engaged in any activity connected with road transportation which, in the opinion of the Administrator-General, is calculated to interfere with the impartial discharge by the member of the duties of his office.
- (2) A member of the board shall vacate his office -
- (a) if he becomes subject to any of the disqualifications for appointment mentioned in subsection (1);
 - (b) if he dies or is removed from office under subsection (3) or resigns by notice in writing addressed to the Administrator-General.
- (3) The Administrator-General may remove from office any member of the board -
- (a) who has failed to comply with a condition of his appointment; or
 - (b) who, in the opinion of the Administrator-General, has been guilty of improper conduct or has regularly neglected his duties as a member of the board; or
 - (c) who, in the opinion of the Administrator-General, is unable to perform efficiently his duties as a member of the board.

[Section 5 is amended globally by AG Proc. 61 of 1989.]

Meetings and decisions of the board

6. (1) Two members of the board shall form a quorum for any meeting of the board.

(2) The decision of any two members of the board present at any meeting thereof, shall constitute a decision of the board: Provided that -

(a)

[paragraph (a) deleted by AG Proc. 61 of 1989]

(b) in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

[paragraph (b) amended by AG Proc. 61 of 1989]

[subsection (2) substituted by AG Proc. 33 of 1985]

(3) No act, direction or decision of the board shall be held to be invalid by reason only of the fact that, when such act was performed or such direction or decision was given, a casual vacancy existed on the board or a person disqualified under section 5(1) from being a member of the board was such a member thereof, whether or not such person's concurrence was necessary to the performance of that act or the giving of that direction or decision.

[subsection (3) amended by AG Proc. 61 of 1989]

[Section 6 is amended globally by AG Proc. 61 of 1989.]

General powers of the board

7. (1) The board may -

(a) investigate any matter falling within the scope of this Act, and submit recommendations thereon to the commission;

(b) consider and give a decision on, or otherwise deal with, in accordance with the provisions of this Act, any application made to it thereunder -

(i) for the grant of a permit authorizing road transportation within the Territory;

(ii) for the renewal, amendment or transfer of any permit granted by it;

(c) issue, in accordance with the provisions of this Act, any permit granted, renewed, amended or transferred by it;

[The word "accordance" is misspelt in the *Official Gazette*, as reproduced above.]

(d) when the holder of a public permit applies for the raising of tariffs for the conveyance of persons by means of a bus, cause an inquiry to be instituted regarding the financial circumstances and operating practices of such holder by means of a person designated by it for that purpose and, if the holder is a company, also into any other company in a group of companies to which the holder belongs or of which the holder is the controlling company.

[Section 7 is substituted by AG Proc. 61 of 1989.]

Appeal to the commission against act, direction or decision of the board

8. (1) Save as otherwise provided in this Act, any person who -

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- (a) has applied to the board for the grant, renewal, amendment or transfer of any permit;
- (b) is the holder of any permit issued by the board;
- (c) in the manner and within the time prescribed by regulation, submitted representations to the board objecting to or supporting any application published under section 14(1) or any application for the grant, renewal or amendment of a private permit,

and is affected by any act, direction or decision of that board, may, in the manner and within the time prescribed by regulation, after the said act was performed or the said direction or decision was given by the board, appeal against such act, direction or decision to the commission.

[subsection (1) substituted by Act 16 of 1982 and by AG Proc. 33 of 1985]

(1)*bis* Where the board notifies any person of a direction or decision contemplated in subsection (1) by means of a written document, the date of that document shall, for the purpose of subsections (1) and (3), be deemed to be the date on which that direction or decision was given.

[subsection (1)*bis* inserted by AG Proc. 33 of 1985]

(2) The commission shall receive and, subject to the provisions of subsection (3) and the regulations, consider any appeal lodged with it in terms of subsection (1) and may, in its discretion

- (a) reject the appeal and confirm the act, direction or decision appealed against; or
- (b) uphold the appeal, set aside the act, direction or decision appealed against, and -
 - (i) substitute therefor any other act, direction or decision which the board concerned could have performed or given; or
 - (ii) remit the matter which gave rise to the appeal to the board for consideration afresh; or
- (c) uphold the appeal partially and vary the act, direction or decision appealed against

(3) The chairman of the commission or a member thereof nominated by the chairman, may in his discretion and without giving prior notice to or hearing any interested party -

[introductory phrase of subsection (3) substituted by AG Proc. 33 of 1985]

- (a) grant an application for condonation of the late filing of a notice or appeal, provided such appeal is lodged in the manner prescribed by regulation within forty-two days after the board performed the act or gave the direction or decision appealed against, or refuse it;
- (b) grant or refuse an application to suspend the operation of an act, direction or decision of the board appealed against;
- (c) set aside an act, direction or decision of the board appealed against, and remit the matter to the board for consideration afresh.

(4) Any act, direction or decision of the commission under subsection (2)(b)(i) or (c) shall, except for the purposes of subsection (1), be deemed to be an act, direction or decision of the board.

[Section 8 is amended globally by AG Proc. 61 of 1989.]

Coming into operation of certain tariff increases not to be suspended pending judgment in court proceedings in connection with such increases

8bis. When the board has, in the case of a public permit authorizing the conveyance of persons for reward, impose a requirement or condition that such conveyance shall be undertaken at tariffs approved or laid down by the board, and the board thereafter on application in terms of section 12(2), or the commission thereafter in the exercise of any power conferred upon it by section 8(2)(b)(i) or (2)(c), amends that requirement or condition by increasing any of the tariffs so approved or laid down, the coming into operation of the tariffs so increased shall not be suspended pending final judgment in any proceedings in a court of law in connection with such amendment.

[Section 8bis is inserted by Act 16 of 1982 and substituted by AG Proc. 61 of 1989.]

Procedure

9. (1) The commission or the board may, for the purpose of dealing with any matter before it in terms of this Act -

- (a) in its discretion, but subject to the provisions of sections 25(2)(b) and 28, allow any person affected by or interested in such matter, or the duly authorized representative of such a person, to appear before it and -
 - (i) to give evidence or make oral representations relevant to such matter; or
 - (ii) to call witnesses and lead evidence on any question relevant to such matter; or
 - (iii) to question any person who testified as a witness in such matter;
- (b) by written notice prescribed by regulation and served in the manner so prescribed, require any person to appear before it to give evidence or to produce any book, plan or other document or article in his possession or under his control;
- (c) call upon any person present in or at the place where such matter is dealt with by the commission or board, to appear before it to give evidence or to produce any book, plan or other document or article which such person has with him;
- (d) question any person appearing before it as a witness;
- (e) refuse to hear any person appearing before it as a witness who refuses to be sworn or to be affirmed.

(2) The person presiding at a meeting of the commission or the board at which any person appears as a witness as contemplated in subsection (1), may administer an oath or affirmation to the person so appearing.

(3) A member of the commission or the board exercising or performing under section 20(5) any power or duty of the commission or the board concerned, and a member of the commission who conducts an enquiry under section 28, shall for the purpose of such power or duty or such enquiry have the powers conferred by this section on the commission or the board and the person presiding at a meeting of the commission or the board, respectively.

[Section 9 is amended globally by AG Proc. 61 of 1989.]

Staff of the board

10. The Secretary for Transport shall, subject to the laws governing the public service, provide the staff necessary to assist any board in the performance of its functions.

[Section 10 is amended by AG Proc. 61 of 1989 to substitute “the board” for “a board” (with this phrase appearing only in the heading). It appears that the phrase “the board” should also have been substituted for the phrase “any board”, but this is not directed by AG Proc. 61 of 1989.]

Designation of inspectors

11. The Secretary for Transport may designate any officer or employee of the Department of Transport as a road transport inspector, whose powers and duties shall be prescribed by regulation.

Application in respect of a public permit

12. (1) Any person who desires to undertake any road transportation other than road transportation which may be authorized by the issue of a private permit or temporary permit, shall apply in the manner prescribed by regulation to the board for the grant of a public road carrier permit authorizing him to do so.

[subsection (1) amended by AG Proc. 61 of 1989]

(2) Any holder of a public permit may apply to the board, for the renewal or amendment of such permit, and any such application shall be made in the manner prescribed by regulation.

[subsection (2) amended by AG Proc. 61 of 1989]

(3) Any person who desires to take transfer of a public permit, shall apply in the manner prescribed by regulation and with the written consent of the holder of the permit in question, to the board, for the transfer of such permit to him.

[subsection (3) amended by AG Proc. 61 of 1989]

[Section 12 is substituted by Act 16 of 1982.]

Increase of certain tariffs prior to application for amendment of relevant public permit

12bis. When the board has under any provision of this Act directed the holder of a public permit authorizing the conveyance of persons for reward, to comply with a requirement of condition, imposed by the board that such conveyance shall be undertaken at tariffs approved or laid down by the board, that holder may, if the price of petroleum fuel is increased and he applies for an appropriate amendment of the permit concerned to the board within 10 days after the coming into effect of such price at any time after such application increase such tariffs by so much, but by not more than 10% of such tariffs, as will enable him to recover his increased expenditure on petroleum fuel resulting directly from that increase in the price of petroleum fuel.

[Section 12bis is inserted by Act 16 of 1982 and substituted by AG Proc. 61 of 1989.]

Disposal of application in respect of a public permit

13. (1) Subject to the provisions of this Act, the board shall receive and consider any application for the grant, renewal, amendment or transfer of a public road carrier permit made and may thereafter in its discretion -

[introductory phrase in subsection (1) substituted by Act 16 of 1982 and amended by AG Proc. 61 of 1989]

- (a) grant such application in full; or
 - (b) grant such application in part; or
 - (c) grant such application in full or in part subject to such conditions or requirements as it may deem necessary; or
 - (d) refuse such application.
- (2) (a) The board may refuse to consider any application for the grant, amendment or transfer of a public permit made by any person if a previous application by that person, which in the opinion of the board at the same or substantially the same object as the first-mentioned application, was considered and refused by the board within a period of six months preceding the date on which such first-mentioned application is received in the office of the board.

[paragraph (a) substituted by AG Proc. 61 of 1989]

(b)

[paragraph (b) deleted by AG Proc. 61 of 1989]

(b)*bis* The board may refuse to consider any application for the grant, amendment or transfer of a public permit or any representations objecting to such application if the applicant or the person who submits those representations, as the case may be, has not paid the fee prescribed by regulation in connection with that application or the said representations, as the case may be.

[paragraph (b)*bis* inserted by Act 16 of 1982 and amended by AG Proc. 61 of 1989]

(b)*ter* The board shall not consider any application for the renewal of a public permit granted for a fixed period unless the application, together with the fee prescribed by regulation in connection with that application, has been received by the board before the date on which that permit expires.

[paragraph (b)*ter* inserted by Act 16 of 1982 and amended by AG Proc. 61 of 1989]

(b)*quat* The board may refuse to consider an application for the grant, renewal, amendment or transfer of a public permit if the application form concerned is not completed in full in the manner prescribed by regulation.

[Paragraph (b)*quat* is inserted by AG Proc. 33 of 1985 and amended by AG Proc. 61 of 1989. The Latin term "*quat*" is misspelt in the *Official Gazette*, as reproduced above.]

(b)*quin* The board shall not consider an application for the grant of a public permit in respect of a motor vehicle with regard to which a private permit or a public permit has already been issued to some person other than the applicant.

[paragraph (b)*quin* inserted by AG Proc. 33 of 1985 and amended by AG Proc. 61 of 1989]

- (c) No appeal shall lie to the commission against any act, direction or decision performed or given by the board under paragraph (a).

[paragraph (c) amended by AG Proc. 61 of 1989]

Publication of application in respect of a public permit

14. (1) The board -

[introductory phrase amended by AG Proc. 61 of 1989]

- (a) shall, before considering any application for the grant, amendment (other than an amendment referred to in paragraph (b)) or transfer of a public permit;
- (b) may, before considering any application for -
- (i) the renewal of a public permit; or
- (ii) the amendment as contemplated in section 12*bis* of such a permit; or
- (iii) The amendment of such a permit so as to authorize the permanent replacement of a motor vehicle specified in that permit, by a motor vehicle of which, in the case of a goods vehicle, the carrying capacity or gross vehicle mass, in the case of a bus, the passenger capacity, and in the case of a motorcar, the seating capacity is equal to or smaller than or exceeds that of the first-mentioned motor vehicle by not more than 20 per cent,

[Subparagraph (iii) is substituted by AG Proc. 33 of 1985.
The first word of this subparagraph should not be capitalised.]

publish in the *Official Gazette* such particulars of the application as may be prescribed by regulation.

[subsection (1) substituted by Act 16 of 1982]

- (2) Any interested person who desires to submit representations to the board objecting to or supporting an application published under subsection (1), shall submit such representations in the manner and within the time prescribed by regulation to the board and the board -
- (a) shall allow any such person who, within the time so prescribed, submits representations objecting to an application, to inspect free of charge, and to make copies of, the completed application form of the applicant, together with any other document which the applicant has submitted with his application form, at the office of the board where that application form or such other document is being kept; and
- (b) may, at the request of any such person who so submits such representations, provide him with copies of the application form in question and of any such other document, on payment of the fee prescribed by regulation.

[subsection (2) substituted by Act 16 of 1982 and amended by AG Proc. 61 of 1989]

(2)*bis* The board shall, in the case of an application published under subsection (1) allow the applicant to inspect free of charge, and to make copies of, any representations objecting to or supporting his application at the office of the board where those representations are being kept,

and may, at the request of that applicant, provide him with copies of the representations referred to, on payment of the fee prescribed by regulation.

[subsection (2)*bis* inserted by Act 16 of 1982 and amended by AG Proc. 61 of 1989]

(3) The board shall, before granting a public permit authorizing the regular conveyance of persons for reward within the area of jurisdiction of a municipal council, city council or town council, or amending such a permit by altering the points between which or the route or routes upon which the motor vehicle to which the permit relates may be used in road transportation, afford the municipal council, city council or town council concerned an opportunity to submit representations, in the manner and within the time prescribed by regulation, in regard to the points between which and the route or routes upon which such motor vehicle may be so used and in regard to any other condition which may be applied to a permit.

[subsection (3) amended by AG Proc. 61 of 1989]

- (4) The board shall, before it -
- (a) grants a public permit which authorizes the regular conveyance of persons for reward; or
 - (b) amends a public permit which authorizes the regular conveyance of persons for reward, by altering the points between which or the route upon which the motor vehicle to which the permit relates, may be used in road transportation,

give TransNamib Limited the opportunity of furnishing in the manner and within the time prescribed by regulation, information regarding any new railway service, within the area to which the permit mentioned in paragraph (a) relates, or between the points or over the route mentioned in paragraph (b), which has been planned or is contemplated by TransNamib Limited.

[subsection (4) amended by AG Proc. 61 of 1989]

Matters to be taken into consideration in disposing of an application in respect of a public permit

15. (1) In deciding whether an application for the grant, renewal, amendment or transfer of a public permit shall be granted or refused, and in determining any conditions and requirements to which any such permit shall be made subject, the board shall take into consideration -

[introductory phrase amended by AG Proc. 61 of 1989]

- (a) the extent to which the transportation to be provided is necessary or desirable in the public interest;
- (b) the requirements of the public for transportation within the area or along the route or between the points in or over or between which the applicant proposes to operate;
- (c) the existing transportation facilities available to the public in that area or over that route or between those points, whether or not there will be a saving in the consumption of petroleum fuel resulting from the intended road transportation and, if there will be no such saving, whether or not justification exists, in all the circumstances of the case, for the consumption of petroleum fuel which the intended road transportation will occasion;

[Paragraph (c) is substituted by Act 16 of 1982. The word “consumption” is misspelt in its second usage in this paragraph in the *Official Gazette*, as reproduced above.]

- (d) any new railway service which has been planned or is contemplated for the conveyance of persons within that area or over that route or between those points;
- (e) the co-ordination of all forms of transportation, including transportation by rail, on an economically sound basis and with due regard to the public interest;
- (f) the ability of the applicant to provide in a manner satisfactory to the public the transportation for which such permit is sought;
- (g) any previous conviction of the applicant for an offence in terms of this Act, and any other failure by the applicant as an operator of road transportation;
- (h) the existence of any prohibition, limitation or restriction imposed by law on the use of motor vehicles in any area or on any street or road on the route on which the applicant proposes to operate;
- (i) any representations duly submitted in connection with the application;
- (j)

[paragraph (j) deleted by Act 29 of 1980]

- (k) any recommendation made by the committee appointed under section 2(h);
- (l) any report or document drawn up as a result of an inquiry contemplated in section 3(1)(g);
- (m) any other factors which, in the opinion of the board, may affect the question whether it is desirable to grant such application or to attach or vary any such condition or requirement.

[paragraph (m) amended by AG Proc. 61 of 1989]

- (2) (a) When an applicant applies for a public permit to undertake road transportation within an area or over a route or between two or more points already served by existing transportation facilities, the onus shall be upon the applicant of proving that -
 - (i) such existing transportation facilities are not satisfactory and sufficient to meet the transportation requirements of the public in that area or along that route or between those points; and

[subparagraph (i) substituted by Act 16 of 1982]

- (i)bis he has the ability to provide in a manner satisfactory to the public the transportation for which the permit is sought; and

[subparagraph (i)bis inserted by Act 16 of 1982]

- (ii) the tariff at which payment for such existing transportation facilities is to be made is unreasonable: Provided that railway tariffs shall, for the purposes of this section, be deemed to be reasonable; or

- (iii) having regard to the circumstances, it will be expedient in the public interest to grant him the permit; or

[This subparagraph should no longer end with a semicolon followed by the word "or" now that it is the last subparagraph in paragraph (a).]

- (iv)

[subparagraph (iv) deleted by Act 29 of 1980]

- (v)

[subparagraph (v) deleted by Act 16 of 1982]

- (b) When an applicant applies for a public permit to undertake road transportation in circumstances not contemplated in paragraph (a), the onus shall be upon the applicant of proving that -
 - (i) there is a need for such transportation within the area or along the route or between the points in or over or between which he proposes to undertake such transportation; and
 - (ii) he has the ability to provide in a manner satisfactory to the public the transportation for which such permit is sought.

- (3)

[subsection (3) deleted by Act 29 of 1980]

(4) The board may at the request of the holder of a permit in respect of whom an inquiry contemplated in section 7(d) was instituted, refuse to disclose to any interested person any report or document prepared as a result of such inquiry, or any part thereof.

[subsection (4) amended by AG Proc. 61 of 1989]

- (5) For the purposes of this section -

- (a)

[paragraph (a) deleted by Act 29 of 1980]

- (b) transportation shall be deemed to be capable of being co-ordinated with existing transportation facilities if such transportation is to be provided to or from a place or area situated on or along a route, or included in an area, served by such existing transportation facilities.

Period of a public permit

16. (1) The board may grant or renew a public permit for an indefinite period or, in its discretion, for such fixed period as it may determine.

[subsection (1) amended by AG Proc. 61 of 1989]

(2) If at the date on which a public permit granted for a fixed period expires, an application for its renewal is pending before the board, such permit shall continue in force until the application has been disposed of.

[subsection (2) amended by AG Proc. 61 of 1989]

Application in respect of a private permit

17. (1) Any person who carries on any industry or trade or business and who -
- (a) wishes to convey, in the course of such industry, trade or business, goods acquired or sold or otherwise disposed of by him, by means of a motor vehicle of which he is the owner, between any trade or business and any place situated outside any exempted area or outside any area mentioned in section 1(2)(v);
 - (b) wishes to convey any goods which he has undertaken to maintain, clean, renovate, repair or alter for any other person in the course of such industry, trade or business, by means of a motor vehicle of which he is the owner, between any place where he carries on such industry, trade or business and any place where he collects those goods in order so to deal with them or delivers those goods having so dealt with them,

shall in the manner prescribed by regulation apply to the board for the grant of a private road carrier permit authorizing such conveyance by him on a public road.

(2) Any holder of a private permit may apply to the board for the renewal or amendment of such permit, and any such application shall be made in the manner prescribed by regulation.

[Section 17 is substituted by Act 16 of 1982 and amended globally by AG Proc. 61 of 1989.]

Disposal of application in respect of a private permit

18. (1) Subject to the provisions of this Act, the board shall receive and consider any application for the grant, renewal or amendment of a private road carrier permit made or referred to it thereunder, and may thereafter, in its discretion, but subject to the provisions of subsections (2), (3) and (4) -

[The introductory phrase in subsection (1) is substituted by Act 16 of 1982 and amended by AG Proc. 61 of 1989. It appears that the phrase "or referred to it" should also have been deleted by this amendment, as was done in similar provisions amended by AG Proc. 61 of 1989.]

- (a) grant such application in full; or
 - (b) grant such application in part; or
 - (c) grant such application in full or in part subject to such conditions or requirements as it may deem necessary; or
 - (d) refuse such application.
- (2) Any interested person -
- (a) who applies therefor within the period prescribed by regulation -
 - (i) shall be allowed by the board to inspect free of charge the completed application form of the applicant, together with any other document which the applicant has submitted with his application form, and to make copies thereof, at the office of the board where that application form or such other document is being kept;

- (ii) may be provided by the board with copies of the application form in question and of any such other document, on payment of the fee prescribed by regulation;
- (b) who desires to submit representations to the board objecting to or supporting any application mentioned in subsection (1), shall submit such representations to the board, in the manner and within the time similarly prescribed, and the board shall take any representations so submitted into account in disposing of such application.

[subsection (2) substituted by Act 16 of 1982 and amended by AG Proc. 61 of 1989]

(3) The board shall not under this section grant any application unless it is satisfied (the onus of proving which being upon the applicant) -

- (a) that the applicant carries on the industry, trade or business in relation to which the application is made, at the place or places specified in the application, as contemplated in section 17(1);
- (b) that it would be unreasonable under the circumstances to expect the applicant to make use of any available railway service for the conveyance of the goods to which the application relates, notwithstanding that the railway tariffs concerned shall be deemed to be reasonable.

[paragraph (b) substituted by Act 16 of 1982 and amended by AG Proc. 61 of 1989]

(4) In deciding whether an application for the grant, renewal or amendment of a private permit shall be granted or refused, and in determining conditions and requirements to which any such permit shall be made subject the board shall give consideration to the promotion of economy in use of petroleum fuel.

[subsection (4) substituted by Act 16 of 1982 and amended by AG Proc. 61 of 1989]

(5) The board shall not consider an application for the renewal of a private permit granted for a fixed period unless the application, together with the fee prescribed by regulation in connection with that application, has been received by the board before the date on which that permit expires.

[subsection (5) inserted by Act 16 of 1982 and amended by AG Proc. 61 of 1989]

(6) The board shall not consider an application for the grant of a private permit in respect of a motor vehicle with regard to which a private permit or a public permit has already been issued to some person other than the applicant.

[subsection (6) inserted by AG Proc. 33 of 1985 and amended by AG Proc. 61 of 1989]

Period of a private permit

19. (1) The board may grant or renew any private permit for an indefinite period or, in its discretion, for such fixed period as it may determine.

[subsection (1) amended by AG Proc. 61 of 1989]

(2) If, at the date on which a private permit granted for a fixed period expires, an application for its renewal is pending before the board, such permit shall continue in force until the application has been disposed of.

[subsection (2) amended by AG Proc. 61 of 1989]

Application for a temporary permit and disposal thereof

20. (1) Any person who desires to undertake road transportation of a temporary nature, shall in the manner prescribed by regulation apply to the board for the grant of a temporary road carrier permit authorizing him to undertake such road transportation upon a particular date or in connection with a particular occurrence, and the onus of proving the necessity for the intended road transportation shall be upon the applicant.

[subsection (1) substituted by Act 16 of 1982;
the word "occurrence" is misspelt in the *Official Gazette*]

(2) Subject to the provisions of this Act, the board shall receive and consider any application for a temporary road carrier permit made thereunder, and may thereafter, in its discretion -

- (a) grant such application in full; or
- (b) grant such application in part; or
- (c) grant such application in full or in part subject to such conditions or requirements as it may deem necessary; or
- (d) refuse such application.

(3) The board shall not grant any application for a temporary permit if, in its opinion, reasonable transportation facilities exist by means of which the persons or goods in respect of which such permit is sought can be conveyed and if no justification exists, in all the circumstances of the case, for the consumption of petroleum fuel which the intended road transportation will occasion.

[subsection (3) substituted by Act 16 of 1982]

(4) The board may grant a temporary permit for such fixed period not exceeding fourteen days as it may determine.

(5) The powers and duties of the board in terms of this section may, notwithstanding anything to the contrary contained in this Act, in such circumstances, or in respect of such categories of applications for temporary permits, as may be prescribed by regulation, be exercised or performed on its behalf by its chairman or any of its members or officials nominated for that purpose by its chairman.

[subsection (5) substituted by AG Proc. 33 of 1985]

[Section 20 is amended globally by AG Proc. 61 of 1989.]

Issue of a permit, and provisions thereof

21. (1) Subject to the provisions of subsection (2), the board shall issue, in such manner as may be prescribed by regulation, any permit granted, renewed, amended or transferred by it in terms of this Act.

(2) The board shall not issue any public permit granted, renewed, amended or transferred by it in terms of this Act, unless -

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- (a) it is satisfied that every motor vehicle in respect of which such permit was so granted, renewed, amended or transferred, is suitable for the class of road transportation for which it is to be used; and
 - (b) in respect of each such motor vehicle a certificate of fitness issued under the law relating to the licensing and registration of motor vehicles in the province in question, on or after a date determined in the manner prescribed by regulation, or a copy of such a certificate authenticated in the manner so prescribed, has been submitted to it.
- (3) Any permit issued by the board shall specify the following, namely -
- (a) the name of the holder and his address, including, in the case of a holder who carries on any road transportation business, his business address, and in the case of a private permit, the address at which or a description of the place or places where, the industry, trade or business in respect of which the private permit was granted, is carried on;
 - (b) the period for which it was granted, if granted for a fixed period;
 - (c) the nature or class or classes of road transportation in respect of which it was granted, and the class or classes of goods which may be conveyed under such permit, as the commission or board may in each case in its discretion determine;

[paragraph (c) substituted by Act 29 of 1980]

- (d) the registration number, make, chassis number, year of manufacture, type, seating or passenger capacity, and carrying capacity or gross vehicle mass of the motor vehicle in respect whereof it is issued;

[paragraph (d) substituted by AG Proc. 33 of 1985]

- (e) the points between and the route or routes upon which or the area or areas within which the motor vehicle to which it refers may be used in road transportation, and if any restriction is imposed in connection with any transportation upon any portion of such route or routes or in any area or areas or in any portion of such area or areas, the points between or the area within which such restriction shall be applied and the conditions thereof: Provided that, notwithstanding any provisions to the contrary in this Act contained, any public permit which authorizes at the commencement of the Road Transportation Amendment Act, 1988, the conveyance of persons by means of a motor-car for reward, within any portion only of the area of jurisdiction of any local authority or such public permit issued thereafter, shall, subject to the other conditions contained in such permit, be deemed to be authorization for the said conveyance of persons within the whole of the said area of jurisdiction mentioned in the said permit;

[paragraph (e) amended by Act 8 of 1988 to add the proviso]

- (f) the manner in which tariffs, if approved or laid down by the commission or board, shall be published or exhibited.

[paragraph (f) substituted by Act 29 of 1980]

- (4) In any permit issued by the board it may direct the holder thereof -

(a) to operate any motor vehicle to which the permit relates, according to a specified time table as approved or laid down by the commission or such board upon the grant of the permit or as altered from time to time in the manner prescribed by regulation;

(b)

[paragraph (b) deleted by Act 29 of 1980]

(c) to furnish the commission or such board with the name and address of every person authorized to advertise on behalf of such holder;

(d) to comply with any requirement or condition imposed under any other provision of this Act

(5)

[subsection (5) deleted by Act 29 of 1980]

[Section 21 is amended globally by AG Proc. 61 of 1989. It appears that the phrase "commission or such" in paragraphs (a) and (c) should have been removed by the amendments in AG Proc. 61 of 1989 for consistency. However, there is no direction to this effect.]

Records of permits

22. The board shall keep at its place of business a copy of every permit issued by it in terms of this Act and of every amendment made to any such permit, and shall allow any person who is in any way affected by such a permit or amendment, to inspect it and make copies of it free of charge, and may, at the request of such a person, furnish him with a copy of the permit concerned and every amendment thereof upon payment of the fee prescribed by regulation.

[Section 22 substituted by AG Proc. 33 of 1985 and amended by AG Proc. 61 of 1989.]

Additional authority conferred by a permit

23. Any permit shall, in addition to the transportation expressly authorized by it, authorize also the conveyance of any person necessary in connection with such expressly authorized transportation.

Temporary replacement of motor vehicle to which permit relates

23bis. The board which has granted the public or private permit concerned or the chairman or a member of that board, may at will grant written permission for any motor vehicle of which the carrying capacity or the gross vehicle mass, in the case of a goods vehicle, the passenger capacity, in the case of a bus, and the seating capacity, in the case of a motor-car, is equal to or smaller than or does not exceed by more than 20 per cent that of a motor vehicle to which any public or private permit relates to be used for such fixed period not exceeding 21 days as it or he may determine, by the holder of the permit in question for the road transportation authorized by that permit, in place of the last-mentioned motor vehicle which has become defective or, due to an accident, has been temporarily withdrawn from service, and the first-mentioned motor vehicle shall thereupon, during the period referred to, for purposes of this Act be deemed to be the motor vehicle to which the permit in question relates.

[Section 23bis is inserted by Act 16 of 1982, substituted by AG Proc. 33 of 1985, and amended by AG Proc. 61 of 1989.]

Duties of the holder of a permit

24. (1) The holder of a permit shall -
- (a) except where the board has directed otherwise, carry the written permission referred to in section 23*bis*, if any, and the permit on the motor vehicle to which they relate, and produce them on demand to any authorized officer;

[paragraph (a) substituted by Act 16 of 1982 and amended by AG Proc. 61 of 1989]

- (b) keep the permit in such a condition that all letters and figures on it are clearly legible and, if the permit is damaged or ceases to be clearly legible, apply for a duplicate in the manner prescribed by regulation;
- (c) in the case of a public permit or private permit (except such a permit issued in respect of such classes of road transportation as the board may in its discretion determine), cause the name, address and nature of the business of such holder to be borne on the motor vehicle to which the permit relates, in a conspicuous place, in such manner as may be prescribed by regulation or in such other manner as the board may in any particular case approve in writing;

[Paragraph (c) is substituted by Act 29 of 1980. The repetition of the word "the" that results here from following the global amendment directions in AG Proc. 61 of 1989 has been corrected.]

- (d) exhibit such other particulars as may be prescribed by the board in its discretion;

[The repetition of the word "the" that results here from following the global amendment directions in AG Proc. 61 of 1989 has been corrected.]

- (e) in the case of a public permit or a private permit, affix and keep affixed in the manner prescribed by regulation, a distinguishing mark on any motor vehicle used in road transportation in terms of such permit

- (2) A permit issued by the board under this Act -

- (a) shall not authorize the holder thereof to undertake road transportation over any public road within the area of jurisdiction of a municipal council, city council or town council, if it is unlawful under any ordinance, regulation or by-law in force in such area, or as a result of any action taken by such municipal council, city council or town council under any such ordinance, regulation or by-law, to use a motor vehicle on that road or to undertake on that road any transportation of the class to which such permit relates;
- (b) shall not exempt the holder thereof from the obligation to comply with any requirement imposed upon him under any other law or under any licence or permit issued by any other authority.

[Section 24 is amended globally by AG Proc. 61 of 1989.]

Withdrawal, suspension or variation of a permit

25. (1) Subject to the provisions of subsection (2), the board may at any time -
- (a) withdraw, or suspend for such period as it may deem fit, any public permit or private permit granted by it -

- (i) if the holder of such permit or any employee of such holder has been convicted of any offence under this Act or under any law relating to motor vehicles or the regulation of traffic, or, in the case of such a holder who carries on a road transportation business, of a contravention or failure to comply with the provisions of any determination, agreement, award, licence or exemption which relates to remuneration for work or hours of work and which is in terms of any law binding upon such holder as an employer, and upon his employees in such business; or
- (ii) if, in the opinion of the board, the holder of such permit has not carried out faithfully the conditions or requirements of such permit; or
- (b) in its discretion withdraw, or suspend for such period as it may deem fit, any permit, if the circumstances under which such permit was granted have materially changed; or
- (c) if the board for any other reason (including the promotion of economy in the use of petroleum fuel), deems it necessary, of its own accord cancel or vary any condition or requirement of, or add any condition or requirement to, or define, redefine, curtail or otherwise amend the authority contained in, any public or private permit granted by it.

[Paragraph (c) is substituted by Act 16 of 1982 and by AG Proc. 33 of 1985. The word "requirement" is misspelt in the *Official Gazette*, as reproduced above.]

(2) The board shall not under subsection (1) withdraw or suspend any public permit or any private permit, or cancel or vary any condition or requirement of, or add any condition or requirement to, or amend, the authority contained in any such permit, unless -

- (a) at least twenty-one days' written notice of its intention to do so, together with the reasons therefor, has been given to the holder of such permit by registered or certified post; and
- (b) such holder has been given an opportunity, either personally or through his duly authorized representative, to appear before the board and adduce evidence and submit representations in regard to the proposed action; and
- (c) in the case of a public permit authorizing the daily conveyance of persons within or to or from the area of jurisdiction of a local authority, such local authority has been given an opportunity to submit representations, in the manner and within the time prescribed by regulation, to the board concerned in regard to the proposed action.

[paragraph (c) substituted by Act 16 of 1982]

[Section 25 is amended globally by AG Proc. 61 of 1989.]

Withdrawal or amendment of a public permit on establishment of railway service

26. (1) If a railway service is established between any two places or areas after the grant by the board of a public permit which authorizes the conveyance of persons between the places or areas in question, the board, acting with the approval of the Administrator-General but without being obliged to give prior notice to any other person, may by written notice to the holder of such permit -

- (a) withdraw such permit; or

- (b) amend such permit by withdrawing or curtailing the authority conferred by it for the said conveyance,

on the ground of the establishment of such railway service, and with effect from a date not earlier than six months after such railway service commences operations.

[subsection (1) amended by AG Proc. 61 of 1989]

(2) A notice under subsection (1) shall be sent to the holder concerned by registered or certified post, and shall require him to submit his claim for compensation under subsection (4), setting out in detail how the amount claimed is made up and substantiated by three separate sworn appraisements, to the board not later than ninety days after the date on which the withdrawal or amendment of his permit becomes effective or within such further period as the commission may allow.

[subsection (2) amended by AG Proc. 61 of 1989]

(3) If a public permit has been withdrawn or amended under subsection (1), no public permit which will have the effect of replacing or substantially replacing the transportation which was authorized under such permit before its withdrawal or amendment, shall be granted under this Act unless the board is of the opinion that it is in the public interest to grant such a permit.

[subsection (3) amended by AG Proc. 61 of 1989]

(4) Any person who was or is the holder of a public permit withdrawn or amended under subsection (1), shall be entitled to compensation in terms of this section for the loss he has suffered or is likely to suffer as a result of the withdrawal or amendment.

(5) The amount of such compensation shall, subject to the provisions of subsection (6), be determined by the Administrator-General but shall not include any amount for the loss of possible profits in respect of any period more than twelve months subsequent to the date with effect from which the permit was withdrawn or amended.

[subsection (5) amended by AG Proc. 61 of 1989]

(6) If any person entitled to claim compensation under subsection (4) is not prepared to accept the amount determined under subsection (5) and offered to such person in settlement of his claim, the amount of such compensation shall be determined by arbitration in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), by an arbitrator or arbitrators appointed in the manner prescribed by regulation.

[The word "accordance" is misspelt in the Government Gazette, as reproduced above.]

(7) Interest at such rate as may, on the date upon which the permit concerned was withdrawn or amended, be applicable to loans in terms of section 26(1) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), shall with effect from such date be payable on the amount of compensation determined in terms of subsection (5) or (6), as the case may be.

[The RSA Exchequer and Audit Act 66 of 1975 was applied to South West Africa, with some amendments, by the RSA Exchequer and Audit Amendment Proclamation 85 of 1979 (RSA GG 6426, republished in OG 3949). The State Finance Act 1 of 1982 (OG 4610) repealed the RSA Exchequer and Audit Act 66 of 1975. The State Finance Act 1 of 1982 has been replaced by the State Finance Act 31 of 1991.]

Compensation where railway service is established in competition with bus service

26bis. (1) Any holder of a public permit which authorizes the conveyance of persons between two places or areas may, after the establishment of a railway service between the places or areas concerned and if that permit has not been withdrawn or amended under section 26, submit a claim for compensation to the board for the loss he has suffered or is likely to suffer as a result of the establishment of the railway service.

(2) Such a claim for compensation shall be submitted to the board not later than 180 days after the establishment of the railway service concerned and shall set out in detail how the amount claimed is made up and shall be substantiated by three separate sworn appraisements.

[The word "establishment" is misspelt in the *Official Gazette*, as reproduced above.]

(3) If the Administrator-General deems it necessary that compensation be paid, he shall, subject to the provisions of subsection (4), determine that compensation, which shall not include any amount for the loss of possible profits in respect of any period more than twelve months subsequent to the date with effect from which the railway service concerned has been established.

(4) The provisions of subsections (6) and (7) of section 26 shall *mutatis mutandis* apply with respect to the amount of compensation determined under subsection (3).

[Section 26bis is inserted by AG Proc. 33 of 1985 and amended globally by AG Proc. 61 of 1989.]

Functions of certain committee

27. Before any railway service is established as contemplated in section 26(1) and whenever the contemplated transportation service concerned has been approved by the competent authority, the committee appointed under section 2(h) may, irrespective of whether a notice has been sent in terms of section 26(2), consult with the holder concerned and any other interested person and exercise or perform any of the powers or duties prescribed by regulation in relation to the change-over, contemplated in section 26, from road transport to transport by rail.

Withdrawal or substitution of a public permit after inquiry

28. (1) Whenever the Administrator-General has reason to believe that, in order to bring about improvements in transportation facilities within any area or over any route, or for any other reason, it may be expedient in the public interest that any public permit be withdrawn or that any such permit be withdrawn and in lieu thereof one or more such permits be issued to a person other than the holder of such permit, the Administrator-General may cause a public inquiry in regard to the position to be instituted by the commission or by a member of the commission.

(2) Notice of such an inquiry shall be given in the manner prescribed by regulation, and all interested persons shall be afforded an opportunity to attend and to be heard at the inquiry.

(3) The commission or the member thereof concerned shall in connection with the institution of the inquiry have due regard to the provisions of section 15(1).

(4) After consideration of the report submitted to him in pursuance of any such inquiry and, in the case of an inquiry instituted by a member of the commission, of a recommendation by the commission, the Administrator-General may, subject to the provisions of subsection (5), direct -

- (a) that the permit which was the subject of the inquiry be withdrawn; or
- (b) that such permit be withdrawn and that in lieu thereof one or more public permits be issued to a person or persons other than the holder of such permit,

and any such direction shall take effect upon a date to be determined by the Administrator-General and notified in writing to the persons concerned, not being less than one month or more than twelve months after the date of the notification.

- (5) The Administrator-General shall not give any direction under subsection (4) unless -
- (a) if any such permit is to be withdrawn and no public permit is to be issued in lieu thereof to any other person, the person or persons (to be designated by the Administrator-General) providing transportation within the area or over the route in or over which transportation is being provided by the person whose permit is to be withdrawn; or
 - (b) if any such permit is to be withdrawn and one or more public permits are to be issued in lieu thereof to any other person or persons, that other person or those other persons,

have given an undertaking to the satisfaction of the Administrator-General to compensate the person whose permit is to be withdrawn for the loss he is likely to suffer as a result of the withdrawal of that permit

(6) The amount of the compensation payable in terms of subsection (5) shall, in the absence of agreement between the parties concerned, be determined by arbitration in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), by an arbitrator or arbitrators appointed in the manner prescribed by regulation, but shall not include any amount for the loss of possible profits in respect of any period more than twelve months subsequent to the date of withdrawal of the permit in question.

[Section 28 is amended globally by AG Proc. 61 of 1989.]

Lapsing of certain permits

29. (1) If the board has by written notice sent by registered or certified post to the holder of a public permit or a private permit required him, at any time after the issue of the permit, to commence the road transportation in respect of which the permit in question was granted, before a date specified in such notice or such later date as the board may allow in writing, the permit in question shall lapse on the date so specified or, as the case may be, on such later date, unless the board has in writing declared itself satisfied that such holder has commenced such road transportation before the date in question.

- (2) (a) A private permit shall lapse upon the holder ceasing to carry on the industry, trade or business in respect of which the permit was granted, at the place or places specified in such permit in accordance with the provisions of section 21(3)(a).
- (b) If two or more places are specified in such permit as aforesaid and the holder ceases to carry on such industry, trade or business at any of those places while continuing it at the other or others, the authority conferred by such permit with reference to the place or places where the industry, trade or business is no longer carried on, shall lapse.
- (3) (a) If any person acquires, without the prior approval, obtained in the manner prescribed by regulation, of the board, a controlling interest in a company after a public permit has been granted or issued to such company, such granting of such permit shall, notwithstanding the provisions of section 21, lapse, or such permit

which has been issued shall lapse with effect from the date of such acquisition of a controlling interest, as the case may be.

- (b) Any permit which has lapsed in terms of paragraph (a), together with the distinguishing mark required in respect of any motor vehicle to which that permit relates, shall within seven days after the permit has so lapsed, be returned by the company to which it was issued by registered or certified post to the board, as the case may be.

[It appears that AG Proc. 61 of 1989, which makes global amendments to this section, should have deleted the phrase “as the case may be” as in other similar provisions amended by that Proclamation. However, there is no direction to that effect.]

- (c) In considering an application for the approval of the acquisition of a controlling interest in a company to which a public permit has been granted or issued, the board shall take into account -
- (i) whether such acquisition is likely to create any monopolistic situation which will not be expedient in the public interest;
 - (ii) any other permit held by the applicant;
 - (iii) the interests which the applicant has in any other transportation undertaking;
 - (iv) the interests which the applicant has in any other company, partnership, industry, trade or business;
 - (v) the provisions of section 15(1);
 - (vi) any other factor which in the opinion of the board may affect the question whether it is desirable to grant such application.
- (d) Any company which contravenes any of the provisions of paragraph (b), shall be guilty of an offence and on conviction liable to a fine not exceeding fifty rand.
- (e) For the purposes of paragraph (a) the expression “controlling interest”, in relation to a company, means any interest held in that company by any other company by virtue of which such other company is, in relation to the first-mentioned company, a controlling company as defined in the Companies Act, 1973 (Act No. 61 of 1973). and includes any like interest held in that company by any natural person.

**[Section 28 is amended globally by AG Proc. 61 of 1989.
The Companies Act 61 of 1973 has been replaced by the Companies Act 28 of 2004.]**

Regulations

- 30.** (1) The Administrator-General may make regulations -
- (a) with reference to -
 - (i) the information to be submitted with any application to the board for the grant, renewal, amendment or transfer of any permit;
 - (ii) the procedure to be followed by the board in dealing with any such application;

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- (iii) the information to be submitted with any appeal to the commission against an act, direction or decision of the board;
 - (iv) the information to be supplied by the board to the commission or the appellant in connection with any such appeal, and the manner in which and time within which such information shall be supplied;
 - (v) the procedure to be followed by the commission in dealing with any such appeal;
- (b) requiring the payment of fees in connection with -
- (i) any application to the board for the grant, renewal, amendment or transfer of a permit; or
 - (ii) any appeal to the commission against an act, a direction or a decision of the board; or
 - (iii) the issue by the board of any permit, distinguishing mark or other document or any duplicate thereof,

and prescribing the amount of any such fee, the circumstances in which any amount paid by way of such fee shall be forfeited or refunded in whole or in part, the amount of any such partial refund and the circumstances in which any amount so paid may in the discretion of the commission or the board be forfeited in whole or be refunded in whole or in part;

- (c) requiring the payment of a fee in respect of any permit granted or renewed for a definite or indefinite period, and prescribing the amount of any such fee and the times at which and manner in which it is to be paid;

[paragraph (c) substituted by AG Proc. 61 of 1989]

- (c)*bis* empowering the board in any case in which it deems it necessary or expedient, to require that in addition to the fees contemplated in paragraphs (b) and (c) an amount, not exceeding an amount prescribed by regulation, be paid by a person who has applied for a permit or submitted representations objecting to or supporting such an application, before the board considers such application or representations, and prescribing the circumstances in which an amount so paid shall be forfeited or refunded in whole or in part, the amount of such partial refund, and the circumstances in which any amount so paid may in the discretion of the board be forfeited in whole or be refunded in whole or in part;

[paragraph (c)*bis* inserted by AG Proc. 33 of 1985]

- (d) prescribing the powers of the commission or the board upon the failure by any person to pay any fee prescribed under paragraph (b) or (c), including the power to refuse to consider the application (except an application referred to in section 13(2)(b)*bis* or (b)*ter* or 18(5)) or appeal in question or issue the document in question, or to suspend or withdraw the permission in question;

[paragraph (d) substituted by Act 16 of 1982]

- (e) prescribing the circumstances in which the board may issue without charge any permit or distinguishing mark or a duplicate thereof;

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- (f) prescribing specifications and requirements to which any motor vehicle used in road transportation for the conveyance of persons or specified goods shall conform, and prohibiting the use in road transportation for such purpose of any motor vehicle which does not conform to such specifications or requirements;
- (g) prescribing the manner in which any distinguishing mark, identification, permit, notice or other document or writing which is required to be displayed or carried on or in any motor vehicle in terms of this Act or any condition or requirement imposed thereunder, shall be so displayed or carried, and the position thereof on or in such motor vehicle;
- (h) for the surrender or production to the board, under specified circumstances or at the request of the board, of a permit that has expired or lapsed or has been withdrawn or suspended in terms of this Act or of which the provisions do not correspond with the authority as contained in the decision of the board, under specified circumstances or at the request of the board, of a permit that has expired or lapsed or has been withdrawn or suspended in terms of this Act or of which the provisions do not correspond with the authority as contained in the decision of the board, or in respect of which the authority has been amended;

[paragraph (h) substituted by AG Proc. 33 of 1985]

- (i) empowering authorized officers to seize by order of the board, any permit that has expired or has been withdrawn or suspended in terms of this Act;
- (j) prescribing records to be kept by any person engaged in road transportation, as well as by any person or categories of persons contemplated in section 1(2), and returns and information to be submitted by any such person to the any board or any other person or department established under section 3 of the Government Service Act, 1980 (Act 2 of 1980), and providing for the registration of such a person with the board or any other person or such a department;

[Paragraph (j) is substituted by AG Proc. 33 of 1985. The amendment directions in AG Proc. 61 of 1989, which makes global amendments to this section, result in the phrase “the any board” when applied to this paragraph; the word “any” was probably intended to be deleted. The Government Service Act 2 of 1980, which was re-named the Public Service Act 2 of 1980, has been replaced by the Public Service Act 13 of 1995.]

- (k) prescribing the powers and duties of authorized officers, including the manner in which and the conditions upon which motor vehicles that are locked or sealed, may be forced open by authorized officers in order to inspect the load;
- (l) empowering any inspector or any member of the South African Police to seize any motor vehicle suspected on reasonable grounds to have been used in unauthorized road transportation, and any goods upon such motor vehicle, and providing for the manner in which a motor vehicle and goods so seized shall be dealt with pending the disposal of criminal proceedings in respect of such unauthorized road transportation;
- (m) prescribing the nature and form of any distinguishing mark, identification, permit, notice or other document or writing issued or required in terms of this Act, including the form, shape, size and colour of, and the information to be contained in, any such distinguishing mark, identification, permit, notice or other document or writing, or empowering the board to prescribe the form thereof;

[paragraph (m) amended by AG Proc. 61 of 1989]

- (n) prescribing fees or allowances payable to any person who has been required under section 9(1)(b) to appear before the board to give evidence or to produce any book, plan or other document or article;

[Paragraph (n) is specifically amended by AG Proc. 61 of 1989, but the change in question is also covered by the global amendments contained in AG Proc. 61 of 1989.]

- (o) prescribing or otherwise dealing with any matter which in terms of any other provision of this Act is required to be or may be prescribed or otherwise dealt with by regulation;
- (p) generally for the better carrying out of the provisions and objects of this Act.

(2) The Administrator-General shall not under subsection (1)(b), (c) or (n) prescribe any fee or allowance or any circumstance in which any fee shall or may be refunded or the amount of any refund.

[subsection (2) amended by AG Proc. 61 of 1989]

(3) Regulations made under subsection (1) may prescribe for any contravention thereof or any failure to comply therewith, penalties not exceeding those prescribed by section 35.

(4) Different regulations may be made under subsection (1) in respect of different permits, areas, places, classes of motor vehicles, forms, classes of road transportation, circumstances in which, times during which or purposes for which any motor vehicle is used in road transportation.

[Section 30 is amended globally by AG Proc. 61 of 1989.]

Offences and prohibitions relating to road transportation

31. (1) Any person who -
- (a) undertakes road transportation except under the authority of a permit authorizing such road transportation; or
 - (b) being the holder of a permit, undertakes road transportation otherwise than in accordance with the provisions of such permit, or, subject to the provisions of section 12*bis*, contravenes or fails to comply with any condition or requirement of a permit or any provision of section 24; or

[Paragraph (b) is substituted by Act 16 of 1982. The word "provisions" in the phrase "in accordance with the provisions of such permit" is misspelt in the *Official Gazette*, as reproduced above.]

- (c) being the holder of a public permit authorizing the conveyance of persons or goods for reward -
 - (i) refuses without sufficient reason (the onus of proof whereof shall be upon him) to convey any person or goods which such permit authorizes him to convey; or
 - (ii) subject to the provisions of section 12*bis*, makes any charge for such conveyance which is not in accordance with any tariff set forth in such permit or which he may have been required to publish in terms of such permit;

[subparagraph (ii) substituted by Act 16 of 1982]

- (iii) claims or accepts for such conveyance any remuneration other than money; or
- (d) being the holder of a permit authorizing the conveyance of goods, contravenes any prohibition contained in a notice published in the *Official Gazette* under section 2(f), (g) or (g)*bis*; or

[paragraph (d) substituted by AG Proc. 33 of 1985]

- (e) being the holder of a permit or undertaking conveyance which is excluded in terms of section 1(2) from the definition of “road transportation”, contravenes any prohibition contained in a proclamation contemplated in section 43(1)(d) or (e); or

[paragraph (e) inserted by AG Proc. 33 of 1985]

- (f) being the holder of a permit, makes that permit available to any other person to undertake road transportation not authorized under this Act,

[paragraph (f) inserted by AG Proc. 33 of 1985]

shall be guilty of an offence.

- (2) The holder of a permit -
 - (a) shall not be convicted under paragraph (b) of subsection (1) in respect of any contravention of or failure to comply with a provision, condition or requirement of his permit if adherence to or compliance with the provision, condition or requirement in question would have constituted the offence contemplated in paragraph (d) or (e) of that subsection;

[paragraph (a) substituted by AG Proc. 33 of 1985]

- (b) shall not be convicted under paragraph (c)(i) of that subsection in respect of any refusal to convey if, at the time of such refusal, he had discontinued the road transportation authorized by his permit or any part of such road transportation after having given such notice as may be prescribed by regulation, and, where part only of such road transportation has been so discontinued, the refusal related to the part so discontinued.

(3) Whenever the holder of a permit is charged with having conveyed, by means of the motor vehicle to which that permit relates, any person whom he is not in terms of that permit authorized to convey or by virtue of any law obliged to convey, it shall be a defence to the charge to prove that the person so conveyed entered that vehicle without the knowledge of or in spite of objection by the conductor or other person in charge of such vehicle, and refused or failed on being requested thereto by that conductor or other person to leave that vehicle and that such conductor or other person reported the circumstances together with the name and address of the person so conveyed, to a police officer or, if that person refused on demand to furnish his name or address, made a statement to that effect to a police officer, at the first reasonable opportunity.

[subsection (3) substituted by Act 29 of 1980, with effect six months after the date when Act 29 of 1980 came into force]

(4) No person shall, without authority in writing granted by the board, make known whether by means of a notice published in a newspaper or in any other manner -

- (a) that he is willing to undertake road transportation, unless he is the holder of a permit which authorizes such conveyance; or
- (b) that any other person is willing to undertake road transportation, unless such other person is the holder of a permit which authorizes such conveyance and the first-mentioned person has been authorized by such other person to advertise his willingness to undertake such conveyance, and the advertisement in question discloses the name of such other person.

[subsection (4) amended by AG Proc. 61 of 1989]

- (5) Any person who contravenes any provision of subsection (4), shall be guilty of an offence.

Offences by persons not authorized to be conveyed by the holder of a public permit

32. (1) Any person (except a person whom the holder of a public permit is in terms of that permit authorized to convey or by virtue of any law obliged to convey) who enters the motor vehicle to which that permit relates in spite of objection by the conductor or other person in charge of that vehicle or who, having entered any such vehicle, refuses or fails to leave it on being requested to do so by that conductor or other person, may be forcibly removed therefrom by a police officer, and shall in addition be guilty of an offence and on conviction liable to a fine not exceeding fifty rand or in default of payment to imprisonment for a period not exceeding three months.

- (2)

[subsection (2) deleted by Act 29 of 1980, with effect six months after the date when Act 29 of 1980 came into force]

Offences generally

33. Any person who -

- (a) with intent to deceive, makes any writing falsely purporting to be a permit or other document issued under this Act, or alters or defaces or mutilates or adds anything to a permit or other document issued under this Act; or
- (b) knowing that any such writing is not a permit or document issued under this Act, or that any permit or other document issued under this Act has been altered, defaced, mutilated or added to in contravention of the provisions of paragraph (a), utters such writing, permit or other document or uses it for the purposes of this Act; or
- (c) except as specially provided in this Act, transfers any permit or distinguishing mark, without the consent in writing of the board, to any motor vehicle or person other than a motor vehicle or person referred to or named in such permit or distinguishing mark; or

[paragraph (c) amended by AG Proc. 61 of 1989]

- (d) not being an inspector, by words, conduct or demeanour pretends that he is an inspector; or
- (e) wilfully obstructs or hinders or interferes with an inspector in the exercise of his powers or the performance of his duties; or

- (f) without sufficient reason (the onus of proof whereof shall be upon him) fails or refuses to appear before the commission or the boards or a member thereof after having been required under section 9(1)(b) or (c) to do so, or, having so appeared, fails or refuses to answer to the best of his knowledge any question lawfully put to him or to produce any book, plan or other document or article which he has been so required to produce; or

[paragraph (f) amended by AG Proc. 61 of 1989]

- (g) in connection with any application, appeal, inquiry or investigation under this Act makes any false statement, whether orally or in writing, knowing it to be false; or
- (h) with intent to deceive, prepares any document for use in connection with road transportation containing an incorrect description of the goods concerned, knowing that description to be incorrect; or

[paragraph (h) inserted by AG Proc. 33 of 1985]

- (i) obtains a public permit or a private permit from the board knowing that a public permit or private permit has already been issued to some other person in respect of the vehicle concerned,

[paragraph (i) inserted by AG Proc. 33 of 1985 and amended by AG Proc. 61 of 1989]

shall be guilty of an offence.

Act or omission of a manager, agent or employee of the holder of a permit

34. (1) Whenever any manager, agent or employee of the holder of a permit does or omits to do any act which it would be an offence under this Act for such holder to do or omit to do, then, unless such holder proves that -

- (a) he did not connive at or permit such act or omission; and
- (b) he took all reasonable measures to prevent an act or omission of the nature in question; or
- (c) an act or omission, whether legal or illegal, of the character of the act or omission charged did not under any conditions or in any circumstances fall within the scope of the authority or the course of the employment of such manager, agent or employee,

such holder shall be deemed himself to have done or omitted to do that act and be liable to be convicted and sentenced in respect thereof, and for the purposes of paragraph (b) the fact that he forbade an act or omission of the nature in question shall not by itself be regarded as sufficient proof that he took all reasonable measures to prevent such act or omission.

(2) Whenever any manager, agent or employee of any such holder does or omits to do any act which it would be an offence under this Act for such holder to do or omit to do, such manager, agent or employee shall be liable to be convicted and sentenced in respect thereof as if he were such holder.

Penalties

35. Any person convicted of an offence under this Act for which no other penalty is expressly provided, shall be liable to a fine not exceeding R10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[section 33 substituted by AG Proc. 33 of 1985]

Forfeiture

36. (1) The court convicting any person of an offence under this Act involving the undertaking of unauthorized road transportation, or of an offence under section 31(1)(e) may, and shall on a third and each subsequent conviction of such an offence, declare the motor vehicle used in such transportation and any goods conveyed thereon without authority, or the convicted person's rights in such motor vehicle or goods, to be forfeited to the State: Provided that such declaration shall not affect any rights which any person other than the convicted person may have to the motor vehicle or goods in question, if it is proved that such other person did not know that the said motor vehicle was being or would be used in unauthorized road transportation or that he could not prevent such use, or that such other person did not know that the transportation of the said goods constituted or would constitute unauthorized road transportation or that he could not prevent the undertaking of such transportation.

[subsection (1) amended by AG Proc. 33 of 1985]

(2) Section 35(4) of the Criminal Procedure Act, 1977 (Act 51 of 1977), shall *mutatis mutandis* apply with reference to any forfeiture under subsection (1) of this section.

[subsection (2) substituted by AG Proc. 33 of 1985]

Effect of third or subsequent conviction of certain offences

37. (1) On a second or subsequent conviction of a person of an offence involving the undertaking of unauthorized road transportation (whether under section 31(1) or under the corresponding provisions of a law repealed by section 47) the board may -

[introductory phrase of subsection (1) substituted by AG Proc. 33 of 1985 and amended by AG Proc. 61 of 1989]

- (a) by notice in writing sent by registered or certified post, summarily withdraw any permit held by that person and issued by the board; and

[Paragraph (a) is amended by AG Proc. 61 of 1989. The repetition of the word "the" that results from following the amendment directions has been corrected.]

- (b) during such period as the board may deem fit, and irrespective of whether or not any permit held by that person has been withdrawn under paragraph (a), refuse to consider any application for the grant or transfer of a permit to him or to a company of which he is a director, or for the renewal of a permit held by him or such a company.

[Paragraph (b) is amended by AG Proc. 61 of 1989. The repetition of the word "the" that results from following the amendment directions has been corrected.]

(2) For the purposes of subsection (1) any conviction of a company of an offence mentioned in that subsection shall be deemed to be a conviction also of every person who was a director of that company at the time of the commission of the offence in question.

Presumptions, and proof of certain facts

38. (1) In any prosecution under this Act -
- (a) any person who has conveyed any person or any goods by means of a motor vehicle, or who has permitted the conveyance by such means of any person in addition to the driver of the motor vehicle, or of any goods, shall be presumed thereby to have undertaken road transportation, unless the contrary is proved;
 - (b) if it is proved that any person was or any goods were conveyed in contravention of the provisions of section 31(1)(a) by means of a particular motor vehicle, the owner of that motor vehicle shall be presumed to have so conveyed such person or goods, unless it is proved that he was not the driver of the motor vehicle at the time of the conveyance in question and did not authorize or permit the use of the motor vehicle for such conveyance;
 - (c) if it is proved that any goods were conveyed in contravention of the provisions of section 31(1)(a), the consignor and the owner of such goods, and any person who acted on behalf of such consignor or owner, shall be presumed so to have conveyed such goods, unless it is proved that such consignor, owner or person did not know that such goods were being so conveyed or could not prevent such goods from being so conveyed;
 - (d) any person in whose possession any writing falsely purporting to be a permit issued under this Act is found, or in whose possession any permit which has been altered, defaced, mutilated or added to in contravention of the provisions of section 33(a) is found, shall be presumed to have made such writing or to have altered, defaced, mutilated or added to such permit, unless the contrary is proved.

[The full stop at the end of paragraph (d) should be a semicolon now that it is no longer the last paragraph in subsection (1).]

- (e) if it is proved that any person undertook road transportation in contravention of the provisions of section 31(1) in that he conveyed goods of which the conveyance, was not authorized by a permit, or otherwise than in accordance with the provisions of a permit, it shall be presumed that such person knew what the goods concerned were, unless it is proved that in spite of proper care taken by him he could not have known.

[paragraph (e) inserted by AG Proc. 33 of 1985]

(2) Any document which purports to be a permit issued under this Act, or a copy of such a permit certified as a true copy by a person who purports to be an officer of the board which issued the original permit, shall on its production by any person in any prosecution under this Act, be admissible in evidence and be *prima facie* proof that it is such a permit which has been validly issued under this Act, or that it is a true copy of such a permit, as the case may be, and that every statement contained therein is correct.

[subsection (2) amended by AG Proc. 61 of 1989]

(3) Any document which states that a motor vehicle described therein is, under the relevant law relating to the registration of motor vehicles, registered in the name of a person named therein, and which purports to have been issued by the authority charged with the registration of motor vehicles under the said law at the place where such motor vehicle is registered thereunder, shall on its production by any person in any prosecution under this Act, be admissible in evidence and be *prima facie* proof of the correctness of the statements contained therein.

Jurisdiction

39. A magistrate's court shall have jurisdiction to impose any penalty provided for in this Act.

Limitation of liability

40. No civil or criminal proceedings shall be instituted or continued in any court of law against -

- (a) any authorized officer or the employer of any authorized officer by reason of any act done in good faith by any authorized officer or the employer of any authorized officer in terms of this Act;
- (b) the holder of a public permit or any employee of such holder who is in charge of the motor vehicle to which such permit relates, by reason of any act done in good faith by such holder or employee in order to give effect to any condition or requirement, contained in that permit, relating to the conveyance in such vehicle or any portion thereof of a particular class of persons.

Finance

41. (1) All monies received by the commission or the board under this Act shall be paid into the Central Revenue Fund, and all expenditure incurred in the administration of this Act shall be defrayed from moneys appropriated by law out of that Fund: Provided that any expenditure incurred in connection with the performance of the functions of an authorized officer, shall be defrayed by the employer of such authorized officer.

[subsection (1) amended by AG Proc. 61 of 1989]

(2) The provisions of the proviso to subsection (1) shall apply *mutatis mutandis* in respect of any expenditure incurred in connection with the performance of the functions of an authorized officer in terms of any law repealed by section 47.

Relation of Act to other laws

42. The provisions of this Act shall be additional to and not in substitution of any other law relating to motor vehicles.

Application of Act by proclamation in respect of conveyance to or from a country or territory bordering on the Territory

43. (1) The Administrator-General may by proclamation in the *Official Gazette* -
- (a) declare that the provisions of sections 17 and 18 shall apply with such additions, exceptions, amendments and adjustments and subject to such conditions or requirements as may be set out in the proclamation, to any application made to the board by a person who carries on any industry, trade or business, or an industry, trade or business of a class or category specified in the proclamation, in a country or territory bordering on the Territory and specified in the proclamation; or
 - (b) direct the board to grant, notwithstanding anything to the contrary contained in this Act but subject to such conditions or requirements as may be set out in the proclamation or as the board may deem fit to impose, any application made to it for a public permit or temporary permit for the conveyance, over a route specified in the proclamation, between a railway station so specified which is situated in the

Territory and any place so specified which is situated at or near the border between the Territory and any other country or territory and which is a port of entry as defined in the Admission of Persons to the Republic Regulation Act, 1972 (Act No. 59 of 1972), of persons proceeding to or from, or of goods destined for or emanating from, such other country or territory.

[The full stop at the end of paragraph (b) should be a semicolon now that it is no longer the last paragraph in subsection (1). The repetition of the word “the” that results here from following the global amendment directions in AG Proc. 61 of 1989 has been corrected. The *Admission of Persons to Namibia Regulation Act 59 of 1972* was repealed by the *Immigration Control Act 7 of 1993*.]

- (c) notwithstanding anything to the contrary contained in this Act, prohibit the board from considering any application for a permit for the conveyance of persons, goods or any category of goods to or from a specified place or area or between specified places or areas as specified in the proclamation;

[paragraph (c) inserted by AG Proc. 33 of 1985]

- (d) notwithstanding anything to the contrary contained in this Act or the permit concerned, prohibit any holder of a permit to convey persons, goods or any category of goods to or from a specified place or area or between specified places or areas as specified in the proclamation;

[paragraph (d) inserted by AG Proc. 33 of 1985]

- (e) notwithstanding anything to the contrary contained in this Act, prohibit the conveyance to or from a specified place or area or between specified places or areas of goods which or persons who are in terms of section 1(2) excluded from the definition of “road transportation.

[paragraph (e) inserted by AG Proc. 33 of 1985]

(2) The Administrator-General may by proclamation in the *Official Gazette* at any time amend or repeal a proclamation issued under subsection (1).

(3) Any reference in this Act to a private permit shall be construed as including a reference to a private permit granted under section 18 as applied under subsection (1) of this section.

[Section 43 is amended globally by AG Proc. 61 of 1989.]

Agreement with government of country or territory bordering on the Territory

44. (1) The Administrator-General may enter into an agreement with the government of any country or territory bordering on the Territory with reference to -

- (a) the manner in which and conditions upon which inhabitants of such a country or territory shall apply to the commission or a board for the grant, renewal, amendment or transfer of permits;
- (b) the procedure to be followed by the commission or a board upon the receipt of an application referred to in paragraph (a) and the factors to be taken into account in deciding whether such application shall be granted or refused and also in determining the conditions and requirements to which such permit shall be made subject;

- (c) the circumstances in which and the conditions on which permits may or shall be granted to inhabitants of such a country or territory for the conveyance of persons or goods from one such country or territory to another such country or territory over the territory of the Territory,

and when an agreement has been so entered into with the government of such a country or territory, any application in respect of a permit received by the commission or a board from an inhabitant of a country or territory concerned in terms of such agreement shall, notwithstanding anything to the contrary contained in this Act, be disposed of in terms of such agreement.

[Section 44 is amended globally by AG Proc. 61 of 1989. The subsection number "(1)" appears to be in error as there are no additional subsections.]

Extent to which State is bound

45.

[Section 45 is deleted by AG Proc. 61 of 1989.]

Application of Act to South West Africa

46. The provisions of this Act and any amendment thereof shall apply in the Territory, including the Eastern Caprivi Zipfel.

[Section 46 is amended by AG Proc. 61 of 1989.]

Repeal of laws

47. Subject to the provisions of section 48, the laws specified in the Schedule are hereby repealed to the extent set out in the third column of that Schedule.

Transitional provisions

48. (1) (a) Subject to the provisions of subsections (2) and (3), any local transportation area or local road transportation board proclaimed or established, and any appointment, designation, regulation, notice or document made, published or issued, or any other thing done, under any provisions of a law repealed by section 47, shall be deemed to have been declared, established, made, published, issued or done under the corresponding provisions of this Act.

(b) For the purposes of paragraph (a) -

(i) any motor carrier certificate or exemption from the obligation to take out a motor carrier certificate, which was issued under a law repealed by section 47, and which, according to the nature of the road transportation authorized by it, could be granted and issued under this Act as a public permit or a private permit or a temporary permit, shall be deemed to be a public permit or a private permit or a temporary permit, as the case may be, granted and issued under the relevant provisions of this Act; and

(ii) any application for the issue or grant of such a certificate or exemption which has not been disposed of at the commencement of this Act, shall be deemed to be an application under this Act for the grant of the appropriate permit.

(2) The Administrator-General, acting upon the recommendation of the board, may at any time by notice in the *Official Gazette* and with effect from a date specified in such notice,

terminate the validity of every certificate or exemption mentioned in subsection (1)(b) which was issued or granted for an indefinite period and which belongs to a class or category of such certificates or exemptions specified in such notice.

[subsection (2) amended by AG Proc. 61 of 1989]

(3) The board may by notice in writing sent by registered or certified post to the holder of a certificate or exemption mentioned in subsection (1)(b) (irrespective of whether it was issued or granted for a fixed period or for an indefinite period), withdraw such certificate or exemption with effect from a date specified in such notice.

[subsection (3) amended by AG Proc. 61 of 1989]

- (4) The board may, if it deems it expedient to do so -
- (a) in the case of a certificate or exemption mentioned in subsection (1)(b) of which the validity has been terminated by a notice under subsection (2) or which has been withdrawn by a notice under subsection (3), at the request in writing of the holder of such certificate or exemption made before the date specified in the relevant notice as the date of the termination or withdrawal, or within such period after that date as the commission or the board may allow; or
 - (b) at the request in writing of the holder of a certificate or an exemption so mentioned, made at any time; or
 - (c) after having duly considered, in accordance with the provisions of this Act, any application for the renewal, amendment or transfer of a certificate or an exemption so referred to,

issue, in substitution for the certificate or exemption in question, an appropriate permit subject to such conditions or requirements as the board may deem fit, as if such request or application, as the case may be, were an application for the grant of such permit duly made, published and considered under the relevant provisions of this Act.

[Subsection (4) is amended by AG Proc. 61 of 1989. The repetition of the word “the” that results from following the amendment directions has been corrected.]

(5) The provisions of subsections (2), (3) and (4) shall not be construed as limiting any power conferred on the Administrator-General or the board in respect of any permit or any application for or in respect of any permit by any other provision of this Act, or as requiring the giving of prior notice, or an opportunity to be heard, to any person affected by their application, and the fact that the validity of a certificate or an exemption has been terminated under subsection (2), or any certificate or exemption has been withdrawn under subsection (3), shall not prejudice any application for the grant of a permit made by the person who was the holder of the certificate or exemption in question.

[subsection (5) amended by AG Proc. 61 of 1989]

[Section 48 is amended globally by AG Proc. 61 of 1989.]

Short title and commencement

49. This Act shall be called the Road Transportation Act, 1977, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Schedule

LAWS REPEALED

No. and year of law	Short title	Extent of repeal
Act No. 39 of 1930.....	Motor Carrier Transportation Act, 1930	The whole.
Act No. 31 of 1932.....	Motor Carrier Transportation Amendment Act, 1932	The whole.
Act No. 20 of 1934.....	Motor Carrier Transportation Amendment Act, 1934	The whole.
Act No. 29 of 1935.....	Motor Carrier Transportation Amendment Act, 1935	The whole.
Act No. 14 of 1936.....	Motor Carrier Transportation Amendment Act, 1936	The whole.
Act No. 15 of 1937.....	Motor Carrier Transportation Amendment Act, 1937	The whole.
Act No. 15 of 1941.....	Motor Carrier Transportation Amendment Act, 1941	The whole.
Act No. 50 of 1949.....	Motor Carrier Transportation Amendment Act, 1949	The whole.
Act No. 44 of 1955.....	Motor Carrier Transportation Amendment Act, 1955	The whole.
Act No. 52 of 1957.....	Motor Carrier Transportation Amendment Act, 1957	The whole.
Act No. 42 of 1959.....	Motor Carrier Transportation Amendment Act, 1959	The whole.
Act No. 15 of 1966.....	Motor Carrier Transportation Amendment Act, 1966	The whole.
Act No. 22 of 1967.....	Motor Carrier Transportation Amendment Act, 1967	The whole.
Act No. 80 of 1971.....	General Law Amendment Act, 1971.....	Section 11.
Act No. 82 of 1972.....	Motor Carrier Transportation Amendment Act, 1972	The whole.
Act No. 23 of 1974.....	Motor Carrier Transportation Amendment Act, 1974	The whole.
Act No. 88 of 1976.....	Motor Carrier Transportation Amendment Act, 1976	The whole.