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REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

PROKLAMASIE

van die

STAATSPRESIDENT VAN DIE REPUBLIEK VAN SUID-AFRIKA

No. R. 52, 1986.

OORDRAG VAN GESAG AAN KABINET VAN SUIDWES-AFRIKA MET BETREKKING TOT ADMINISTRASIE VAN SEKERE BEPALINGS VAN DIE SUID-AFRIKAANSE VERVOERDIENSTEWET, 1981 (WET NO. 65 VAN 1981) EN DIE WET OP FINANSIES EN REKENINGS VAN DIE SUID-AFRIKAANSE VERVOERDIENSTE, 1983 (WET NO. 17 VAN 1983)

Kragtens die bevoegdheid my verleen by artikel 38 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet No. 39 van 1968), maak ek hierby die wette in die Bylae vervat.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad, op hede die vyf-en-twintigste dag van Maart Eenduisend Negehonderd Ses-en-tagtig.

P W BOTHA, Staatspresident.

Op las van die Staatspresident-in-Kabinet:

Minister van die Kabinet

H S J SCHOEMAN

STATE PRESIDENT'S OFFICE

PROCLAMATION

by the

STATE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

No. R. 52, 1986.

TRANSFER OF AUTHORITY TO THE CABINET OF SOUTH WEST AFRICA WITH REGARD TO THE ADMINISTRATION OF CERTAIN PROVISIONS OF THE SOUTH AFRICAN TRANSPORT SERVICES ACT, 1981 (ACT NO. 65 OF 1981) AND THE SOUTH AFRICAN TRANSPORT SERVICES FINANCES AND ACCOUNTS ACT, 1983 (ACT NO. 17 OF 1983)

By virtue of the powers vested in me by section 38 of the South-West Africa Constitution Act, 1968 (Act No. 39 of 1968), I hereby make the laws set out in the Schedule.

Given under my Hand and Seal of the Republic of South Africa at Cape Town this twenty-fifth day of March One Thousand Nine Hundred and Eighty-six.

P W BOTHA, State President.

By order of the State President-in-Cabinet:

Minister of the Cabinet

H S J SCHOEMAN

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Bylae

Woordomskrywing

1. (1) In hierdie Proklamasie, tensy uit die samehang anders blyk, beteken—

(i) "gebied" die gebied Suidwes-Afrika;

(ii) "kabinet" die Kabinet ingevolge artikel 23 van die Proklamasie op die Instelling van Wetgewende en Uitvoerende Gesag vir Suidwes-Afrika, 1985 (Proklamasie R.101 van 1985), saamgestel;

(iii) "Sentrale Inkomstefonds" die Sentrale Inkomstefonds by artikel 31 van laasgenoemde Proklamasie ingestel;

(iv) "Suid-Afrikaanse Vervoerdienstewet" die Suid-Afrikaanse Vervoerdienstewet, 1981 (Wet No. 65 van 1981);

(v) "Wet op Finansies en Rekenings van die Suid-Afrikaanse Vervoerdienste" die Wet op Finansies en Rekenings van die Suid-Afrikaanse Vervoerdienste, 1983 (Wet No. 17 van 1983).

Oordrag van gesag aan Kabinet

2. (1) Behoudens die bepalings van hierdie Proklamasie word die administrasie van die bepalings van die Suid-Afrikaanse Vervoerdienstewet en die Wet op Finansies en Rekenings van die Suid-Afrikaanse Vervoerdienste in en ten opsigte van die gebied deur die Kabinet behartig vir sover daardie bepalings van toepassing is of betrekking het op die beheer, bestuur, instandhouding en eksploitasie deur die Suid-Afrikaanse Vervoerdienste van spoorweë, hawens (uitgesonderd Walvisbaai) en padvervoerdienste en verder met die uitsluiting van die Suid-Afrikaanse Vervoerdienste se Publisiteit- en Reisdepartement in die gebied.

(2) By die toepassing van subartikel (1)—

(a) word 'n verwysing—

(i) na die Staatspresident in artikels 2, 63 en 70 van die Suid-Afrikaanse Vervoerdienstewet en in artikels 3 en 10 van die Wet op Finansies en Rekenings van die Suid-Afrikaanse Vervoerdienste;

(ii) na die Minister van Vervoerwese in artikels 2, 52, 58, 63, 68 en 73 van die Suid-Afrikaanse Vervoerdienstewet en in artikels 2, 4 (2) en 4 (4), waar dit die eerste keer voorkom, 5, 6, 7 (1), 10 (2) *(b)*, 10 (3), 10 (5), 10 (6) en 12 van die Wet op Finansies en Rekenings van die Suid-Afrikaanse Vervoerdienste;

(iii) na die Raad van Suid-Afrikaanse Vervoerdienste in artikels 2 en 10 van die Suid-Afrikaanse Vervoerdienstewet;

uitgelê as 'n verwysing na die Kabinet,

(b) word 'n verwysing na die Minister van Vervoerwese in artikels 4 (2) en 4 (4), waar dit die tweede keer voorkom en 7 (2) van die Wet op Finansies en Rekenings van die Suid-Afrikaanse Vervoerdienste, uitgelê as 'n verwysing na die lid van die Kabinet belas met finansies of 'n ander lid daarvan deur die Kabinet aangewys;

Schedule

Definitions

1. (1) In this Proclamation, unless the context indicates otherwise—

(i) "territory" means the territory of South West Africa;

(ii) "Cabinet" means the Cabinet constituted under section 23 of the South West Africa Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation R.101 of 1985);

(iii) "Central Revenue Fund" means the Central Revenue Fund established by section 31 of the latter Proclamation;

(iv) "South African Transport Services Act" means the South African Transport Services Act, 1981 (Act No. 65 of 1981);

(v) "South African Transport Services Finances and Accounts Act" means the South African Transport Services Finances and Accounts Act, (Act No. 17 of 1983).

Transfer of authority to Cabinet

2. (1) Subject to the provisions of this Proclamation, the administration of the provisions of the South African Transport Services Act and the South African Transport Services Finances and Accounts Act in and in respect of the territory shall be undertaken by the Cabinet in so far as such provisions are applicable to or have a bearing on the control, management, maintenance and exploitation by the South African Transport Services of railways, harbours (excluding Walvis Bay) and road transport services and further with the exclusion of the South African Transport Services Publicity and Travel Department in the territory.

(2) Upon application of subsection (1)—

(a) a reference—

(i) to the State President in sections 2, 63 and 70 of the South African Transport Services Act and in sections 3 and 10 of the South African Transport Services Finances and Accounts Act;

(ii) to the Minister of Transport Affairs in sections 2, 52, 58, 63, 68 and 73 of the South African Transport Services Act and in sections 2, 4 (2) and 4 (4), where it appears for the first time, 5, 6, 7 (1), 10 (2) *(b)*, 10 (3), 10 (5), 10 (6) and 12 of the South African Transport Services Finances and Accounts Act;

(iii) to the South African Transport Services Board in sections 2 and 10 of the South African Transport Services Act;

shall be interpreted as a reference to the Cabinet,

(b) a reference to the Minister of Transport Affairs in sections 4 (2) and 4 (4), where it appears for the second time, and 7 (2) of the South African Transport Services Finances and Accounts Act shall be interpreted as a reference to the member of the Cabinet entrusted with finances or another member thereof appointed by the Cabinet;

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(c) word 'n verwysing na die Staatskoerant in artikels 58 and 68 van die Suid-Afrikaanse Vervoerdienstewet, uitgelê as 'n verwysing na die Offisiële Koerant van die gebied;

(d) word 'n verwysing na die Parlement of die Volksraad van die Republiek in artikels 10 en 63 van die Suid-Afrikaanse Vervoerdienstewet en in die bepalings van die Wet op Finansies en Rekenings van die Suid-Afrikaanse Vervoerdienste, uitgelê as 'n verwysing na die Nasionale Vergadering;

(e) word 'n verwysing na die Republiek in artikels 7, 9 (5) en 35 van die Suid-Afrikaanse Vervoerdienstewet, uitgelê as 'n verwysing ook na die gebied;

(f) word 'n verwysing na die Staatsinkomstefonds in artikels 7 (2) *(b)* en 10 (3) van die Suid-Afrikaanse Vervoerdienstewet en in artikel 3 van die Wet op Finansies en Rekenings van die Suid-Afrikaanse Vervoerdienste, uitgelê as 'n verwysing na die Sentrale Inkomstefonds;

(g) word 'n verwysing na die Onteieningswet, 1975 (Wet No. 63 van 1975), in die Suid-Afrikaanse Vervoerdienstewet, uitgelê as 'n verwysing na die Onteieningsordonnansie, 1978 (Ordonnansie 13 van 1978);

(h) word 'n verwysing na die Drankwet, 1977 (Wet No. 87 van 1977), in die Suid-Afrikaanse Vervoerdienstewet, uitgelê as 'n verwysing na die Drankordonnansie, 1969 (Ordonnansie 2 van 1969);

(i) word die verwysing na 'n stadsgebied in artikel 52 (2) *(b)* van die Suid-Afrikaanse Vervoerdienstewet, uitgelê as 'n verwysing na 'n stedelike gebied;

(j) word die verwysing in artikel 9 (11) *(c)* van die Suid-Afrikaanse Vervoerdienstewet na die Wet op Territoriale Waters, 1963 (Wet No. 87 van 1963), uitgelê as 'n verwysing na die Proklamasie op die Territoriale Waters van Suidwes-Afrika, 1979 (Proklamasie AG. 32 van 1979);

(k) word artikel 3 van die Suid-Afrikaanse Vervoerdienstewet geag gewysig te wees deur die vervanging van subartikel (2) deur die volgende subartikel:

"(2) Ondanks andersluidende bepalings van die Proklamasie op die Instelling van Wetgewende en Uitvoerende Gesag vir Suidwes-Afrika, 1985 (Proklamasie R.101 van 1985), word alle regsgedinge waarin die Suid-Afrikaanse Vervoerdienste as party optree, deur of teen die Suid-Afrikaanse Vervoerdienste in die naam van "die Suid-Afrikaanse Vervoerdienste" ingestel, en kan die betrokke prosesstukke op die Streekbestuurder in die gebied Suidwes-Afrika beteken word.";

(l) word artikels 28, 41, 55 en 75 van die Suid-Afrikaanse Vervoerdienstewet geag nie deel van daardie wet uit te maak nie;

(m) word artikel 53 van die Suid-Afrikaanse Vervoerdienstewet geag gewysig te wees deur die vervanging van die woorde wat paragraaf *(a)* voorafgaan en van paragraaf *(a)* deur die volgende woorde en paragraaf:

"Die Suid-Afrikaanse Vervoerdienste betaal

(c) a reference to the Government Gazette in sections 58 and 68 of the South African Transport Services Act, shall be interpreted as a reference to the Official Gazette of the territory;

(d) a reference to the Parliament or the House of Assembly of the Republic in sections 10 and 63 of the South African Transport Services Act and in the provisions of the South African Transport Services Finances and Accounts Act, shall be interpreted as a reference to the National Assembly;

(e) a reference to the Republic in sections 7, 9 (5) and 35 of the South African Transport Services Act shall be interpreted as a reference also to the territory;

(f) a reference to the State Revenue Fund in sections 7 (2) *(b)* and 10 (3) of the South African Transport Services Act and in section 3 of the South African Transport Services Finances and Accounts Act, shall be interpreted as a reference to the Central Revenue Fund;

(g) a reference to the Expropriation Act, 1975 (Act No. 63 of 1975) in the South African Transport Services Act shall be interpreted as a reference to the Expropriation Ordinance, 1978 (Ordinance 13 of 1978);

(h) a reference to the Liquor Act, 1977 (Act No. 87 of 1977) in the South African Transport Services Act shall be interpreted as a reference to the Liquor Ordinance, 1969 (Ordinance 2 of 1969);

(i) a reference in the Afrikaans text of section 52 (2) *(b)* of the South African Transport Services Act to a "stadsgebied" shall be interpreted as a reference to a "stedelike gebied";

(j) a reference in section 9 (11) *(c)* of the South African Transport Services Act to the Territorial Waters Act, 1963 (Act No. 87 of 1963) shall be interpreted as a reference to the Territorial Waters of South West Africa Proclamation, 1979 (Proclamation AG. 32 of 1979);

(k) section 3 of the South African Transport Services Act shall be deemed to be amended by the substitution of the following subsection for subsection (2):

"(2) Notwithstanding contrary provisions of the South West Africa Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation R.101 of 1985), all legal proceedings to which the South African Transport Services is a party shall be brought by or against the South African Transport Services in the name of "The South African Transport Services" and the necessary service of process therein may be effected on the Regional Manager in the area South West Africa.";

(l) sections 28, 41, 55 and 75 of the South African Transport Services Act shall be deemed not to be a part of that Act;

(m) section 53 of the South African Transport Services Act shall be deemed to be amended by the substitution of the following words and paragraph for the words preceding paragraph *(a)* and the words of paragraph *(a)*:

"The South African Transport Services shall

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jaarliks aan die Sentrale Inkomstefonds ingestel by artikel 31 van die Proklamasie op die Instelling van Wetgewende en Uitvoerende Gesag vir Suidwes-Afrika, 1985 (Proklamasie R.101 van 1985)—

(a) ten opsigte van die verkoop van sterk drank en ander artikels op treine 'n globale som van eenhonderd rand";

(n) word die woorde "in oorleg met die Minister" in artikel 10 (2) *(a)* van die Wet op Finansies en Rekenings van die Suid-Afrikaanse Vervoerdienste geag geskrap te wees;

(o) word artikels 11 en 12 (5) van die in paragraaf *(n)* bedoelde Wet geag nie deel van daardie Wet uit te maak nie;

(p) word die woorde "in oorleg met die Minister van Finansies" in artikel 12 (1) van laasbedoelde Wet geag geskrap te wees; en

(q) word artikels 4, 5 en 6 van die Suid-Afrikaanse Vervoerdienstewet geag geskrap te wees;

(3) Vir sover 'n regulasie, reël of ander maatreël wat die krag van wet het waarby enigiets voorgeskryf word wat ingevolge of in verband met 'n bepaling van die Suid-Afrikaanse Vervoerdienstewet of die Wet op Finansies en Rekenings van die Suid-Afrikaanse Vervoerdienste in subartikel (2) genoem, voorgeskryf moet word, onbestaanbaar is met die betrokke bepaling soos ingevolge daardie subartikel uitgelê, word die regulasie, reël of ander maatreël uitgelê asof die verwysing na daardie bepaling in subartikel (2) 'n verwysing ook na die regulasie, reël of maatreël is.

Finansiële reëlings

3. (1) Die Suid-Afrikaanse Vervoerdienste sal in sy boeke die totale uitgawe (uitgesluit finansieringskoste en bykomende waardevermindering) ten opsigte van die dienste wat die Suid-Afrikaanse Vervoerdienste in of ten opsigte van die gebied lewer, verantwoord.

(2) *(a)* Die Suid-Afrikaanse Vervoerdienste sal in sy boeke die verpligtinge van die Kabinet ten opsigte van salarispariteit, opleiding en gewaarborgde spoorlyne en ander uitgawe wat spesifiek op aandrang van die Kabinet aangegaan word as inkomste verantwoord. Die bedrae ten opsigte van hierdie verpligtinge sal maandeliks aan die Suid-Afrikaanse Vervoerdienste betaal word.

(b) Verder sal die kontraktantsfooi, wat geag gelyk te wees aan die verskil tussen die uitgawe-items genoem in subartikel (1) en die inkomste genoem in paragraaf *(a)* van hierdie subartikel, as inkomste verantwoord word.

(c) Ondanks andersluidende bepalings van een of ander wet word die bedrag bewillig deur die Parlement ten opsigte van uitgawes van die Suid-Afrikaanse Vervoerdienste in Suidwes-Afrika, geag bewilligings deur die Nasionale Vergadering te wees vir sover dit op Suidwes-Afrika betrekking het.

(3) Die verlies ten opsigte van die eksploitasie van die dienste waarna in subartikel (1) verwys word, word geag te wees die verskil tussen die kontraktantsfooi en die normale inkomste (insluitende rente verdien op die Suidwes-Afrikarekening waarna in subartikel (5) verwys word) wat uit die eksploitasie van sodanige dienste verdien

annually pay over to the Central Revenue Fund instituted by section 31 of the South West Africa Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation R.101 of 1985)—

(a) in respect of the sale of intoxicating liquor and other articles on trains, a total sum of one hundred rand";

(n) the words "in consultation with the Minister" in section 10 (2) *(a)* of the South African Transport Services Finances and Accounts Act shall be deemed to be deleted;

(o) sections 11 and 12 (5) of the said Act in paragraph *(n)* shall be deemed not to be part of that Act;

(p) the words "in consultation with the Minister of Finance" in section 12 (1) of the said Act shall be deemed to be deleted; and

(q) sections 4, 5 and 6 of the South African Transport Services Act shall be deemed to be deleted;

(3) In so far as a regulation, rule or other measure having the power of law whereby anything is prescribed which in terms of or in connection with a provision of the South African Transport Services Act or the South African Transport Services Finances and Accounts Act referred to in subsection (2), shall be prescribed, is inconsistent with the provision concerned as interpreted in terms of that subsection, the regulation, rule or other measure shall be interpreted as if a reference to that provision in subsection (2) is also a reference to the regulation, rule or measure.

Financial arrangements

3. (1) The South African Transport Services shall in its books account for the total expenditure (with the exception of financing costs and additional depreciation) in respect of the services which the South African Transport Services renders in or in respect of the territory.

(2) *(a)* The South African Transport Services shall in its books account for the obligations of the Cabinet in respect of salary parity, training and guaranteed railway lines and other expenditure incurred at the specific instigation of the Cabinet as revenue. The amounts in respect of these obligations shall be paid over monthly to the South African Transport Services.

(b) Furthermore the contractor's fee, which is deemed to be equal to the difference between the expenditure items mentioned in subsection (1) and the revenue mentioned in paragraph *(a)* of this subsection, shall be accounted for as revenue.

(c) Notwithstanding contrary provisions contained in any other Act, the amount appropriated by Parliament in respect of expenditure by the South African Transport Services in South West Africa shall be deemed to be appropriations by the National Assembly in so far as it is applicable to South West Africa.

(3) The loss in respect of the exploitation of the services referred to in subsection (1) shall be deemed to be the difference between the contractor's fee and the normal revenue (including interest earned on the South West Africa Account referred to in subsection (5)) earned from the exploitation of such services. This loss shall

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word. Dié verlies sal aan die begin van elke boekjaar deur die Hoofbestuurder van die Suid-Afrikaanse Vervoerdienste geraam word en sal in die boekjare wat op 31 Maart 1986, 31 Maart 1987 en 31 Maart 1988 eindig met onderskeidelik 30 persent, 20 persent en 10 persent hulpverlening verminder word. Genoemde verlies (na vermindering) sal in gelyke maandelikse paaiemente op die laaste dag van elke kalendermaand deur die Kabinet aan die Suid-Afrikaanse Vervoerdienste betaal word.

(4) Die Suid-Afrikaanse Vervoerdienste is verantwoordelik vir die berekening van die finale verlies ten opsigte van dienste waarna in subartikel (1) verwys word. Die finale oorbetaling, as synde die verskil tussen die finale verlies en die beraamde verlies waarna in subartikel (3) verwys word, sal geskied binne 30 dae nadat die gesertifiseerde rekenings gelewer is.

(5) Die Suid-Afrikaanse Vervoerdienste administreer 'n rekening met die naam die Suidwes-Afrikarekening ooreenkomstig die bepalings van paragraaf 6 van Bylae 1 tot die Memorandum van Ooreenkoms van 10 Mei 1985 tussen die Administrateur-generaal vir Suidwes-Afrika en die Suid-Afrikaanse Vervoerdienste, uiteengesit.

Kwytskelding van sekere gelde deur die Suid-Afrikaanse Vervoerdienste aan die Tesourie van die Republiek verskuldig

4. (1) Die Suid-Afrikaanse Vervoerdienste word hierby onthef van alle aanspreeklikheid ten opsigte van 'n bedrag van R144 800 000 wat uit die Staatsinkomstefonds as lenings aan die Suid-Afrikaanse Vervoerdienste bewillig is en wat kragtens artikel 27 (1) van die Skatkis- en Ouditwet, 1975 (Wet No. 66 van 1975), voor 1 April 1985 aan die Suid-Afrikaanse Vervoerdienste uitbetaal is.

(2) Elkeen van die lenings in subartikel (1) bedoel, word vir die doeleindes van die berekening van rente wat ingevolge artikel 27 (2) van genoemde Skatkis- en Ouditwet, 1975, daarop betaal moet word, geag met ingang van 1 April 1985 verminder te wees met 'n bedrag wat in dieselfde verhouding tot die bedrag van die betrokke lening staan as wat R144 800 000 tot die totale bedrag van al sodanige lenings staan.

(3) Hierdie artikel word geag op 1 April 1985 in werking te getree het.

Oorgangsbepalings

5. Enigiets wat kragtens 'n bepaling van die Suid-Afrikaanse Vervoerdienstewet of die Wet op Finansies en Rekenings van die Suid-Afrikaanse Vervoerdienste in subartikel (2) van artikel 2 van hierdie Proklamasie genoem of kragtens 'n bepaling van 'n regulasie, reël of ander maatreël in subartikel (3) van daardie artikel genoem, gedoen is voor die datum waarop daardie artikel met betrekking tot die betrokke bepaling, regulasie, reël of ander maatreël in werking tree, word geag gedoen te wees kragtens daardie bepaling, regulasie, reël of ander maatreël soos vanaf die betrokke datum ooreenkomstig daardie artikel uitgelê.

Kort titel

6. Hierdie Proklamasie heet die Proklamasie op die Oordrag van Uitvoerende Gesag (Suid-Afrikaanse Vervoerdienste), 1986.

be estimated by the General Manager of the South African Transport Services at the beginning of each financial year and shall be reduced by 30 percent, 20 percent and 10 percent assistance respectively in the financial years ending on 31 March 1986, 31 March 1987 and 31 March 1988. The said loss (after reduction) shall be paid to the South African Transport Services by the Cabinet in equal monthly payments on the last day of each calendar month.

(4) The South African Transport Services is responsible for the calculation of the final loss in respect of services referred to in subsection (1). The final payment, being the difference between the final loss and the estimated loss referred to in subsection (3), shall take place within 30 days after the certified accounts have been rendered.

(5) The South African Transport Services administers an account called the South West Africa Account as set out in accordance with the provisions of paragraph 6 of Annexure 1 to the Memorandum of Agreement of 10 May 1985 between the Administrator-General to South West Africa and the South African Transport Services.

Remission of certain fees indebted to the Treasury of the Republic by the South African Transport Services

4. (1) The South African Transport Services is hereby exempted from all liability in respect of an amount of R144 800 000 which has been appropriated from the State Revenue Fund as loans to the South African Transport Services and which has been paid over to the South African Transport Services before 1 April 1985 under section 27 (1) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975).

(2) Each of the loans referred to in subsection (1) shall for purposes of calculating the interest which shall be paid thereon under section 27 (2) of the Exchequer and Audit Act, 1975, be deemed as being reduced with effect from 1 April 1985 by an amount which is in the same proportion to the amount of the loan concerned as R144 800 000 is to the total amount of all such loans.

(3) This section shall be deemed to have come into operation on 1 April 1985.

Transition Provisions

5. Anything done under a provision of the South African Transport Services Act or the South African Transport Services Finances and Accounts Act, mentioned in subsection (2) of section 2 of this Proclamation or under a provision of a regulation, rule or other measure mentioned in subsection (3) of that section, before the date on which that section regarding the provision, regulation, rule or other measure concerned becomes operative, shall be deemed to be done under this provision, regulation, rule or other measure as interpreted from the date concerned in accordance with that section.

Short Title

6. This Proclamation shall be called the Executive Powers Transfer Proclamation (South African Transport Services), 1986.

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INHOUD

Kantoor van die Staatspresident

PROKLAMASIE

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