

REPUBLIC OF SOUTH AFRICA

**ROAD TRAFFIC LAWS
RATIONALISATION BILL**

(As introduced in the National Council of Provinces)

(SELECT COMMITTEE ON PUBLIC SERVICES)

[B 70—98]

REPUBLIEK VAN SUID-AFRIKA

**WETSONTWERP OP
RASIONALISERING VAN WETTE
BETREFFENDE PADVERKEER**

(Soos ingedien in die Nasionale Raad van Provinsies)

(GEKOSE KOMITEE OOR OPENBARE DIENSTE)

[W 70—98]

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BILL

To extend the application of the Road Traffic Act, 1989, to the whole of the Republic; to repeal certain laws relating to road traffic applicable only in particular areas of the Republic in so far as they fall outside the functional areas mentioned in Schedules 4 and 5 to the Constitution; to make transitional arrangements; and to provide for matters connected therewith.

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

Application of Road Traffic Act, 1989, throughout Republic

1. The Road Traffic Act, 1989 (Act No. 29 of 1989), including all amendments thereto by national legislation, (in this Act referred to as “the Road Traffic Act”), applies in the whole of the Republic. 5

Partial repeal of laws

2. Every law mentioned in the Schedule, including all amendments thereto, wherever the law applied in the Republic immediately before the commencement of this Act, is hereby repealed to the extent that the law deals with matters— 10

- (a) falling outside the functional areas mentioned in Schedules 4 and 5 to the Constitution; and
- (b) provided for in the Road Traffic Act.

Transitional provisions

3. (1) Subject to subsections (2), (3) and (4), anything— 15

- (a) purportedly to have been done in good faith under a provision of a law repealed by section 2 (in this section referred to as a “repealed law”); or
- (b) deemed to have been so done under a repealed law,

and which may be done under a corresponding provision of the Road Traffic Act, is deemed to have been done under that corresponding provision. 20

(2) Any registration, licence, certificate, permit or authorisation —

- (a) purportedly to have been effected, issued or granted in good faith under any provision of a repealed law; or
- (b) deemed to have been so effected, issued or granted under a repealed law,

and which may be effected, issued or granted under a corresponding provision of the Road Traffic Act is deemed to have been effected, issued or granted under that corresponding provision of the Road Traffic Act, subject to the same conditions as those under which, and for the same period for which, it was effected, issued or granted. 25

(3) Any person—

- (a) purportedly to have been appointed in good faith under any provision of a law repealed; or 30
- (b) deemed to have been so appointed under a repealed law,

to exercise a power or perform a duty which corresponds with a power that may be exercised or a duty that must be performed by a person appointed in terms of the Road

Traffic Act is, subject to subsection (4), deemed to have been appointed in terms of the Road Traffic Act, irrespective of whether that person meets the requirements stipulated in the Road Traffic Act for that appointment.

(4) The appointment of a person deemed by subsection (3) to have been appointed under the Road Traffic Act is— 5

(a) subject to the same conditions as those under which that person was purportedly appointed under the repealed law concerned; and

(b) for the unexpired portion of the period for which that person was appointed under the repealed law concerned.

(5) When by reason of a conflict with a provision of the Road Traffic Act, which 10 applies in the whole of the Republic in terms of section 1, any provision of provincial legislation becomes inoperative, subsections (1) to (4) of this section apply with the changes required by the context.

Short title and commencement

4. This Act is called the Road Traffic Laws Rationalisation Act, 1998, and takes effect 15 on a date determined by the President by proclamation in the *Gazette*.

SCHEDULE

(Section 2)

No. and year of law	Short title
Act No. 5 of 1967	Transkei Road Traffic Act, 1967
Act No. 7 of 1973	Bophuthatswana Road Traffic Act, 1973
Act No. 8 of 1973	Lebowa Road Traffic Act, 1973
Act No. 7 of 1975	Venda Road Traffic Act, 1975
Act No. 8 of 1980	Qwaqwa Traffic Act, 1980
Act No. 6 of 1981	KaNgwane Road Traffic Act, 1981
Act No. 18 of 1989	Ciskeian Road Traffic Act, 1989
Act No. 10 of 1991	Gazankulu Road Traffic Act, 1991
Act No. 18 of 1992	KwaZulu Traffic Act, 1992
Act No. 7 of 1993	KwaNdebele Road Traffic Amendment Act, 1993

MEMORANDUM ON THE OBJECTS OF THE ROAD TRAFFIC LAWS RATIONALISATION BILL, 1998

1. Purpose of Bill

The main purpose of the Bill is to apply the Road Traffic Act in the whole of the Republic in order to bring about uniformity in the application of road traffic laws throughout the Republic. Furthermore the Bill aims to repeal those provisions of laws relating to road traffic applicable, in terms of item 2 of Schedule 6 to the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), in the former states and self-governing territories (hereafter referred to as "old order legislation"), in so far as they—

- (a) fall outside the functional areas mentioned in Schedules 4 and 5 to the Constitution; and
- (b) deal with matters provided for in the Road Traffic Act, 1989 (Act No. 29 of 1989).

2. Contents of Bill

2.1 Clause 1 of the Bill makes the Road Traffic Act, 1989, applicable throughout the Republic.

2.2 The purpose of clause 2 of the Bill is to repeal certain provisions of old order legislation as set out in paragraph 1 (hereafter referred to as "the repealed laws").

2.3 Clause 3(1) and (2) of the Bill contains transitional arrangements to prevent uncertainty as to the validity of anything done under the repealed laws, including the validity of any registration, licence, certificate, permit or authorisation effected, issued or granted under the repealed laws.

2.4 Clause 3(3) and (4) of the Bill ensures that each person appointed under a repealed law who exercised functions which correspond with functions to be exercised by a person appointed in terms of the Road Traffic Act, 1989, is regarded to have been appointed in terms of that Act, irrespective of whether that person meets the requirements stipulated by that Act for that appointment.

2.5 Clause 3(5) of the Bill stipulates that the transitional provisions contained in clauses 3(1) to (4), will also apply where any provision of a provincial law becomes inoperative due to—

- (a) such provision of the provincial law being in conflict with a provision of the Road Traffic Act, 1989; and
- (b) the provision of that Act, which will apply in the whole of the Republic in terms of clause 1, prevailing over that provision of the provincial law, as contemplated in the relevant provisions of sections 146 to 150 of the Constitution.

3. Consultation

The provincial governments have been extensively consulted on the provisions contained in the Bill.

4. Parliamentary procedure

The State Law Advisers and the Department of Transport are of the view that the Bill must be dealt with in accordance with the procedure established by section 76(1) or (2) of the Constitution, since it falls within the functional area of "Road traffic regulation" listed in Schedule 4 to the Constitution.