

LEGAL SUCCESSION TO THE SOUTH AFRICAN TRANSPORT SERVICES AMENDMENT ACT

OFFICE OF THE PRESIDENT

No. 1476. 22 September 1995

NO. 43 OF 1995: LEGAL SUCCESSION TO THE SOUTH AFRICAN TRANSPORT SERVICES AMENDMENT ACT, 1995.

It is hereby notified that the President has assented to the following Act which is hereby published for general information:-

GENERAL EXPLANATORY NOTE:

Words in *italics* indicate insertions in existing enactments.

ACT

To amend the Legal Succession to the South African Transport Services Act, 1989, so as to provide for the integration of land belonging to the Company and the Corporation into conventional land use control systems; and to provide for matters connected therewith.

(Afrikaans text signed by the President.) (Assented to 21 September 1995.)

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

Substitution of section 13 of Act 9 of 1989, as amended by section 69 of Act 129 of 1993

1. The following section is hereby substituted for section 13 of the Legal Succession to the South African Transport Services Act, 1989 (hereinafter referred to as the principal Act):

"Integration of Company's land into conventional land use control systems

13. (1) In this section-

(a) "ancillary uses" means the use of land, a building or a structure which is ancillary to the transport uses of such land, building or structure, or which is directly related to or incidental to serving the interests of the commuting public, including the use of such land, building or structure for offices, shops and recreational, business and residential purposes;

(b) "competent authority" means any person or body administering a zoning scheme in terms of any law;

(c) "effective date" means 1 April 1995;

(d) "existing use" means the actual use of land owned by the Company as at the effective date;

(e) "other zone" means any land use zone in terms of a zoning scheme within the operation of which the land in question is situated, and which is not a land use zone permitting specifically transport uses or ancillary uses;

(f) "transport uses" means the use of land, a building or a structure for the operation of a public service for the transportation of goods (including liquids and gases) or passengers, as the case may be, by rail, air, road, sea or pipeline, including the use of such land, building or structure as a harbour, communication network, warehouse, container park, workshop, office or for the purposes of security services connected with the foregoing;

(g) "zoning scheme" means any town planning or zoning scheme administered by a competent authority relating to the zoning or reservation of land into areas or zones to be used exclusively or mainly for residential, business, industrial, local authority, governmental or any other purposes.

(2) As from the effective date, all land owned by the Company and shown on maps of a competent authority or otherwise described in terms of a zoning scheme-

(a) as land used generally for transport or railway or harbour or pipeline purposes or related activities, but which is not so shown or described as being part of any other zone, shall be deemed to have been zoned for transport uses in terms of such zoning scheme as of right and without having to obtain the consent of any competent authority;

(b) as being part of any other zone, shall be used in accordance with the uses which are permitted in respect thereof and be deemed to have been zoned also for transport uses in terms of such zoning scheme as of right and without having to obtain the consent of any competent authority.

(3) As from 12 months after the effective date, the land referred to in subsection (2) shall also be deemed to have been zoned for ancillary uses in terms of the zoning scheme in question as of right and without having to obtain the consent of the competent authority in question.

(4) (a) Any competent authority contemplated in subsection (2) shall-

(i) with effect from the effective date, be deemed to also have consented in terms of an applicable zoning scheme to existing uses if the existing uses at that date exceed the ambit of uses permitted in terms of subsection (2); and

(ii) with effect from 12 months after the effective date, be deemed to also have consented in terms of an applicable zoning scheme to existing uses if the existing uses at that date exceed the ambit of uses permitted in terms of subsections (2) and (3).

(b) The onus of proving existing uses shall be on the Company.

(c) The competent authority in question shall classify any proven existing uses in terms of the land use zones provided for in terms of the applicable zoning scheme and the classification shall be deemed to be a zoning of the land for all purposes.

(d) In addition to any such existing uses, any use which is not an existing use but which falls within the scope of uses permitted in relation to the relevant land use zone into which the existing use has been classified, shall also be permitted in relation to the land in question without further consent being required: Provided that any major expansion of an existing use in respect of the extent of the floor area or of the intensity of the existing use shall require the prior consent of the competent authority in question.

(5) (a) Subsections (2), (3) and (4) shall not apply to land owned by the Company in respect of which a local authority was, in terms of section 13(3) as it applied prior to the date of the commencement of the Legal Succession to the South African Transport Services Amendment Act, 1995, obliged to record a suitable zoning, and such local authority shall, to the extent that such recording was not yet effected as at that date, remain so obliged.

(b) Any recording effected pursuant to the said section 13(3) or paragraph (a) shall be deemed to be a zoning of such land for all purposes.

(6) (a) Any other agreement reached between the Company and a competent authority, whether before or after the effective date, in terms of which such competent authority undertook or undertakes to amend its zoning scheme in respect of land owned by the Company so as to-

(i) permit transport uses or ancillary uses, or both; or

(ii) provide for the basis upon which land owned by the Company may be used for any purpose other than that permitted in terms of a zoning scheme in force, whether with the consent of such competent authority or through rezoning, shall prevail over the provisions of subsections (2), (3) and (4), and such agreement shall apply in respect of such land.

(b) If an agreement cannot be reached either party may refer the matter to the Executive Council of the relevant Provincial Government for determination and the determination shall be deemed to be an agreement contemplated in paragraph (a).

(7) (a) As from the effective date, apart from a change of use by consent or by rezoning, any proposed change of use of land owned by the Company to a use other than a transport use or an ancillary use, which is a significant departure from the current use, shall be effected in accordance with such additional procedures as may be prescribed by the Minister in the Gazette: Provided that, in the event of the Company and a competent authority having agreed as contemplated in subsection (6) to specific procedures, the change shall be effected in accordance with such procedures.

(b) The Minister may by notice in the Gazette prescribe guidelines as to when a change of use is a significant departure from a current use."

Amendment of section 31 of Act 9 of 1989, as amended by section 22 of Act 52 of 1991 and section 7 of Act 47 of 1992

2. Section 31 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

" (a) the reference in sections 13(7), 18(1) and 19(1) to the Minister shall be interpreted as a reference to the Minister of Transport;"

Short title

3. This Act shall be called the Legal Succession to the South African Transport Services Amendment Act, 1995.