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Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 484

Pretoria, 31 October 2005

No. 28186



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28186



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GENERAL NOTICE

NOTICE 1997 OF 2005

DEPARTMENT OF TRANSPORT

NOTICE OF INTRODUCTION OF A BILL INTO PARLIAMENT

The Minister of Transport intends introducing the Bill listed below into Parliament during November 2005.

NATIONAL LAND TRANSPORT TRANSITION AMENDMENT BILL, 2005

To amend the National Land Transport Transition Act, 2000, so as to define an expression and to amend certain definitions; to extend the information that may be included in the notice containing the national land transport policy; to provide anew for the co-ordination of the planning process of provincial planning authorities; to reduce the number of plans required by the Act; to empower the Minister to designate when planning authorities that must supply transport plans to the relevant provincial board; to provide anew for the preparation of a national land transport strategic framework and provincial land transport strategic frameworks; to repeal provisions in respect of current public transport records, operating licences strategies, rationalisation plans and public transport plans; to provide anew for the preparation of integrated transport plans; to extend certain time limits; to provide anew for the type of vehicles that may be used for public transport services; to extend the disqualifications for the holding of operating licences; to extend the duties of holders of operating licences or permits; to specify the vehicles that may be used on long distance operations; to provide anew for the amendment of operating licences; to empower the Minister to set standards for sealed meters for metered taxis and to empower MECs to determine fare structures for metered taxi services; to make provision for the granting of operating licences for tourist services; to provide anew for the temporary replacement of specified vehicles; to create new offences; and to effect textual corrections; and to provide for matters connected therewith.

Upon introduction of the Bill into Parliament, copy of the Bill can be obtained from:

**The Department of Transport
Parliamentary Office
Contact person: Mr. D Viljoen
Telephone: (021) 465 – 7260 or 082 886 7537**

REPUBLIC OF SOUTH AFRICA

NATIONAL LAND TRANSPORT TRANSITION AMENDMENT BILL

*(As introduced in the National Assembly as a section 76 Bill; explanatory summary of Bill
published in Government Gazette No. 00000 of 00 00000 2005)
(The English text is the official text of the Bill)*

(MINISTER OF TRANSPORT)

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the National Land Transport Transition Act, 2000, so as to define an expression and to amend certain definitions; to extend the information that may be included in the notice containing the national land transport policy; to provide anew for the co-ordination of the planning process of provincial planning authorities; to reduce the number of plans required by the Act; to empower the Minister to designate when planning authorities that must supply transport plans to the relevant provincial board; to provide anew for the preparation of a national land transport strategic framework and provincial land transport strategic frameworks; to repeal provisions in respect of current public transport records, operating licences strategies, rationalisation plans and public transport plans; to provide anew for the preparation of integrated transport plans; to extend certain time limits; to provide anew for the type of vehicles that may be used for public transport services; to extend the disqualifications for the holding of operating licences; to extend the duties of holders of operating licences or permits; to specify the vehicles that may be used on long distance operations; to provide anew for the amendment of operating licences; to empower the Minister to set standards for sealed meters for metered taxis and to empower MECs to determine fare structures for metered taxi services; to make provision for the granting of operating licences for tourist services; to provide anew for the temporary replacement of specified vehicles; to create new offences; and to effect textual corrections; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 22 of 2000

1. Section 1 of the National Land Transport Transition Act, 2000 (hereinafter referred to as the principal Act), is hereby amended by—

- (a) the substitution in the definition of "association" for the words preceding paragraph (a) of the following words:
- " 'association' means any group of persons formed primarily [in relation to] for the operation of [minibus taxi-type services] a public transport service, and—";
- (b) the substitution for the definition of "bus" of the following definition:
- " 'bus' means a motor vehicle [designed, or lawfully adapted, by a registered manufacturer in compliance with the National Road

- Traffic Act, 1989 (Act No. 29 of 1989), to carry more than 35 persons, excluding the driver, subject to] contemplated in section 31(1)(d);";
- (c) the insertion after the definition of "municipality" of the following definition:
" 'municipal public transport' means any public transport service that is rendered for a consideration within the area of a planning authority; 5
- (d) the substitution for the definition of "midibus" of the following definition:
" 'midibus' means a motor vehicle [designed, or lawfully adapted, by a registered manufacturer in compliance with National Road Traffic Act, 1989 (Act No. 29 of 1989), to carry from 19 to 35 seated persons, excluding the driver] contemplated in section 31(1)(b) or (c);" 10
- (e) the substitution for the definition of "midibus" of the following definition:
" 'minibus' means a motor vehicle [designed, or lawfully adapted, by a registered manufacturer in compliance with the National Road Traffic Act, 1989 (Act No. 29 of 1989), to carry from nine to 18 seated persons, excluding the driver] contemplated in section 31(1)(a);" 15
- (f) the insertion after the definition of "registered constitution" of the following definitions:
" 'registered builder' means a builder registered under section 5 of the National Road Traffic Act, 1996 (Act No. 93 of 1996); 20
'registered importer' means an importer registered under section 5 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);"; and
- (g) the substitution for the definition of "registered manufacturer" of the following definition:
"registered manufacturer" means a manufacturer[, importer or builder of motor vehicles] registered under section 5 of the National Road Traffic Act, 1996 (Act No. 93 of 1996)." 25

Amendment of section 5 of Act 22 of 2000

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

- (a) by the deletion in subsection (2) of the word "and" at the end of paragraph (b), 30
 the addition of the word "and" to paragraph (c) and the addition to that subsection of the following paragraph:
"(d) target dates for the transformation of the land based public transport sector;"; and
- (b) by the substitution in subsection(5)(g) for subparagraph (i) of the following 35
 subparagraph:
"(i) may do so only in consultation with the Minister of Education and the Minister of Labour with a view to ensuring that education and training in subjects or training courses relating to land transport, are directed towards complying with the National Qualifications Framework defined in section 1 of the South African Qualifications Authority Act, 1995 (Act 58 of 1995), and with the Skills Development Act, (Act No. 97 of 1998);" 40

Amendment of section 13 of Act 22 of 2000

3. Section 13 of the principal Act is hereby amended by the substitution for subsection 45 (4) of the following paragraph:

"(4) A transport authority, in awarding contracts for goods and services, must apply a system which is fair, equitable, transparent, competitive and cost-effective, and which is in accordance with the Preferential Procurement Policy Framework Act, 2000 (Act No. 4 of 2000), and [relevant provisions of the Local Government Transition Act, 1993 (Act No. 209 of 1993), which will apply with the changes required by the context] any relevant local government laws." 50

Amendment of section 18 of Act 22 of 2000

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

- (a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following 55
 paragraphs, respectively:

- “(a) where the relevant planning authority is a municipality contemplated in section 20(1)(c), the plans mentioned in [paragraphs (c) to (g) of subsection (1) of] section 19(1)(g) must form the transport component of the integrated development plan of the municipality;
- (b) where the jurisdictional area of a municipality falls wholly or partly in a transport area or MTA, the plans mentioned in [paragraphs (c) to (g) of that subsection] section 19(1)(g) constitute the transport component of the integrated development plans of such municipality in respect of that part of its jurisdictional areas that falls within the transport area or MTA.”;
- (b) by the deletion of subsection (3);
- (c) by the substitution for subsection (6) of the following subsection:
- “(6) The MEC must ensure the co-ordination of the planning processes of all planning authorities under the jurisdiction of the province [and, in so doing, must ensure that all plans address—
- (a) public transport services operating across the boundaries of the areas of planning authorities;
- (b) road and rail networks;
- (c) freight movements;
- (d) the needs of special categories of passengers;
- (e) rivalry between neighbouring planning authorities that may result in the duplication or over-supply of transport facilities and infrastructure in the region;
- (f) the integration of transport and land use planning within the context of the Development Facilitation Act, 1995 (Act No. 67 of 1995), or any other similar provincial law].”.

Amendment of section 19 of Act 22 of 2000

5. Section 19 of the principal Act is hereby amended—

- (a) by the deletion in subsection (1) of paragraphs (c), (d), (e) and (f);
- (b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
- “The [relationship and sequence of transport plans, which are illustrated in Figures 1 and 2, are] responsibility for the preparation of transport plans is as follows:”;
- (c) by the deletion in subsection (2) of paragraph (c);
- (d) by the substitution in subsection (2) for paragraph (d) of the following paragraph:
- “(d) transport authorities and core cities, and other municipalities requested by the MEC, must prepare an integrated transport plan [of which the public transport plan forms a component] dealing with the matters prescribed by the Minister;”;
- (e) by the substitution in subsection (4) for paragraph (b) of the following paragraph:
- “(b) The date for [each of] the integrated transport plans mentioned in subsection (1)(c) to (g) must be linked to the provincial land transport framework and must be as agreed upon by the MECs.”;
- (f) by the substitution for subsection (7) of the following subsection:
- “(7) The content of the frameworks and plans mentioned in subsection (1)(b) [to] and (g), respectively, must be as required by this Act, but the Minister may, in consultation with the relevant MEC or MECs, modify the requirements for those plans, in the prescribed manner, in relation to rural areas in particular provinces.”.

Amendment of section 20 of Act 22 of 2000

6. Section 20 of the principal Act is amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
- “[Plans] The integrated transport plans contemplated in [section 19(1)(c) and (d) and, where appropriate, section 19(1)(e), (f) and (g),]

section 19(1)(g) must be prepared by the following authorities, to be known as planning authorities, subject to subsections (4) and (5), and these plans may be different in respect of rural planning authorities except for those that have subsidised public transport services.”;

(b) by the substitution for subsection (3) of the following subsection: 5

(3) Every planning authority designated by the MEC to do so must supply relevant transport plans to the board and make recommendations to that board about the conversion of permits to operating licences, and about applications for new operating licences, as required by Part 9.”; 10
and

(c) by the deletion of subsection (6).

Amendment of section 21 of Act 22 of 2000

7. Section 21 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1)(a) The Minister must, [annually,] by a date to be determined by the Minister after consultation with the MECs and published by notice in the *Government Gazette*, prepare a five year national land transport strategic framework for the country [for a five-year period corresponding with the Department’s financial years, with due regard to subsection (3)]. 15

(b) The Minister must update the national land transport strategic framework every two years.”. 20

Amendment of section 22 of Act 22 of 2000

8. Section 22 of the principal Act is hereby amended—

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

“(1)(a) Every MEC must [annually] prepare a five year provincial land transport framework [for a five-year period] in accordance with the requirements prescribed by the Minister after consultation with all the MECs and must publish it in the *Government Gazette* on a date determined by the Minister. 25

(b) An MEC contemplated in paragraph (a) must, subject to section 21(1)(b), update his or her provincial land transport framework at least once every two years. 30

(c) When preparing the provincial land transport framework, the MEC must be guided by the national land transport strategic framework.”;

(b) by the insertion in subsection (3) after paragraph (g) of the following paragraph: 35

“(gA) set out a strategy for travel demand management in the province.”.

Repeal of sections 23, 24, 25 and 26 of Act 22 of 2000

9. Section 23, 24, 25 and 26 of the principal Act are hereby repealed. 40

Amendment of section 27 of Act 22 of 2000

10. Section 27 of the principal Act is hereby amended—

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

“(1) Transport authorities, core cities and other municipalities required by the MEC to do so, must prepare and submit to the MEC [annually] by the date determined by the MEC, integrated transport plans [which comply with subsection (2)] for their respective areas for the five-year period commencing on the first day of that financial year.”; 45

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

(c) by the substitution for subsections (4) and (5) of the following subsections, 50 respectively:

“(4) The [plan] integrated transport plans must by the date [so] determined in terms of subsection (1) be submitted to the MEC for

approval, which approval must relate only to [the matters mentioned in section 24(4)(b)]—

- (a) procedures and financial issues that affect the province;
- (b) provincial policy and principles regarding transport across the boundaries of the areas of planning authorities;
- (c) interprovincial transport; and
- (d) any other matter provided for in the relevant provincial laws.

(5) A person may not transport hazardous substances contemplated in section 2(1) of the Hazardous Substances Act, 1973 (Act No. 15 of 1973), in the area of a planning authority, except on [a route determined under paragraph (h) of subsection (2), where such a route has been determined and published under section 29(1), and any person who does so is guilty of an offence] a designated route indicated in an integrated transport plan contemplated in section 28(1), that is in accordance with the general strategy or plan contemplated in section 22(3)(l).”; and

- (d) by the addition of the following subsection:

“(6) Any person who contravenes or fails to comply with subsection (5) is guilty of an offence.”.

Substitution of section 28 of Act 22 of 2000

11. The following section is hereby substituted for section 28 of the principal Act:

“Approval of commuter rail components of transport plans

28. Until the function of commuter rail is devolved from the national to another sphere of government, the transport framework and plans contemplated in section 19(1)(b) [to] and (g), respectively, must be submitted to the Minister for approval of the commuter rail component of such framework and plans, within the prescribed manner and time.”.

Amendment of section 29 of Act 22 of 2000

12. Section 29 of the principal Act is hereby amended—

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

“(1) On approval of the national land transport strategic framework, a provincial transport framework[, a public transport plan] or an integrated transport plan, the Minister or planning authority, as the case may be, must publish, in the *Provincial Gazette*, or, in the case of the national land transport strategic framework, in the *Government Gazette*, the prescribed particulars of such plans, which must include particulars of routes [determined] designated under section [27(2)(h)] 27(5).”;

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

“(d) no action may be taken that would have the result of substantially decreasing the quantity or availability of land transport infrastructure or services, unless the owner of the land on which the infrastructure is situated, or the holder of the relevant operating license, [as the case may be,] has notified the relevant planning authority in writing not less than [30] 90 days before the action is taken.”;

- (c) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“The planning authority must, within [28] 90 days—”; and

- (d) by the substitution in subsection (5) for paragraph (a) of the following paragraph:

“(a) prior to the expiry of the [28-day] 90-day period referred to in subsection (4); or”.

Amendment of section 31 of Act 22 of 2000

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

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

"(1) Despite this Act or any other law, from a date to be determined by the Minister by notice in the *Government Gazette*, [which may not be earlier than 1 October 2004], operating licences may only be issued for vehicles designed or lawfully [adapted] modified by a registered manufacturer, registered builder or registered importer in compliance with the National Road Traffic Act, [1989 (Act No. 29 of 1989)] 1996 (Act No. 93 of 1996), according to acceptable safety standards, to carry—

(a) [fewer than nine] 11 to 16 seated persons, [excluding] including the driver; or

(b) [18] 17 to 23 seated persons, [excluding] including the driver; or

(c) [35] 24 to 34 seated persons, [excluding] including the driver; or

(d) [46 or] more than 34 persons, [excluding] including the driver, unless the Minister, in consultation with the MECs, provides otherwise for special categories of vehicles by notice in the *Government Gazette*, to cater for exceptional cases in rural areas, or exceptional cases in relation to tourist or courtesy services.";

(b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"A midibus or mini-bus may be used for the operation of an unscheduled service only where—"; and

(c) by the addition of the following subsection:

"(6) (a) An adapted light delivery vehicle may be used for public passenger road transport services in a particular area if—

(i) there is no appropriate public transport available in that area; and

(ii) the services are rendered under such conditions as may be determined by the MEC concerned.

(b) For the purposes of this subsection, an "adapted light delivery vehicle" means a light delivery vehicle that has been manufactured or modified by a registered manufacturer, registered builder or registered importer in compliance with the National Road Traffic Act, 1996 (Act No. 93 of 1996), for the conveyance of persons."

Amendment of section 38 of Act 22 of 2000

14. Section 38 of the principal Act is hereby amended by the addition of the following paragraph:

"(f) acting as examiner at a testing station in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996)."

Amendment of section 43 of Act 22 of 2000

15. Section 43 of the principal Act is hereby amended—

(a) by the addition of the following paragraph:

"(c) inform the board in writing of the sale or any other change of ownership of the vehicle to which the operating licence or permit relates at least 14 days before such sale or change takes place."; and

(b) the addition of the following subsection, the existing section becoming subsection (1):

"(2) The person who acquires a vehicle contemplated in subsection (1)(c) must obtain an operating licence before the acquisition of the vehicle if he or she intends to use that vehicle for public transport."

Amendment of section 47 of Act 22 of 2000

16. Section 47 of the principal Act is hereby amended—

(a) by the substitution in subsection (3) for paragraph (d) of the following paragraph:

"(d) the contract to be negotiated complies with all requirements prescribed under subsection (4)(a), is substantially in the form of

- the model contract documents contemplated in subsection (4)(b) and has a maximum validity period of [five] seven years.”; and
 (b) the deletion in subsection(3) of paragraph (f).

Amendment of section 78 of Act 22 of 2000

17. Section 78 of the principal Act is hereby amended by the substitution in subsection (4) for paragraph (b) of the following paragraph: 5

- “(b) have the prescribed particulars of each operating licence, which includes, for the purposes of this paragraph, an operating licence as renewed, amended or transferred from time to time, and of its holder and the vehicle to which it relates, entered on [the Land Transport Permit] such Information System as may be prescribed by the Minister.” 10

Amendment of section 89 of Act 22 of 2000

18. Section 89 of the principal Act is hereby amended by the addition of the following subsection:

- “(3) Only vehicles fitted with brakes that comply with test Type IIA contemplated in the standard specification SABS 1207 “Motor vehicle safety specification for breaking” set in terms of the Standards Act, 1993 (Act No. 29 of 1993), may be used on long distance operations.” 15

Substitution of section 90 of Act 22 of 2000

19. The following section is hereby substituted for section 90 of the principal Act: 20

“Amendment of operating licence: Replacement of specified vehicle

90. (1) Where the holder of an operating licence for the operation of any public transport service wishes to replace the vehicle that is specified in that operating licence for the operation of that public transport service with another vehicle [with the same passenger capacity,] the holder must apply 25 for the replacement, in the manner prescribed by the MEC, to a member or official of the board whom the board has authorised in writing to dispose of the matter, provided the nature of the replacing vehicle and the quality and standard of the service are not affected by the replacement.

(2) The authorised member or official of the board must allow the replacement and issue an amended operating licence to the holder, if [satisfied that] the replacing vehicle— 30

- (a) [the replacing vehicle] has the same passenger capacity as the vehicle which it replaces, [or less, and is of the same nature] and [that] the quality and standard of the service which is authorised by the operating licence [will] is not likely to be affected by the replacement; and 35

- (b) [the replacing vehicle] is otherwise suitable for the operation of the public transport service authorised by that operating licence, has a national information system model number allocated to it, has been certified as roadworthy in compliance with road traffic laws and is properly licenced; and 40

- (c) the applicant for replacement has provided the information necessary to establish the requirements of this section].

(2A) The national information system model number contemplated in subsection (2) must be linked to the registered builder who built or modified the body of the vehicle in question. 45

(3) Where a subcontractor operates any part of the public transport service to which an operating licence relates, on behalf of the holder of the operating licence, the subcontractor may rely on the provisions of this section to replace any vehicle of which the latter is the registered owner and which is specified in that operating licence, in all respects as if the subcontractor were the holder of that operating licence. 50

(4) For the purposes of this section ‘national information system’ means the national information system contemplated in section 6(1).” 55

Amendment of section 91 of Act 22 of 2000

20. Section 91 of the principal Act is hereby amended by the addition of the following subsections:

"(3) The Minister must set standards for sealed meters for metered taxis in accordance with standards set by the South African Bureau of Standards in terms of the Standards Act, 1993 (Act No. 29 of 1993)."

(4) The MEC, in consultation with the board, may determine a fare structure for metered taxi services and the MEC must publish such fare structure in the *Provincial Gazette*."

Insertion of section 91A in Act 22 of 2000

21. The following section is hereby inserted in the principal Act after section 91:

"Tourist services"

91A. (1) The following conditions apply to tourist services:

- (a) A board may not grant an operating licence for a tourist service unless it has been furnished with and has considered recommendations from a tourism board or similar authority within the relevant province;
- (b) a board granting an operating licence for tourist services must state in the licence the maximum number of passengers that may be conveyed by the vehicle used for tourist services;
- (c) a board must take into account the supply and demand for the particular tourist services so as not to over saturate the industry by granting too many licences.

(2) The tourism board or similar authority contemplated in subsection (1)(a) must submit its recommendations to the board concerned within 90 days of receiving a request for such recommendations.

(3) The MEC may, in addition to the provisions of this Act, prescribe the circumstances under which an operating licence may be granted for tourist services."

Amendment of section 94 of Act 22 of 2000

22. Section 94 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) (a) The passenger capacity of the replacing vehicle preferably must be equal to that of the vehicle specified in the relevant operating licence, but may—
(i) be smaller; or

[(ii) exceed that capacity by not more than 20 percent] in the case of a—

- (i) minibus, exceed that capacity by not more than one seat; and
- (ii) midibus, exceed that capacity by not more than two seats as long as the maximum of 34 seats is not exceeded.

(b) The replacing vehicle must be suitable for the operation of that public transport service and, except in so far as this section provides otherwise, must comply in all other respects with the requirements and conditions that apply and are in force in terms of this Act, and the National Road Traffic Act, 1996 (Act No. 93 of 1996), with regard to the vehicle so specified in the operating licence."

Amendment of section 127 of Act 22 of 2000

23. Section 127 of the principal Act is hereby amended by the addition to subsection (1) of the following paragraphs:

"(r) if the person operates an adapted light delivery vehicle in contravention of section 31(6);

(s) if, being a metered taxi operator, the person contravenes or fails to comply with a fare structure contemplated in section 91(4)."

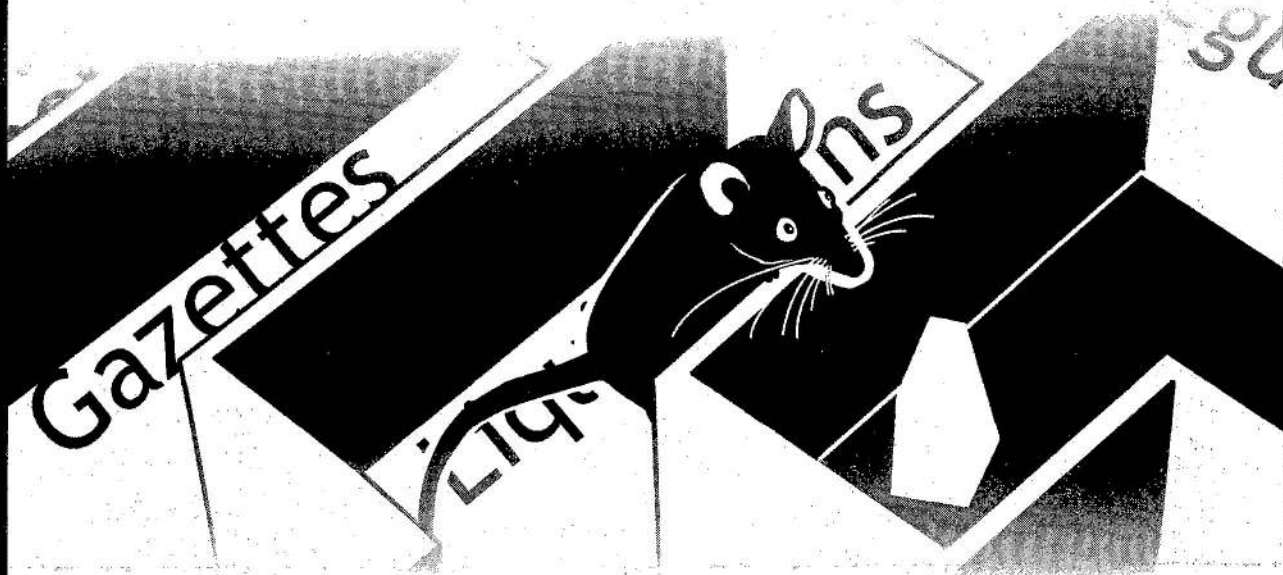
Short title

24. This Act is called the National Land Transport Transitional Amendment Act, 2005.



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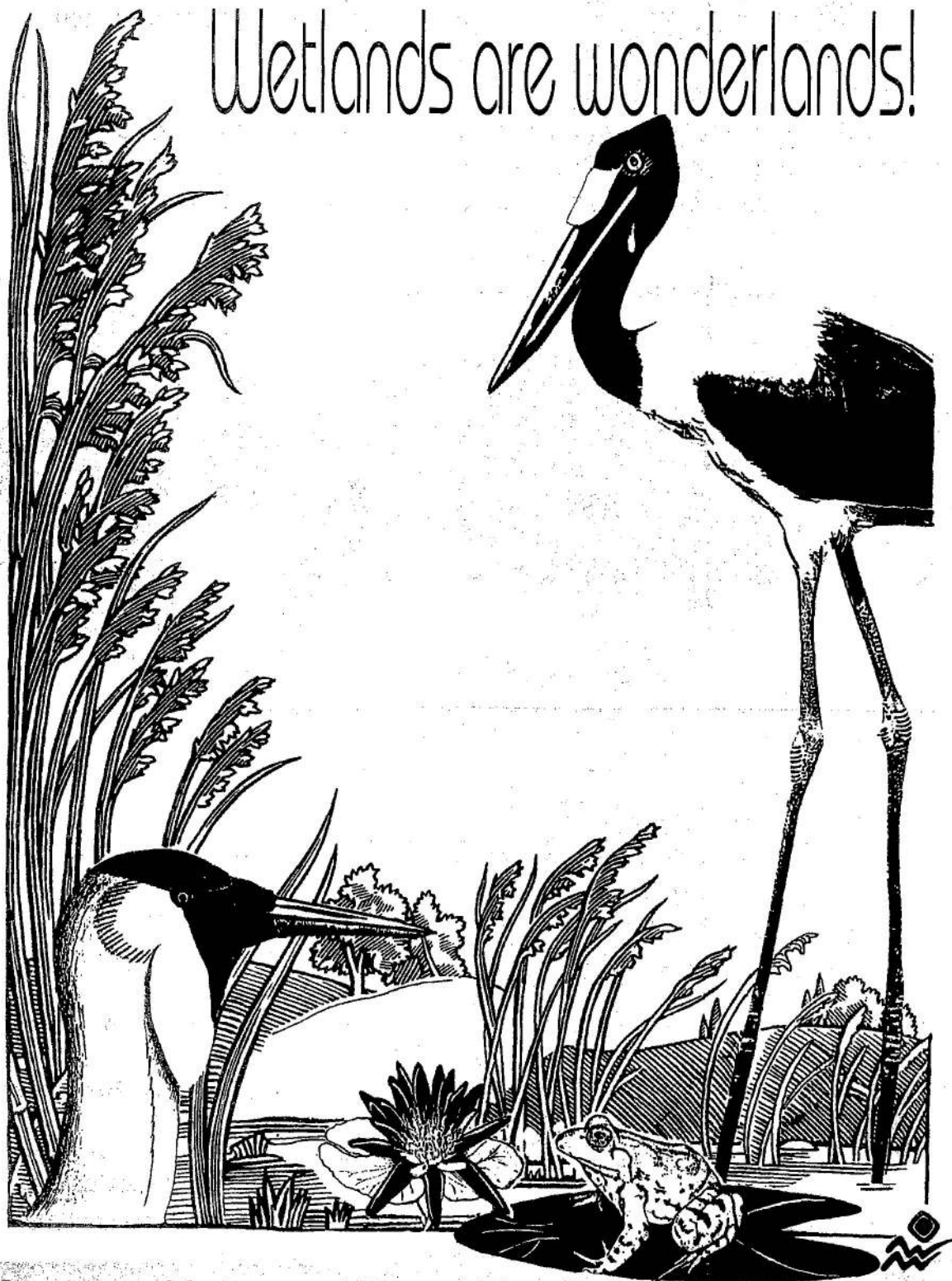
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