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.

(English text signed by the President.)
(Assented to 25 November 2008.)

ACT

To amend the Legal Succession to the South African Transport Services Act, 1989, so as to delete and substitute certain definitions; to rename the South African Rail Commuter Corporation Limited to the Passenger Rail Agency of South Africa; to regulate the objects and powers of the Agency; to make provision for the transfer of Long Haul Passenger Rail Services and Long Distance Bus Services from the Company to the Agency; and to effect certain technical amendments; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 9 of 1989, as amended by section 6 of Act 52 of 1991 and section 1 of Act 47 of 1992

1. Section 1 of the Legal Succession to the South African Transport Services Act, 1989 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of "Corporation" of the following definition:

" **'Corporation'** means the **[South African Rail Commuter Corporation Limited]** Passenger Rail Agency of South Africa established in terms of section 22;";

(b) by the deletion of the definition of **"local government body"**; and

(c) by the substitution for the definition of "transport authority" of the following definition:

" **'transport authority'** means—

(a) any Department of State; or

(b) a planning authority as defined in section 1 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000).".

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ALGEMENE VERDUIDELIKENDE NOTA:

[ ]	Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
_____	Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 25 November 2008.)

WET

Tot wysiging van die Wet op die Regsopvolging van die Suid-Afrikaanse Vervoerdienste, 1989, ten einde sekere omskrywings te skrap en te vervang; die Suid-Afrikaanse Spoorpendelkorporasie Beperk se naam te verander na die Passasierspooragentskap van Suid-Afrika; die doelstellings en bevoegdhede van die Agentskap te reguleer; voorsiening te maak vir die oordrag van langafstandpassasierspoordienste en langafstandbusdienste van die Maatskappy aan die Agentskap; en sekere tegniese wysigings aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 9 van 1989, soos gewysig deur artikel 6 van Wet 52 van 1991 en artikel 1 van Wet 47 van 1992

1. Artikel 1 van die Wet op die Regsopvolging van die Suid-Afrikaanse Vervoerdienste, 1989 (hierna die Hoofwet genoem), word hierby gewysig—

(a) deur die omskrywing van "Korporasie" deur die volgende omskrywing te vervang:

"**'Korporasie'** die **[Suid-Afrikaanse Spoorpendelkorporasie Beperk]** Passasierspooragentskap van Suid-Afrika daargestel deur artikel 22;";

(b) deur die omskrywing van **"plaaslike owerheidsliggaam"** te skrap;

(c) deur die omskrywing van "vervoerowerheid" deur die volgende omskrywing te vervang:

"**'vervoerowerheid'—**

(a) enige Staatsdepartement; of

(b) 'n beplanningsowerheid soos omskryf in artikel 1 van die "National Land Transport Transition Act, 2000" (Wet No. 22 van 2000).".

Amendment of section 10 of Act 9 of 1989, as amended by section 8 of Act 52 of 1991

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

(a) by the substitution for subsection (2) of the following subsection:

"(2) The South African Railways and Harbours Sick Fund constituted in terms of regulations promulgated under section 32(1)*(g)* of the Railways and Harbours Service Act, 1960, shall continue in existence as **[the Company's]** a medical scheme under the name Transmed or such other name as the Board of Trustees of Transmed may adopt."; and

(b) by the deletion of subsections (10), (11) and (12).

Repeal of section 15 of Act 9 of 1989

3. Section 15 of the principal Act is hereby repealed.

Amendment of section 22 of Act 9 of 1989, as amended by section 15 of Act 52 of 1991

4. Section 22 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) On the date referred to in section 3(1), a legal person, which shall be called the **[South African Rail Commuter Corporation Limited]** Passenger Rail Agency of South Africa, shall be established.".

Substitution of section 23 of Act 9 of 1989, as amended by section 16 of Act 52 of 1991 and section 3 of Act 47 of Act 47 of 1992

5. The following section is hereby substituted for section 23 of the principal Act:

"**Objects and powers of Corporation**

23. (1) The main object and the main business of the Corporation are to—

(a) ensure that, at the request of the Department of Transport, rail commuter services are provided within, to and from the Republic in the public interest; and

(b) provide, in consultation with the Department of Transport, for long haul passenger rail and bus services within, to and from the Republic in terms of the principles set out in section 4 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000).

(2) The second object and the secondary business of the Corporation is to generate income from the exploitation of the assets acquired by it.

(3) In carrying out its objects and business, the Corporation shall have due regard to key government social, economic and transport policy objectives.

(4) Without derogating from the generality of the provisions of subsections (1) and (2), the Corporation may—

(a) enter into contracts and perform any other legal acts;

(b) acquire or alienate movable and immovable property or rights therein;

(c) acquire or alienate rights in corporeal things and deal therewith in any other manner;

(d) borrow, lend or invest money;

(e) make, draw, issue, execute, accept, endorse, discount, buy or sell financial instruments, including promissory notes, bills of exchange, debentures, stock, shares and any other type of negotiable or transferable document, and may acquire or alienate them in any other manner;

(f) enter into indemnities, guaranties and suretyships and may secure payment in terms thereof in any manner;

(g) make donations;

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Wysiging van artikel 10 van Wet 9 van 1989, soos gewysig deur artikel 8 van Wet 52 van 1991

2. Artikel 10 van die Hoofwet word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die Siekefonds van die Suid-Afrikaanse Spoorweë en Hawens wat ingestel is ingevolge regulasies uitgevaardig kragtens artikel 32(1)*(g)* van die Wet op Spoorweg- en Hawediens, 1960, bly as mediese skema voortbestaan onder die naam Transmed **[as mediese skema van die Maatskappy voortbestaan]** of sodanige ander naam wat die Raad van Trustees van Transmed aanneem."; en

(b) deur subartikels (10), (11) en (12) te skrap.

Herroeping van artikel 15 van Wet 9 van 1989

3. Artikel 15 van die Hoofwet word hierby herroep.

Wysiging van artikel 22 van Wet 9 van 1989, soos gewysig deur artikel 15 van Wet 52 van 1991

4. Artikel 22 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Op die datum in artikel 3(1) bedoel, kom 'n regspersoon tot stand wat as die **[Suid-Afrikaanse Spoorpendelkorporasie Beperk]** Passasierspooragentskap van Suid-Afrika bekend staan.".

Wysiging van artikel 23 van Wet 9 van 1989, soos gewysig deur artikel 16 van Wet 52 van 1991 en artikel 3 van Wet 47 van 1992

5. Artikel 23 van die Hoofwet word hierby deur die volgende artikel vervang:

"**Doelstellings en bevoegdhede van Korporasie**

23. (1) Die hoofdoelstelling en die hoofbesigheid van die Korporasie is om—

(a) toe te sien dat spoorpassasiersdienste, op versoek van die Departement van Vervoer, binne, na en vanaf die Republiek in die openbare belang gelewer word; en

(b) in oorleg met die Departement van Vervoer, langafstandspoorpassasiersdienste en busdienste binne, na en vanaf die Republiek te lewer ingevolge die beginsels uiteengesit in artikel 4 van die "National Land Transport Transition Act, 2000".

(2) Die tweede doelstelling en die sekondêre besigheid van die Korporasie is om inkomste te genereer uit die benutting van bates wat deur die Korporasie verkry is.

(3) By die uitvoering van sy doelstellings en besigheid neem die Korporasie die sleuteldoelwitte van die regering se maatskaplike, ekonomiese en vervoerbeleide in ag.

(4) Sonder om afbreuk te doen aan die algemeenheid van die bepalings van subartikels (1) en (2), kan die Korporasie—

(a) kontrakte aangaan en enige ander regshandelinge verrig;

(b) roerende en onroerende eiendom of regte daarin verkry of vervreem;

(c) immaterieelgoedereregte verkry of vervreem of op enige ander wyse daarmee handel;

(d) geld leen, uitleen of belê;

(e) finansiële instrumente, waaronder promesses, wissels, skuldbriewe, effekte, aandele en enige ander soort verhandelbare of oordraagbare dokument maak, trek, uitreik, verly, aksepteer, endosseer, verdiskonteer, koop, verkoop en op enige ander wyse verkry of vervreem;

(f) vrywarings, waarborge en borgstellings aangaan en betaling daarkragtens op enige wyse sekureer;

(g) skenkings maak;

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(h) grant service benefits of any nature, including pension and incentives schemes, to members of the Board of Control and employees;

(i) conclude partnership contracts and may participate in joint ventures;

(j) form companies or acquire any interest therein and may finance any company for the purposes of realising or advancing its objects, and may transfer all or any portion of its business, assets and liabilities to such companies; and

(k) generally, to do anything or perform any other act, whether within or outside the Republic, that may assist the Corporation in achieving its objects.".

Amendment of section 24 of Act 9 of 1989, as amended by section 17 of Act 52 of 1991 and section 4 of Act 47 of 1992

6. Section 24 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph *(c)* of the following paragraph:

"*(c)* one of the members of the Board of Control shall be nominated by the **[Association of Regional Services Councils]** South African Local Government Association recognised in terms of section 2(1)*(a)* of the Organised Local Government Act, 1997 (Act No. 52 of 1997); and".

Insertion of section 25A in Act 9 of 1989

7. The following section is hereby inserted in the principal Act after section 25:

"**Transfer of assets relating to passenger services**

25A. (1) The transfer of long-distance passenger rail services and long-distance bus services from the Company to the Corporation shall be concluded by 31 March 2009.

(2) All liabilities, rights and obligations of whatever nature relating to the assets and business operations that form part of the transfer referred to in subsection (1), shall be transferred from the Company to the Corporation by the date referred to in that subsection.

(3) Notwithstanding anything to the contrary in any other law contained, the Company is exempted from applying to the relevant authority for the approval of any subdivision of land necessary in order to effect the transfer contemplated in subsection (1): Provided that—

(a) the Company, after consultation with the Corporation, shall notify the relevant authority in writing of each proposed subdivision and at the same time shall submit to the relevant authority a plan setting out the proposed subdivision;

(b) the relevant authority shall inform the Company in writing within 30 working days from the receipt of the notice referred to in paragraph *(a)* of any objection or comment the authority may have received regarding the proposed subdivision, failing which the relevant authority shall be deemed to consent to such subdivision; and

(c) the Company shall consider any objection and comment received in terms of paragraph *(b)* prior to submitting the plans, diagrams and records required by the Surveyor-General or a deed of transfer or certificate of registered title in respect of the subdivided portion to the Registrar of Deeds concerned for registration in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937).".

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(h) diensvoordele van watter aard ook al, insluitende pensioenskemas en aansporingskemas, aan lede van die Beheerraad en werknemers toestaan;

(i) vennootskapkontrakte aangaan en aan gesamentlike ondernemings deelneem;

(j) maatskappye oprig of belange daarin verkry en hulle finansier ter bereiking of ter bevordering van sy doelstellings, en die geheel of enige gedeelte van sy besigheid, bates en laste aan sodanige maatskappy oordra; en,

(k) in die algemeen, enigiets anders doen of enige ander handeling verrig, hetsy binne of buite die Republiek, wat die Korporasie kan help om sy doelstellings te bereik.".

Wysiging van artikel 24 van Wet 9 van 1989, soos gewysig deur artikel 17 van Wet 52 van 1991 en artikel 4 van Wet 47 van 1992

6. Artikel 24 van die Hoofwet word hierby gewysig deur in subartikel (2) paragraaf *(c)* deur die volgende paragraaf te vervang:

"*(c)* een van die Beheerraadslede moet deur die **[Vereniging van Streeksdiensterade genomineer word]** Suid-Afrikaanse Plaaslike Regeringsvereniging, wat ingevolge artikel 2(1)*(a)* van die Wet op Georganiseerde Plaaslike Regering, 1997 (Wet No. 52 van 1997), erken word, benoem word; en".

Invoeging van artikel 25A in Wet 9 van 1989

7. Die volgende artikel word hierby in die Hoofwet ingevoeg na artikel 25:

"**Oordrag van bates betreffende passasiersdienste**

25A. (1) Die oordrag van langafstandpassasierspoordienste en langafstandbusdienste van die Maatskappy aan die Korporasie moet teen 31 Maart 2009 afgehandel word.

(2) Alle aanspreeklikhede, regte en verpligtinge van watter aard ook al betreffende die bates en sakebedrywighede wat deel vorm van die oordrag genoem in subartikel (1), moet van die Maatskappy aan die Korporasie oorgedra word teen die datum in daardie subartikel vermeld.

(3) Ondanks andersluidende bepalings van 'n ander wet, is die Maatskappy daarvan vrygestel om by die tersaaklike owerheid aansoek te doen om goedkeuring van enige onderverdeling van grond wat nodig is om die oordrag beoog in subartikel (1) te bewerkstellig: Met dien verstande dat—

(a) die Maatskappy, na oorleg met die Korporasie, die tersaaklike owerheid skriftelik in kennis stel van elke voorgenome onderverdeling en terselfdertyd by die tersaaklike owerheid 'n plan indien wat die voorgenome onderverdeling uiteensit;

(b) die tersaaklike owerheid die Maatskappy binne 30 werkdae vanaf ontvangs van die kennisgewing genoem in paragraaf *(a)* skriftelik in kennis stel van 'n beswaar of kommentaar wat die owerheid betreffende die voorgestelde onderverdeling kan ontvang, by gebreke waarvan die tersaaklike owerheid geag word toestemming te verleen tot sodanige onderverdeling; en

(c) die Maatskappy 'n beswaar of kommentaar wat ingevolge paragraaf *(b)* ontvang is, moet oorweeg alvorens die planne, diagramme en rekords wat deur die Landmeter-generaal vereis word, of 'n oordragakte of 'n sertifikaat van geregistreerde titel ten opsigte van die onderverdeelde deel ingedien word by die Registrateur van Aktes gemoeid met die registrasie ingevolge die Wet op Registrasie van Aktes, 1937 (Wet No. 47 van 1937).".

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Amendment of section 31 of Act 9 of 1989, as amended by section 22 of Act 52 of 1991, section 7 of Act 47 of 1992 and section 2 of Act 43 of 1995

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

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"The provisions of sections 13, 17, 18 and 19 of, and of items 5 to 9 and 12 of Schedule 1 to, this Act shall apply *mutatis mutandis* to the Corporation; provided that—"; and

(b) by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(a)* the reference in sections 13 (7), 17, 18 (1) and 19 (1) to the Minister shall be interpreted as a reference to the Minister of Transport;".

Amendment of section 33 of Act 9 of 1989

9. Section 33 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(a)* to record the transfer of immovable property or real rights in terms of sections 3, 9, **[and]** 25 and 25A;".

Substitution of word in Act 9 of 1989

10. The principal Act is hereby amended—

(a) by the substitution for the word "Company", wherever it occurs in section 7, of the expression "Company and the Corporation"; and

(b) by the substitution for the word "Company", wherever it occurs in section 14(1), excluding section 14(1)*(a)*(iii), and items 5 to 9 and 12 of Schedule 1, of the expression "Company or the Corporation, as the case may be,".

Short title and commencement

11. This Act is called the Legal Succession to the South African Transport Services Amendment Act, 2008, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

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Wysiging van artikel 31 van Wet 9 van 1989, soos gewysig deur artikel 22 van Wet 52 van 1991, artikel 7 van Wet 47 van 1992 en artikel 2 van Wet 43 van 1995

8. Artikel 31 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Die bepalings van artikels 13, 17, 18 en 19 van, en van items 5 tot 9 en 12 van Bylae 1 tot, hierdie Wet is *mutatis mutandis* op die Korporasie van toepassing; met dien verstande dat—"; en

(b) deur in subartikel (1) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* die verwysing in artikels 13(7), 17, 18(1) en 19(1) na die Minister as 'n verwysing na die Minister van Vervoer uitgelê word;".

Wysiging van artikel 33 van Wet 9 van 1989

9. Artikel 33 van die Hoofwet word hierby gewysig deur in subartikel (1) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* die oordrag van onroerende goed of saaklike regte ingevolge artikels 3, 9, **[en]** 25 en 25A te boekstaaf;".

Vervanging van woord in Wet 9 van 1989

10. Die Hoofwet word hierby gewysig—

(a) deur die woord "Maatskappy", waar dit ook al in artikel 7 voorkom, deur die uitdrukking "Maatskappy en die Korporasie" te vervang; en

(b) deur die woord "Maatskappy", waar dit ook al voorkom in artikel 14(1), uitgesonderd artikel 14(1)*(a)*(iii), en items 5 tot 9 en 12 van Bylae 1, deur die uitdrukking "Maatskappy of die Korporasie, na gelang van die geval" te vervang.".

Kort titel en inwerkingtreding

11. Hierdie Wet heet die Wysigingswet op die Regsopvolging van die Suid-Afrikaanse Vervoerdienste, 2008, en tree in werking op 'n datum wat die President by Proklamasie in die *Staatskoerant* bepaal.

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