



The Portfolio Committee on Transport invites stakeholders and interested parties to submit written submissions on the proposed additional amendments to the Economic Regulation of Transport Bill [B 1-2020]. The additional proposed amendments are highlighted in blue.

PROPOSED PORTFOLIO COMMITTEE AMENDMENTS TO ECONOMIC REGULATION OF TRANSPORT BILL

CLAUSE 1

1. On page 6, from line 11 to 12, after “facility” to omit “of an infrastructure or resource owner”.
2. On page 7, in line 7, after “place” to insert “or platform”.
3. On page 7, after line 13, to insert the following definition:
“National Land Transport Act” means the National Land Transport Act, 2009 (Act No. 5 of 2009);”.
4. On page 7, in line 27, after “(a)” to insert “which is”.
5. On page 7, after line 33, to insert the following definitions:
“Promotion of Access to Information Act” means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);
“Protection of Personal Information Act” means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);”.

6. On page 7, after line 61, after “road transport” to add “and infrastructure”.

CLAUSE 2

1. On page 8, in line 12, to omit “, 1999”.
2. On page 8, in line 13, to omit “, 1999”.
3. On page 8, after line 16, to add the following subsection:

“(5) The access, protection and dissemination of information, including personal and confidential information, must be done in a manner consistent with and in accordance with the Protection of Personal Information Act and the Promotion of Access to Information Act.”.

CLAUSE 4

1. On page 9, after line 40, to add the following subsection:

“(11) (a) The Minister may, in consultation with the Regulator, from time-to-time, by notice in the *Gazette*, declare that regulators, in no particular order, are incorporated into the Regulator including the following regulators, but not limited to—

 - (i) the Cross-Border Road Transport Agency;
 - (ii) the National Public Transport Regulator;

- (iii) the Air Service Licensing Council;
 - (iv) the International Air Services Council; and
 - (v) any other.
- (b) If the Minister has determined that one or more of the regulators referred to in paragraph (a) must be incorporated, the Department must produce a report, after conducting a review of their performance and capabilities, including the initiation of the legislative reform required to facilitate the incorporation of these regulators within three years from the effective date and from time-to time, thereafter.
- (c) Before the Minister may consider making a determination contemplated in paragraph (a), the Department, in the prescribed manner and form—
- (i) must publish the relevant report contemplated in paragraph (b) in the *Gazette*, within the prescribed period;
 - (ii) must publish, in the *Gazette*, a notice that such a determination is being considered, and invite public submissions in response to the notice; and
 - (iii) may conduct public hearings on the matter in appropriate circumstances.”.

CLAUSE 6

1. On page 10, in line 9, after “prescribe” to insert “reasonable”.

CLAUSE 16

1. On page 14, in line 34, to omit “must” and to substitute “may”.

CLAUSE 30

1. On page 19, in line 9, after “Within” to omit “20” and to substitute “30”.

CLAUSE 47

1. On page 26, in line 32, after “Minister”, to insert “in accordance with the procedure set out in subsections (3) and (4)”.
2. On page 26, in line 35, after “subsection” to omit “(3)” and to substitute “(5)”.
3. On page 26, after line 35, to insert the following subsections:
 - “(3) The Minister must forward the nominations received, to the relevant Portfolio Committee in the National Assembly, who must in a consensus seeking manner—
 - (a) compile a short list of at least nine candidates;
 - (b) interview, in a public and transparent manner, each of the candidates whose names appear on the shortlist;
 - (c) consult with the relevant Select Committee in the National Council of Provinces; and
 - (d) compile and forward to the Minister a final short list, provided that no final short list of more than eleven candidates is compiled.

(4) The Minister, after consultation with the relevant Portfolio Committee, must appoint the members of the Council from the persons whose names appear on the final short list contemplated in subsection (3)(d).”.

4. On page 26, in line 43, after “subsection” to omit “(6)” and to substitute “(8)”.
5. On page 26, in line 51, to omit “(8)” and to substitute “(10)”.
6. On page 27, in line 2, after “subsection” to omit “(4)” and to substitute “(6)”.
7. On page 27, in line 10, after “subsection” to omit “(4)” and to substitute “(6)”.
8. On page 27, in line 14, after “subsection” to omit “(11)” and to substitute “(13)”.

CLAUSE 50

1. On page 28, from lines 19 to 20, to omit “, 1999 (Act No. 1 of 1999),”.

CLAUSE 53

1. On page 29, from lines 15 to 16, to omit “, 1999 (Act No. 1 of 1999)”.

CLAUSE 54

1. On page 29, in line 34, to omit “or must”.

CLAUSE 56

1. On page 30, in line 27, after “Chief Executive Officer” to insert “, the Regulator”.

CLAUSE 64

1. On page 33, in line 43, to omit "in connection with" and to substitute "to obstruct".
2. On page 33, in line 49, after “of section” to omit "53" and to substitute “55”.

SCHEDULE 1

1. On page 36, from lines 8 to 10, to underline the following words:
“Transport Economic Regulator established by section 29 of the Economic Regulation of Transport Act, 2020;”.
2. On page 36, in line 16, after “46.” to insert “[**(1)**]”.
3. On page 36, from lines 18 to 19, to underline the following words:
“, or prescribed in terms of the Economic Regulation of Transport Act, 2020”.

4. On page 36, from lines 26 to 28, to underline the following words:
“or prescribed in terms of the Economic Regulation of Transport Act, 2020.”.
5. On page 36, in line 31, to omit “(2)”.
6. On page 36, from lines 32 to 33, to underline the following words:
“, or prescribed in terms of the Economic Regulation of Transport Act, 2020,”.
7. On page 36, from lines 40 to 46 to omit subsection (2) and substitute the following subsection:
“(2) An agreement concluded in terms of this section must—
(a) provide for the Authority to monitor and annually review performance
with regard to the operation of the terminal or facility and the
provision of the relevant services in terms of a performance
standard specified in the agreement; and
(b) be lodged with the Regulator within 20 business days from the date
of last signature to the agreement.”.
8. On page 36, from lines 48 to 50, to underline subsection (2A).
9. On page 36, from lines 52 to 55 and on page 37 from lines 1 to 9, to underline subsections (6), (7) and (8).
10. On page 37, from lines 12 to 21 to underline subsections (6A) and (6B).

11. On page 37, from lines 24 to 26, to underline subsection (6).

12. On page 37, after line 26, to insert the following paragraph:

“(9) Section 72 of the National Ports Act, 2005 (Act No. 12 of 2005), is hereby amended by the substitution of the heading for the following heading:

“Authority’s [tariff book] price control”

13. On page 37, from lines 29 to 35 to omit subsection (1) and to substitute the following subsection:

“(1) The Authority must prepare a proposed price control for approval by the Regulator in terms of the Economic Regulation of Transport Act, 2020.”

14. On page 37, after line 35, to insert the following paragraphs:

“(11) Section 72 of the National Ports Act, 2005 (Act No. 12 of 2005), is hereby amended by the substitution for subsections (2) and (4) of the following subsections, respectively:

“(2) The **[Authority]** Regulator must, prior to any substantial alteration of a tariff, consult with the National Port Consultative Committee.

(4) Notwithstanding the provisions of this section, the **[Authority]** Regulator may enter into an agreement with a licensed operator or a party to an agreement or a port user for the variation of any tariff contemplated in subsection (1).”

(12) Section 72 of the National Ports Act, 2005 (Act No. 12 of 2005), is hereby amended by the addition of the following subsection:

“(5) For the purposes of this section “price control” has the meaning assigned to it in section 1 of the Economic Regulation of Transport Act, 2020.”.

15. On page 37, from lines 38 to 40, to underline the following words:

“the Transport Economic Regulator established by section 29 of the Economic Regulation of Transport Act, 2020.”.

16. On page 37, from lines 45 to 50, to underline subsection (1).

17. On page 37, from lines 52 to 54, to underline subsection (1A).

18. On page 37, from line 57 to page 38 from line 1 to omit section (1) and to substitute the following section:

“(1) Section 1 of the Airports Company Act, 1993 (Act No. 44 of 1993), is hereby amended by—

(a) by the deletion of the definition of “Committee”; and

(b) by the insertion after the definition of “permission” to insert the following definition:

“‘**Regulator**’ means the Transport Economic Regulator established by section 29 of the Economic Regulation of Transport Act, 2020;”.

19. On page 38, from lines 9 to 11, to underline the following words:
 “except in accordance with a price control approved and published in terms of the Economic Regulation of Transport Act, 2020;”.
20. On page 38, from lines 14 to 20, to omit subsection (1) and to substitute the following subsection:
 “(1) If the company has indicated in a business plan contemplated in section (7) that it intends to close or sell any aerodrome mentioned in section 6(1)(a) or to terminate or substantially curtail a relevant activity which was carried on by the Department or any person on behalf of the Department immediately prior to the transfer date at such aerodrome, the company shall at the same time as it submits such business plan to the Shareholding Minister in terms of section 7, submit a copy thereof to the **[Committee] Minister**.”.
21. On page 38, in line 21 after “Minister” to insert “**[shall]**”.
22. On page 38, in line 22 to omit “shall” and to substitute “shall”.
23. On page 38, from lines 28 to omit paragraph (b) and to substitute the following paragraph:
 “(b) **[make recommendations to the Minister]** may request advice from the Transport Economic Regulator, in terms of the Economic Regulation of Transport Act, 2020, regarding any action [which he] that the Minister may take in terms of subsection (3) or (4).”.

24. On page 38, from lines 36 to 38, to underline the following words:
“file a complaint with the Transport Economic Regulator in terms of section 16 of the Economic Regulation of Transport Act, 2020”.

25. On page 38, from lines 42 to 47, to omit section (1) and to substitute the following section:

“(1) Section 1 of the Air Traffic and Navigations Services Company Act, 1993 (Act No. 45 of 1993), is hereby amended by—

- (a) the deletion of the definition of “Committee”; and
- (b) the insertion after the definition of “permission” to insert the following definition:

“**Regulator**” means the Transport Economic Regulator established by section 29 of the Economic Regulation of Transport Act, 2020;”

26. On page 38, from lines 52 to 54, to underline the following words:
“except in accordance with a price control approved and published in terms of the Economic Regulation of Transport Act, 2020.”.

27. On page 39, in line 4, after “Minister” to insert “[**shall**]”.

28. On page 39, in line 5, to omit “shall” and to substitute “shall”.

29. On page 39, from lines 10 to 13, to omit paragraph (b) and to substitute the following paragraph:

“(b) **[make recommendations to the Minister]** may request advice from the Regulator, regarding any action which he or she may take in terms of subsection (3) or (4)”.

30. On page 39, from lines 17 to 21, omit subsection (1) and to substitute the following subsection:

“(1) Any person who feels aggrieved by the failure of the company to comply with any provision of section 5(2) or 11(1) **[or (12)]**, may **[lodge with the Committee a complaint, which shall be accompanied by proof of the failure]** file a complaint with the Regulator in terms of section 16 of the Economic Regulation of Transport Act, 2020.”.

31. On page 39, from lines 33 to 35, to omit paragraph (a) and to substitute the following paragraph:

“(a) is determined by the **[Minister]** Transport Economic Regulator in terms of Part A of Chapter 3 of the Economic Regulation of Transport Act, 2020, on the recommendation of the Agency;”.

32. On page 39, from lines 41 to 45, to underline subsection (5).

SCHEDULE 2

33. On page 41, from lines 55 to 56, to omit the words “, except any assets excluded by the Minister,”.