



In 2004 the Commission included in its law reform programme an investigation into statutory law revision, which entails a revision of all statutes from 1910 to date. The purpose of the revision process is to modernise and simplify the statute book, thereby reducing its size and saving the time of legal professionals and others who make use of it. In turn this helps to avoid unnecessary costs. It also ensures that people are not misled by obsolete laws masquerading as “living” law.

The focus of the statutory law revision investigation at this stage is the constitutionality of legislation and repeal of outdated provisions. The constitutional inquiry is limited to statutory provisions that blatantly violate the provisions of section 9 (the equality clause) of the Constitution. With the advent of constitutional democracy in 1994, the legislation enacted prior to that year remained in force. This has led to a situation where numerous pre-1994 provisions are constitutionally non-compliant. The matter is compounded by the fact that some of these provisions were enacted to promote and sustain the policy of apartheid. A 2004 provisional audit (by the SA Law Reform Commission) of national legislation remaining on the statute book since 1910, established that there are in the region of 2 800 individual statutes. A substantial number of these Acts serve no useful purpose anymore, while many others still contain unconstitutional provisions that have already given rise to expensive and sometimes protracted litigation.

The review of the statutes administered by the Departments of Transport, Public Works, National Treasury, Foreign Affairs, Arts and Culture and Housing has already commenced.

The Commission has approved in principle the appointment of experts by the Minister of Justice to conduct statutory review to increase the Commission’s research capacity in respect of fourteen National Government Departments namely Agriculture; Communications; Defence; Education; Environmental Affairs and Tourism; Health; Home Affairs; Justice and Constitutional Development; Labour; Land Affairs; Minerals and Energy Affairs; National Treasury; Provincial and Local Government; and Trade and Industry. The statutes of the remaining Departments will be reviewed by Commission researchers.