



REPORT

LEGISLATION ADMINISTERED BY NATIONAL TREASURY

PROJECT 25

STATUTORY LAW REVISION

OCTOBER 2011

**TO MR JT RADEBE, MP, MINISTER OF JUSTICE AND CONSTITUTIONAL
DEVELOPMENT**

I am honoured to submit to you in terms of section 7(1) of the South African Law Reform Commission Act 19 of 1973 (as amended) for your consideration and referral to the Minister of Finance, the Commission's report on Statutory Law Revision (Legislation administered by the National Treasury).

A handwritten signature in black ink, appearing to read 'Y Mokgoro', is positioned above the printed name.

Y MOKGORO

CHAIRPERSON: SOUTH AFRICAN LAW REFORM COMMISSION

OCTOBER 2011

SOUTH AFRICAN LAW REFORM COMMISSION

The South African Law Reform Commission (SALRC) was established by the South African Law Reform Commission Act, 1973 (Act 19 of 1973).

The members of the SALRC are:

The Honourable Madam Justice Yvonne Mokgoro (Chairperson)
The Honourable Mr Justice Willie Seriti (Vice-Chairperson)
Professor Cathi Albertyn
The Honourable Mr Justice Dennis Davis
Mr Tembeka Ngcukaitobi
Advocate Dumisa Ntsebeza SC
Professor PJ Schwikkard
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EXECUTIVE SUMMARY OF REPORT

A Introduction

1. The advent of democracy and the adoption of South Africa's Constitution of the Republic of South Africa, 1996 (the Constitution) necessitated a review of the country's legal policy and institutional framework to ensure alignment with the Constitution. However, since the dawn of the constitutional democracy 17 years ago, no comprehensive review of the statute book for constitutionality, redundancy or obsolescence has been undertaken. A number of Acts have been amended or repealed by Parliament on an *ad hoc* basis. To ensure a systematic and comprehensive statutory revision process, the South African Law Reform Commission (SALRC) was mandated by government to undertake a review of the entire statute book. In response to a Cabinet directive, the SALRC included in its law reform programme an investigation into statutory law revision, in 2004. The purpose of the investigation is two-fold: (a) to align the South African statute book with the Constitution, in particular with the right to equality entrenched in section 9 thereof; and (b) to provide a statute book that is free from obsolete and unnecessary provisions or legislation.

2. The audit conducted by the SALRC in 2004 revealed that there were approximately 2800 statutes in the statute book which were enacted between 1910 and 2004. The SALRC further confirmed, after an extensive consultation process, that 624 of these statutes were administered by the National Treasury. In 2007, the SALRC commenced its review of all the statutes administered by the National Treasury, except the Income Tax Acts; Value Added Tax Act; Abolition of Quitrent Acts and the Savings Bank Societies Borrowing Powers Act, for constitutionality, redundancy and obsolescence. The subject-matter of these Acts varies and includes Pensions (Supplementary) Acts; Revenue Laws Amendment Acts; Appropriation Acts and other miscellaneous pieces of legislation. In June 2008, the SALRC finalised and submitted a consultation paper, containing its preliminary findings and proposals for legislative amendments or repeal, to the National Treasury for consideration and comment. The National Treasury engaged internally, as well as with the various entities falling under its auspices, in respect of the preliminary recommendations contained in the consultation paper. On 13 May 2010, the National Treasury submitted comments to the SALRC. In its response to the SALRC's proposals

that the Appropriation Acts, the various Finance Acts and other miscellaneous pieces of legislation be repealed, the National Treasury submitted that it would be imprudent to repeal these Acts as that would obliterate the legislative record of the spending patterns of government upon which future appropriation legislation build, and which record would be difficult to trace if these Acts are repealed. The National Treasury also urged that these statutes be retained for the purposes of on-going financial accountability, transparency and continuity.

3. The SALRC, after carefully analysing the comments of the National Treasury and due to paucity of information indicating or confirming that the obligations created by certain legislative enactments have been fulfilled, decided to abandon its earlier proposals that the Local Authorities Loans Fund Acts Repeal Act 98 of 1997, the South African Airways Unallocatable Debt Act 7 of 2000, the Bophuthatswana National Provident Fund Act Repeal Act 13 of 2003, the Sefalana Employee Benefits Organisation Act Repeal Act 14 of 2003, the Inherited Debt Relief 54 of 1998, and the Finance Acts 88 of 1988, 120 of 1991, 131 of 1992, 184 of 1993, 41 of 1994, 6 of 1997, 35 of 2000, and 48 of 2002 be repealed. The SALRC has also been persuaded that the repeal of statutes that extended the application of certain statutes to the former TBVC states such as the Currency and Exchanges Amendment Act 23 of 1996 will obliterate the significant legislative developments that took place in 1996 and has thus decided not to pursue its recommendations in respect of these Acts. However, in respect of other Acts identified as candidates for repeal in the discussion paper, the SALRC's recommendations remain unchanged. The principal impetus for these proposals came from an investigation into statutory law revision which was conducted by the SALRC in the late 1970s and the precedent set by the enactment of the Repeal of Laws Act 94 of 1981 which emanated from that investigation. In 1981 the SALRC reviewed South African statute book with a view to establish a simplified, coherent and accessible statute book. This investigation culminated in the enactment of the Repeal of Laws Act of 1981 which repealed, among other statutes, a number of Appropriation Acts, Additional Appropriation Acts, Railways and Harbours Appropriation Acts which were enacted between 1910 and 1979. In the light of this legislation, the SALRC submits that the Acts identified for repeal in the consultation paper, discussion paper and in this report can indeed be repealed if they no longer serve any useful purpose.

B Discussion Paper 119

4. On 14 August 2010 and in accordance with its policy to consult widely, the SALRC decided that a discussion paper (Discussion Paper 119) containing the tentative proposals, which was submitted to the National Treasury in the form of a consultation paper, be published for general information and comment. This document was duly published in September 2010. It was also submitted to, among other preferential stakeholders, the Reserve Bank, the National Treasury, the Department of Transport, the South African Special Risks Association (SASRIA), provincial Treasuries, Auditor-General, Development Bank of Southern Africa, Financial Services Board, Financial and Fiscal Commission, Government Employees Pension Fund, Public Investment Corporation, and the Compensation Fund for comment. The closing date for comments was 31 January 2011. The SALRC received comments from SASRIA; the Chief Directorate: Legal Services in the Department of the Premier, Provincial Government of the Western Cape and the Department of Social Development.

5. Although the proposals submitted by SASRIA in respect of their enabling legislation, which were received by the SALRC on 31 January 2011, fall outside the scope of this investigation, the SALRC decided that they should be reflected in this report and brought to the attention of the National Treasury. In its submission SASRIA urged that the following provisions of the Reinsurance of Damages and Losses Act 56 of 1989 be incorporated into the Conversion of SASRIA Act of 1998:

- The definition of “loss of or damage to property” be expressly include in the definition and not be incorporated by reference as is currently the case. According to SASRIA, this definition sets out clearly what SASRIA does.
- Section 3, which protects premiums collected by companies on behalf of SASRIA and which gives it preferential right should the agent company that collected premiums be liquidated.
- Section 5, which authorises SASRIA to claim penalty from anyone who contravenes the provisions of that Act.

6. According to SASRIA, effecting the proposed amendments to the Conversion of SASRIA Act would ensure that the monopoly currently enjoyed by it is not compromised.

The SALRC implores the National Treasury to engage with SASRIA on the proposed legislative amendments.

7. The SALRC, in its discussion paper, recommended that, among other statutes, the Tax Amnesty Act 19 of 1995 be repealed. The Chief Directorate: Legal Services in the Department of Premier, Provincial Government of the Western Cape brought it the attention of the SALRC that the Tax Amnesty Act, 1995 (Act 19 of 1995) was repealed, with effect from on 8 January 2009. The SALRC will thus not pursue its recommendation in respect of this legislation.

8. The Department of Social Development supports the repeal of the laws identified by the SALRC in the discussion paper as being redundant or obsolete.

C Summary of recommendations

1 Acts recommended for repeal

9. In this report, the SALRC recommends that the following Acts be repealed wholly:

Number and year of law	Title or subject of law
(Act 36 of 1913)	Pensions (Supplementary) Act, 1913
Act 37 of 1914	Pensions (Supplementary) Act, 1914
Act 25 of 1915	Pensions (Supplementary) Act, 1915
Act 45 of 1916	Pensions (Supplementary) Act, 1916
Act 27 of 1918	Pensions (Supplementary) Act, 1918
Act 44 of 1919	Pensions (Supplementary) Act, 1919
Act 39 of 1920	Pensions (Supplementary) Act, 1920
Act 37 of 1921	Pensions (Supplementary) Act, 1921
Act 23 of 1922	Income Tax Act, 1922
Act 39 of 1922	Pensions (Supplementary) Act, 1922
Act 33 of 1923	Pensions (Supplementary) Act, 1923
Act 37 of 1924	Pensions (Supplementary) Act, 1924
Act 44 of 1925	Pensions (Supplementary) Act, 1924
Act 41 of 1926	Pensions (Supplementary) Act, 1926
Act 42 of 1926	Pensions (Second Supplementary) Act, 1926
Act 6 of 1927	Appropriation (Part) Act, 1927
Act 32 of 1927	Pensions (Supplementary) Act, 1927

Number and year of law	Title or subject of law
Act 20 of 1928	Pensions (Supplementary) Act, 1928
Act 28 of 1929	Pensions (Supplementary) Act, 1929
Act 33 of 1930	Pensions (Supplementary) Act, 1930
Act 33 of 1931	Pensions (Supplementary) Act, 1931
Act 30 of 1932	Pensions (Supplementary) Act, 1932
Act 24 of 1933	Pensions (Supplementary) Act, 1933
Act 65 of 1934	Pensions (Supplementary) Act, 1934
Act 54 of 1935	Pensions (Supplementary) Act, 1935
Act 26 of 1936	Pensions (Supplementary) Act, 1936
Act 8 of 1937	Part Appropriation Act, 1937
Act 49 of 1937	Pensions (Supplementary) Act, 1937
Act 7 of 1938	Pensions (Supplementary) Act, 1938
Act 21 of 1938	Second Pensions (Supplementary) Act, 1938
Act 40 of 1939	Pensions (Supplementary) Act, 1939
Act 28 of 1940	Pensions (Supplementary) Act, 1940
Act 32 of 1941	Pensions (Supplementary) Act, 1941
Act 43 of 1942	Pensions (Supplementary) Act, 1942
Act 32 of 1943	Pensions (Supplementary) Act, 1943
Act 43 of 1944	Pensions (Supplementary) Act, 1944
Act 42 of 1945	Pensions (Supplementary) Act, 1945
Act 25 of 1946	Banking Institutions Act, 1946
Act 54 of 1946	Special Taxation Amendment Act, 1946
Act 56 of 1946	Pensions (Supplementary) Act, 1946
Act 29 of 1947	Special Taxation Amendment Act, 1947
Act 47 of 1947	Pensions (Supplementary) Act, 1947
Act 24 of 1948	Pensions (Supplementary) Act, 1948
Act 38 of 1948	Special Taxation Amendment Act, 1948
Act 46 of 1948	Second Pensions (Supplementary) Act, 1948
Act 46 of 1949	Pensions (Supplementary) Act, 1949
Act 32 of 1950	Pensions (Supplementary) Act, 1950
Act 48 of 1951	Pensions (Supplementary) Act, 1951
Act 57 of 1952	Pensions (Supplementary) Act, 1952
Act 36 of 1953	Customs Amendment Act, 1953
Act 46 of 1953	Pensions (Supplementary) Act, 1953
Act 53 of 1954	Pensions (Supplementary) Act, 1954
Act 66 of 1955	Pensions (Supplementary) Act, 1955
Act 67 of 1956	Pensions (Supplementary) Act, 1956
Act 80 of 1957	Pensions (Supplementary) Act, 1957
Act 15 of 1958	Pensions (Supplementary) Act, 1958
Act 47 of 1958	Second Pensions (Supplementary) Act, 1958
Act 68 of 1959	Pensions (Supplementary) Act, 1959
Act 67 of 1960	Pensions (Supplementary) Act, 1960

Number and year of law	Title or subject of law
Act 65 of 1961	Pensions (Supplementary) Act, 1961
Act 82 of 1962	Pensions (Supplementary) Act, 1962
Act 94 of 1963	Pensions (Supplementary) Act, 1963
Act 83 of 1964	Pensions (Supplementary) Act, 1964
Act 100 of 1965	Pensions (Supplementary) Act, 1965
Act 60 of 1966	Pensions (Supplementary) Act, 1966
Act 93 of 1967	Pensions (Supplementary) Act, 1967
Act 94 of 1967	Revenue Laws Amendment Act, 1967
Act 99 of 1967	Financial Institutions Amendment Act, 1967
Act 84 of 1968	Pensions (Supplementary) Act, 1968
Act 80 of 1969	Financial Institutions Amendment Act, 1969
Act 100 of 1969	Pensions (Supplementary) Act, 1969
Act 23 of 1970	Financial Institutions Amendment Act, 1970
Act 75 of 1970	Second Financial Institutions Amendment Act, 1970
Act 95 of 1970	Pensions (Supplementary) Act, 1970
Act 94 of 1971	Pensions (Supplementary) Act, 1971
Act 98 of 1972	Pensions (Supplementary) Act, 1972
Act 67 of 1973	Financial Institutions Amendment Act, 1973
Act 75 of 1973	Pensions (Supplementary) Act, 1973
Act 78 of 1974	Pensions (Supplementary) Act, 1974
Act 68 of 1975	Pensions (Supplementary) Act, 1975
Act 116 of 1977	Pensions (Supplementary) Act, 1977
Act 106 of 1978	Pensions (Supplementary) Act, 1978
Act 4 of 1979	Railways and Harbours Additional Appropriation Act, 1979
Act 15 of 1979	Additional Appropriation Act, 1979
Act 22 of 1979	Post Office Additional Appropriation Act, 1979
Act 27 of 1979	Railways and Harbours Appropriation Act, 1979
Act 28 of 1979	Part Appropriation Act, 1979
Act 33 of 1979	Post Office Appropriation Act, 1979
Act 106 of 1979	Pensions (Supplementary) Act, 1979
Act 120 of 1979	Appropriation Act, 1979
Act 1 of 1980	Additional Appropriation Act, 1980
Act 10 of 1980	Part Appropriation Act, 1980
Act 14 of 1980	Railways and Harbours Additional Appropriation Act, 1980
Act 17 of 1980	Railways and Harbours Appropriation Act, 1980
Act 18 of 1980	Post Office Appropriation Act, 1980
Act 93 of 1980	Pensions (Supplementary) Act, 1980
Act 103 of 1980	Appropriation Act, 1980
Act 34 of 1981	Railways and Harbours Additional Appropriation Act, 1981
Act 36 of 1981	Financial Institutions Amendment Act, 1981
Act 37 of 1981	Additional Appropriation Act, 1981
Act 39 of 1981	Part Appropriation Act, 1981

Number and year of law	Title or subject of law
Act 49 of 1981	Railways and Harbours Part Appropriation Act, 1981
Act 50 of 1981	Post Office Part Appropriation Act, 1981
Act 74 of 1981	Post Office Appropriation Act, 1981
Act 80 of 1981	Railways and Harbours Appropriation Act, 1981
Act 109 of 1981	Appropriation Act, 1981
Act 115 of 1981	Pensions (Supplementary) Act, 1981
Act 24 of 1982	Transport Services Additional Appropriation Act, 1982
Act 41 of 1982	Part Appropriation Act, 1982
Act 46 of 1982	Additional Appropriation Act, 1982
Act 54 of 1982	Transport Services Appropriation Act, 1982
Act 57 of 1982	Post Office Appropriation Act, 1982
Act 82 of 1982	Financial Institutions Amendment Act, 1982
Act 95 of 1982	Appropriation Act, 1982
Act 106 of 1982	Pensions (Supplementary) Act, 1982
Act 7 of 1983	Transport Services Additional Appropriation Act, 1983
Act 11 of 1983	Additional Post Office Appropriation Act, 1983
Act 14 of 1983	Part Appropriation Act, 1983
Act 15 of 1983	Additional Appropriation Act, 1983
Act 22 of 1983	Transport Services Appropriation Act, 1983
Act 26 of 1983	Post Office Appropriation Act, 1983
Act 97 of 1983	Pensions (Supplementary) Act, 1983
Act 98 of 1983	Appropriation Act, 1983
Act 111 of 1983	Second Pensions (Supplementary) Act, 1983
Act 22 of 1984	Additional Post Office Appropriation Act, 1984
Act 24 of 1984	Part Appropriation Act, 1984
Act 28 of 1984	Additional Appropriation Act, 1984
Act 34 of 1984	Transport Services Appropriation Act, 1984
Act 41 of 1984	Post Office Appropriation Act, 1984
Act 98 of 1984	Appropriation Act, 1984
Act 120 of 1984	Revenue Accounts Financing Act, 1984
Act 124 of 1984	Pensions (Supplementary) Act, 1984
Act 22 of 1985	Part Appropriation Act of the Administration: House of Assembly (HA), 1985
Act 23 of 1985	Part Appropriation Act of the Administration: House of Representatives (HR), 1985
Act 24 of 1985	Part Appropriation Act of the Administration: House of Delegates (HD), 1985
Act 32 of 1985	Additional Appropriation Act, 1985
Act 33 of 1985	Additional Appropriation Act of the Administration: House of Assembly (HA), 1985
Act 34 of 1985	Additional Appropriation Act of the Administration: House of Representatives (HR), 1985

Number and year of law	Title or subject of law
Act 35 of 1985	Additional Appropriation Act of the Administration: House of Delegates (HD), 1985
Act 38 of 1985	Transport Services Appropriation Act, 1985
Act 37 of 1985	Part Appropriation Act, 1985
Act 40 of 1985	Post Office Appropriation Act, 1985
Act 62 of 1985	Appropriation Act of the Administration: House of Delegates (HD), 1985
Act 63 of 1985	Appropriation Act of the Administration: House of Assembly (HA), 1985
Act 66 of 1985	Appropriation Act of the Administration: House of Representatives (HR)
Act 73 of 1985	Appropriation Act, 1985
Act 100 of 1985	Pensions (Supplementary) Act, 1985
Act 106 of 1985	Financial Institutions Amendment Act, 1985
Act 6 of 1986	Part Appropriation Act, 1986
Act 13 of 1986	Part Appropriation Act (House of Assembly), 1986
Act 14 of 1986	Part Appropriation Act (House of Representatives), 1986
Act 15 of 1986	Part Appropriation Act (House of Delegates), 1986
Act 16 of 1986	Additional Post Office Appropriation Act, 1986
Act 17 of 1986	Additional Appropriation Act, 1986
Act 19 of 1986	Additional Appropriation Act (House of Representatives), 1986
Act 20 of 1986	Additional Appropriation Act (House of Delegates), 1986
Act 21 of 1986	Additional Appropriation Act (House of Assembly), 1986
Act 26 of 1986	Transport Services Appropriation Act, 1986
Act 28 of 1986	Post Office Appropriation Act, 1986
Act 51 of 1986	Appropriation Act (House of Assembly), 1986
Act 55 of 1986	Appropriation Act (House of Delegates), 1986
Act 61 of 1986	Appropriation Act (House of Representatives), 1986
Act 63 of 1986	Appropriation Act, 1986
Act 102 of 1986	Pensions (Supplementary) Act (House of Assembly), 1986
Act 109 of 1986	Pensions (Supplementary) Act, 1986
Act 5 of 1987	Part Appropriation Act, 1987
Act 6 of 1987	Financial Institutions Amendment Act, 1987
Act 7 of 1987	Transport Services Part Appropriation Act, 1987
Act 10 of 1987	Part Appropriation Act (House of Assembly), 1987
Act 11 of 1987	Part Appropriation Act (House of Representatives), 1987
Act 12 of 1987	Part Appropriation Act (House of Delegates), 1987
Act 13 of 1987	Additional Appropriation Act (House of Delegates), 1987
Act 14 of 1987	Additional Appropriation Act, 1987
Act 15 of 1987	Post Office Part Appropriation Act, 1987
Act 19 of 1987	Additional Appropriation Act (House of Representatives),

Number and year of law	Title or subject of law
	1987
Act 22 of 1987	Additional Appropriation Act (House of Assembly), 1987
Act 28 of 1987	Post Office Appropriation Act, 1987
Act 30 of 1987	Transport Services Appropriation Act, 1987
Act 39 of 1987	Appropriation Act (House of Representatives), 1987
Act 49 of 1987	Appropriation Act (House of Assembly), 1987
Act 77 of 1987	Appropriation Act (House of Delegates), 1987
Act 83 of 1987	Appropriation Act, 1987
Act 89 of 1987	Pensions (Supplementary) Act, 1987
Act 4 of 1988	Part Appropriation Act, 1988
Act 6 of 1988	Part Appropriation Act (House of Representatives), 1988
Act 7 of 1988	Part Appropriation Act (House of Delegates), 1988
Act 10 of 1988	Part Appropriation Act (House of Assembly), 1988
Act 15 of 1988	Additional Appropriation Act, 1988
Act 16 of 1988	Additional Appropriation Act (House of Representatives), 1988
Act 17 of 1988	Additional Appropriation Act (House of Delegates), 1988
Act 18 of 1988	Additional Appropriation Act (House of Assembly), 1988
Act 23 of 1988	Transport Services Appropriation Act, 1988
Act 34 of 1988	Post Office Appropriation Act, 1988
Act 58 of 1988	Appropriation Act (House of Representatives), 1988
Act 61 of 1988	Appropriation Act (House of Delegates), 1988
Act 62 of 1988	Appropriation Act (House of Assembly), 1988
Act 79 of 1988	Appropriation Act, 1988
Act 92 of 1988	Accountants' and Auditors' and Financial Institutions Amendment Act, 1988
Act 96 of 1988	South African Reserve Bank, Banking Institutions, Mutual Building Societies, and Building Societies Amendment Act, 1988
Act 1 of 1989	Part Appropriation Act, 1989
Act 2 of 1989	Additional Post Office Appropriation Act, 1989
Act 4 of 1989	Transport Services Additional Appropriation Act, 1989
Act 5 of 1989	Appropriation Act, Additional 1989
Act 10 of 1989	Part Appropriation Act (House of Assembly), 1989
Act 11 of 1989	Part Appropriation Act (House of Representatives), 1989
Act 12 of 1989	Part Appropriation Act (House of Delegates), 1989
Act 13 of 1989	Banking Institutions, Mutual Building Societies and Building Societies Amendment Act, 1989
Act 15 of 1989	Additional Appropriation Act (House of Representatives), 1989
Act 16 of 1989	Additional Appropriation Act (House of Delegates), 1989
Act 17 of 1989	Additional Appropriation Act (House of Assembly), 1989

Number and year of law	Title or subject of law
Act 28 of 1989	Transport Services Appropriation Act, 1989
Act 32 of 1989	Pensions (Supplementary) Act, 1989
Act 38 of 1989	Post Office Appropriation Act, 1989
Act 67 of 1989	Appropriation Act, 1989
Act 81 of 1989	Appropriation Act (House of Assembly), 1989
Act 82 of 1989	Appropriation Act (House of Representatives), 1989
Act 83 of 1989	Appropriation Act (House of Delegates), 1989
Act 86 of 1989	Pensions Second (Supplementary) Act, 1989
Act 1 of 1990	Part Appropriation Act, 1990
Act 2 of 1990	Additional Post Office Appropriation Act, 1990
Act 4 of 1990	Transport Services Additional Appropriation Act, 1990
Act 6 of 1990	Additional Appropriation Act, 1990
Act 7 of 1990	Part Appropriation Act (House of Representatives), 1990
Act 8 of 1990	Part Appropriation Act (House of Assembly), 1990
Act 11 of 1990	Part Appropriation Act (House of Delegates), 1990
Act 19 of 1990	Additional Appropriation Act (House of Assembly), 1990
Act 20 of 1990	Additional Appropriation Act (House of Representatives), 1990
Act 21 of 1990	Additional Appropriation Act (House of Delegates), 1990
Act 22 of 1990	Post Office Appropriation Act, 1990
Act 57 of 1990	Appropriation Act (House of Assembly), 1990
Act 58 of 1990	Appropriation Act (House of Delegates), 1990
Act 93 of 1990	Appropriation Act, 1990
Act 103 of 1990	Appropriation Act (House of Representatives), 1990
Act 118 of 1990	Pensions (Supplementary) Act, 1990
Act 26 of 1991	Additional Appropriation Act, 1991
Act 27 of 1991	Part Appropriation Act, 1991
Act 28 of 1991	Part Appropriation Act (House of Assembly), 1991
Act 29 of 1991	Part Appropriation Act (House of Representatives), 1991
Act 30 of 1991	Part Appropriation Act (House of Delegates), 1991
Act 31 of 1991	Additional Appropriation Act (House of Assembly), 1991
Act 32 of 1991	Additional Appropriation Act (House of Representatives), 1991
Act 33 of 1991	Additional Appropriation Act (House of Delegates), 1991
Act 35 of 1991	Post Office Appropriation Act, 1991
Act 91 of 1991	Appropriation Act (House of Assembly), 1991
Act 92 of 1991	Appropriation Act (House of Representatives), 1991
Act 93 of 1991	Appropriation Act (House of Delegates), 1991
Act 132 of 1991	Appropriation Act, 1991
Act 133 of 1991	Pensions (Supplementary) Act, 1991
Act 24 of 1992	Additional Appropriation Act (House of Assembly), 1992
Act 25 of 1992	Additional Appropriation Act (House of Representatives),

Number and year of law	Title or subject of law
	1992
Act 26 of 1992	Additional Appropriation Act (House of Delegates), 1992
Act 27 of 1992	Part Appropriation Act, 1992
Act 28 of 1992	Additional Appropriation Act, 1992
Act 30 of 1992	Part Appropriation Act (House of Assembly), 1992
Act 31 of 1992	Part Appropriation Act (House of Representatives), 1992
Act 32 of 1992	Part Appropriation Act (House of Delegates), 1992
Act 72 of 1992	Appropriation Act (House of Assembly), 1992
Act 73 of 1992	Appropriation Act (House of Representatives), 1992
Act 74 of 1992	Appropriation Act (House of Delegates), 1992
Act 76 of 1992	Public Investment Commissioners Amendment Act, 1992
Act 95 of 1992	Appropriation Act, 1992
Act 138 of 1992	Pensions (Supplementary) Act, 1992
Act 1 of 1993	Additional Appropriation Act, 1993
Act 24 of 1993	Additional Appropriation Act (House of Assembly), 1993
Act 25 of 1993	Additional Appropriation Act (House of Representatives), 1993
Act 26 of 1993	Additional Appropriation Act (House of Delegates), 1993
Act 35 of 1993	Post Office Appropriation Act, 1993
Act 70 of 1993	Public Accountants' and Auditors' Amendment Act, 1993
Act 74 of 1993	Appropriation Act (House of Representatives), 1993
Act 75 of 1993	Appropriation Act (House of Delegates) ,1993
Act 77 of 1993	Appropriation Act (House of Assembly), 1993
Act 79 of 1993	Finance Act (House of Assembly), 1993
Act 96 of 1993	Appropriation Act, 1993
Act 128 of 1993	Pensions (Supplementary) Act, 1993
Act 160 of 1993	Adjustments Appropriation Act (House of Assembly), 1993
Act 164 of 1993	Adjustments Appropriation (House of Assembly), 1993
Act 165 of 1993	Adjustments Estimate Act (House of Delegates), 1993
Act 167 of 1993	Adjustments Appropriation Act, 1993
Act 11 of 1994	Post Office Appropriation Act, 1994
Act 16 of 1994	Appropriation Act, 1994
Act 1 of 1995	Adjustments Appropriation Act, 1995
Act 4 of 1995	Additional Post Office Appropriation Act, 1995
Act 17 of 1995	Post Office Appropriation Act, 1995
Act 22 of 1995	Public Investment Commissioners Amendment Act, 1995
Act 23 of 1995	Public Accountants' and Auditors' Amendment Act, 1995
Act 42 of 1995	Appropriation Act, 1995
Act 53 of 1995	Audit Matters Rationalisation and Amendment Act, 1995
Act 54 of 1995	Stock Exchanges Control Amendment Act, 1995
Act 55 of 1995	Financial Markets Control Amendment Act, 1995
Act 1 of 1996	Adjustments Appropriation Act, 1996

Number and year of law	Title or subject of law
Act 30 of 1996	Post Office Appropriation Act, 1996
Act 41 of 1996	Appropriation Act, 1996
Act 70 of 1996	Safe Deposit of Securities Amendment Act, 1996
Act 71 of 1996	Stock Exchanges Control Amendment Act, 1996
Act 73 of 1996	Financial Markets Control Amendment Act, 1996
Act 3 of 1997	Exchequer Amendment Act, 1997
Act 5 of 1997	Public Accountants' and Auditors' Amendment Act, 1997
Act 29 of 1997	Appropriation Act, 1997
Act 30 of 1997	Reporting by Public Entities Amendment Act, 1997
Act 95 of 1997	Revenue Funds Interim Arrangements Act, 1997
Act 96 of 1997	Financial and Fiscal Commission 1993 Constitutional Provisions Repeal Act, 1997
Act 3 of 1998	Adjustments Appropriation Act, 1998
Act 11 of 1998	Interim Appropriation Act, 1998
Act 13 of 1998	Financial Markets Control Amendment Act, 1998
Act 14 of 1998	Stock Exchanges Control Amendment Act, 1998
Act 29 of 1998	Appropriation Act, 1998
Act 38 of 1998	Safe Deposit of Securities Amendment Act, 1998
Act 51 of 1998	Insurance Second Amendment Act, 1998
Act 129 of 1998	Second Adjustments Appropriation Act, 1998
Act 7 of 1999	Public Investment Commissioners Amendment Act, 1999
Act 31 of 1999	Appropriation Act, 1999
Act 40 of 1999	Financial Markets Control Amendment Act, 1999
Act 41 of 1999	Closed Pension Fund Amendment Act, 1999
Act 51 of 1999	Adjustments Appropriation Act, 1999
Act 52 of 1999	Second Adjustments Appropriation Act, 1999
Act 23 of 2000	Appropriation Act, 2000
Act 34 of 2000	Adjustments Appropriation Act, 2000
Act 55 of 2000	Second Adjustments Appropriation Act, 2000
Act 18 of 2001	Appropriation Act, 2001
Act 40 of 2001	Stock Exchanges Control Amendment Act, 2001
Act 59 of 2001	Adjustments Appropriation Act, 2001
Act 2 of 2002	Social Grants Appropriation Act, 2002
Act 3 of 2002	Burundi Protection Support Appropriation Act, 2002
Act 29 of 2002	Appropriation Act, 2002
Act 73 of 2002	Adjustments Appropriation Act, 2002
Act 4 of 2003	Gold and Foreign Exchange Contingency Reserve Account Defrayal Act, 2003
Act 5 of 2003	Food Relief Adjustments Appropriation Act, 2003
Act 18 of 2003	Appropriation Act, 2003
Act 37 of 2003	Adjustments Appropriation Act, 2003

2 Acts recommended for amendment

10. In this report, the SALRC recommends that the following Acts be amended:

Number and year of law	Title or subject of law
Act 9 of 1933	Currency and Exchanges Act, 1933
Act 22 of 1933	Union and Southern Rhodesia Death Duties Act, 1933
Act 25 of 1956	Friendly Societies Act, 1956
Act 70 of 1963	Revenue Laws Amendment Act, 1963
Act 34 of 1964	Bills of Exchange Act, 1964
Act 77 of 1964	Revenue Laws Amendment Act, 1964
Act 82 of 1964	Tax Reserve Account Act, 1964
Act 91 of 1964	Customs and Excise Act, 1964
Act 81 of 1965	Revenue Laws Amendment Act, 1965
Act 95 of 1965	Customs and Excise Amendment Act, 1965
Act 56 of 1966	Revenue Laws Amendment Act, 1966
Act 57 of 1966	Customs and Excise Amendment Act, 1966
Act 96 of 1967	Customs and Excise Amendment Act, 1967
Act 65 of 1968	Financial Institutions Amendment Act, 1968
Act 85 of 1968	Customs and Excise Amendment Act, 1968
Act 86 of 1968	State Tender Board Act, 1968
Act 103 of 1969	Revenue Laws Amendment Act, 1969
Act 105 of 1969	Customs and Excise Amendment Act, 1969
Act 72 of 1970	Revenue Laws Amendment Act, 1970
Act 98 of 1970	Customs and Excise Amendment Act, 1970
Act 11 of 1971	Associated Institutions Provident Fund Act, 1971
Act 74 of 1971	State Tender Board and State Procurement Board Amendment Act, 1971
Act 89 of 1971	Customs and Excise Amendment Act, 1971
Act 92 of 1971	Revenue Laws Amendment Act, 1971
Act 89 of 1972	Revenue Laws Amendment Act, 1972
Act 91 of 1972	Financial Institutions Amendment Act, 1972
Act 103 of 1972	Customs and Excise Amendment Act, 1972
Act 66 of 1973	Revenue Laws Amendment Act, 1973
Act 68 of 1973	Customs and Excise Amendment Act, 1973
Act 88 of 1974	Revenue Laws Amendment Act, 1974
Act 70 of 1975	Revenue Laws Amendment Act, 1975
Act 71 of 1975	Customs and Excise Amendment Act, 1975
Act 65 of 1976	Financial Relations Act, 1976
Act 71 of 1975	Customs and Excise Amendment Act, 1975
Act 84 of 1976	Military Pensions Act, 1976
Act 85 of 1976	War Damage Insurance and Compensation Act, 1976

Act 101 of 1976	Financial Institutions Amendment Act, 1976
Act 104 of 1976	Revenue Laws Amendment Act, 1976
Act 105 of 1976	Customs and Excise Amendment Act, 1976
Act 11 of 1977	Finance and Financial Adjustments Acts Consolidation Act, 1977
Act 58 of 1977	Bills of Exchange Amendment Act, 1977
Act 94 of 1977	Financial Institutions Amendment Act, 1977
Act 112 of 1977	Customs and Excise Amendment Act, 1977
Act 114 of 1977	Revenue Laws Amendment Act, 1977
Act 56 of 1978	Secret Services Act, 1978
Act 93 of 1978	Customs and Excise Amendment Act, 1978
Act 95 of 1978	Revenue Laws Amendment Act, 1978
Act 29 of 1979	General Pensions Act, 1979
Act 75 of 1979	Temporary Employees Pension Fund, 1979
Act 102 of 1979	Revenue Laws Amendment Act, 1979
Act 103 of 1979	Financial Institutions Amendment Act, 1979
Act 98 of 1980	Customs and Excise Amendment Act, 1980
Act 99 of 1980	Financial Institutions Amendment Act, 1980
Act 106 of 1980	Revenue Laws Amendment Act, 1980
Act 99 of 1981	Revenue Laws Amendment Act, 1981
Act 86 of 1982	Customs and Excise Amendment Act, 1982
Act 87 of 1982	Revenue Laws Amendment Act, 1982
Act 89 of 1983	Customs and Excise Amendment Act, 1983
Act 92 of 1983	Revenue Laws Amendment Act, 1983
Act 46 of 1984	Corporation for Public Deposits Act, 1984
Act 86 of 1984	Financial Institutions Amendment Act, 1984
Act 89 of 1984	Customs and Excise Amendment Act, 1984
Act 118 of 1984	Revenue Laws Amendment Act, 1984
Act 81 of 1985	Revenue Laws Amendment Act, 1985
Act 101 of 1985	Customs and Excise Amendment Act, 1985
Act 50 of 1986	Financial Institutions Amendment Act, 1986
Act 52 of 1986	Customs and Excise Amendment Act, 1985
Act 71 of 1986	Revenue Laws Amendment Act, 1986
Act 84 of 1987	Customs and Excise Amendment Act, 1987
Act 51 of 1988	Financial Institutions Amendment Act, 1988
Act 69 of 1988	Customs and Excise Amendment Act, 1988
Act 53 of 1989	Financial Institutions Amendment Act, 1989
Act 54 of 1989	Financial Institutions Second Amendment Act, 1989
Act 68 of 1989	Customs and Excise Amendment Act, 1989
Act 90 of 1989	South African Reserve Bank Act, 1989
Act 59 of 1990	Customs and Excise Amendment Act, 1990
Act 64 of 1990	Financial Institutions Amendment Act, 1990
Act 94 of 1990	Banks Act, 1990

Act 95 of 1990	Extension of the Powers of the South African Reserve Bank Act, 1990
Act 97 of 1990	Financial Services Board, 1990
Act 54 of 1991	Financial Institutions Amendment Act, 1991
Act 72 of 1991	Exemption from Certain Payments at the Transfer of the Sorghum Beer Industry Act, 1991
Act 41 of 1992	Financial Services Board Amendment Act, 1992
Act 42 of 1992	Deposit Taking Institutions Amendment Act, 1992
Act 61 of 1992	Customs and Excise Amendment Act, 1992
Act 78 of 1992	Finance Acts Consolidation Act, 1992
Act 83 of 1992	Financial Institutions Amendment Act, 1992
Act 7 of 1993	Financial Institutions Amendment Act, 1993
Act 8 of 1993	Financial Supervision of the Road Accident Fund Act, 1993
Act 9 of 1993	Deposit Taking Institutions Amendment Act, 1993
Act 10 of 1993	South African Reserve Bank Amendment Act, 1993
Act 98 of 1993	Customs and Excise Amendment Act, 1993
Act 104 of 1993	Financial Institutions Second Amendment Act, 1993
Act 124 of 1993	Mutual Banks Act, 1993
Act 140 of 1993	Revenue Laws Amendment Act, 1993
Act 197 of 1993	Closed Pension Fund Act, 1993
Act 7 of 1994	Reconstruction and Development Programme Fund Act, 1994
Act 19 of 1994	Customs and Excise Amendment Act, 1994
Act 26 of 1994	Banks Amendment Act, 1994
Act 45 of 1995	Customs and Excise Amendment Act, 1995
Act 32 of 1996	Supervision of Financial Institutions Rationalisation Act, 1996
Act 46 of 1996	Revenue Laws Amendment Act, 1996
Act 69 of 1996	Special Pensions Act, 1996
Act 13 of 1997	Development Bank of Southern Africa Act, 1997
Act 22 of 1997	Financial Institutions Amendment Act, 1997
Act 34 of 1997	South African Revenue Service Act, 1997
Act 50 of 1998	Demutualisation Levy Act, 1998
Act 52 of 1998	Long-term Insurance Act, 1998
Act 53 of 1998	Short-term Insurance Act, 1998
Act 75 of 1998	Special Pensions Amendment Act, 1998
Act 1 of 1999	Public Finance Management Act, 1999
Act 29 of 1999	Public Finance Management Amendment Act, 1999
Act 53 of 1999	Revenue Laws Amendment Act, 1999
Act 59 of 2000	Revenue Laws Amendment Act, 2000
Act 19 of 2001	Revenue Laws Amendment Act, 2001
Act 38 of 2001	Financial Intelligence Centre Act, 2001
Act 60 of 2001	Revenue Laws Amendment Act, 2001

Act 37 of 2002	Financial Advisory and Intermediary Services Act, 2002
Act 74 of 2002	Revenue Laws Amendment Act, 2002

D Concluding remarks

11. The SALRC, in compliance with the provisions of section 7(1) of the South African Law Reform Commission Act, 1973 (Act 19 of 1973), has prepared this report for consideration by the Minister of Justice and Constitutional Development and referral to the Minister of Finance.

CHAPTER 1
PROJECT 25: STATUTORY LAW REVISION

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CHAPTER 1

PROJECT 25: STATUTORY LAW REVISION

A Introduction

1 Background of the investigation

1.1 The objects of the SA Law Reform Commission (SALRC) as set out in the South African Law Reform Commission Act 19 of 1973 are to do research with reference to all branches of the law of the Republic and to study and to investigate all such branches of the law in order to make recommendations for the development, improvement, modernization or reform thereof, including –

- the repeal of obsolete or unnecessary provisions;
- the removal of anomalies;
- the bringing about of uniformity in the law in force in the various parts of the Republic; and
- the consolidation or codification of any branch of the law.

1.2 In short, the SALRC is an advisory body whose aim is the renewal and improvement of the law of South Africa on a continuous basis.

1.3 Shortly after its establishment in 1973, the SALRC undertook a revision of all pre-Union legislation as part of its project 7. This resulted in the repeal of approximately 1 200 laws, ordinances and proclamations of the former Colonies and Republics. In 1981 the SALRC finalised a report on the repeal of post-Union statutes as part of its project 25 on statute law: the establishment of a permanently simplified, coherent and generally accessible statute book. This report resulted in Parliament adopting the Repeal of Laws Act, 1981 (Act No 94 of 1981) which repealed approximately 790 post-Union statutes.

1.4 In 2003 Cabinet approved that the Minister of Justice and Constitutional Development co-ordinates and mandates the SALRC to review provisions in the legislative framework that would result in discrimination as defined by section 9 of the

Constitution of the Republic of South Africa, 1996 (the Constitution). This section prohibits unfair discrimination on the basis of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

1.5 In 2004 the SALRC included in its law reform programme an investigation into statutory law revision, which entails a revision of all statutes from 1910 to date. While the emphasis in the previous investigations was to identify obsolete and redundant provisions for repeal, the emphasis in the current investigation is on compliance with the Constitution, particularly section 9 thereof. All redundant and obsolete provisions identified in the course of the current investigation have also been recommended for repeal. It can be argued that purging the statute book of redundant and obsolete legislation first facilitates the constitutional scrutiny of those statutes that remain on the statute book.

1.6 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 recent provisional audit, by the SALRC, of national legislation remaining on the statute book since 1910, established that there are in the region of 2 800 individual statutes, comprising principal Acts, amendment Acts, private Acts, additional or supplementary Acts and partially repealed Acts. 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.

2 Initial investigation

1.7 In the early 2000s the SALRC and the German Agency for Technical Cooperation commissioned a study to determine the feasibility, scope and operational structure of revising the South African statute book for constitutionality, redundancy and obsolescence.

The Centre for Applied Legal Studies of the University of the Witwatersrand pursued four main avenues of research in their study conducted in 2001:¹

1. A series of role-player interviews were conducted with representatives of all three tiers of government, Chapter 9 institutions, the legal profession, academia and civil society. These interviews revealed a high level of support for the project.
2. An analysis of all Constitutional Court judgments until 2001 was undertaken. Schedules reflecting the nature and outcome of the cases, and the statutes impugned were compiled. The three most problematic categories of legislative provision were identified, and an analysis made of the Constitutional Court's jurisprudence in relation to each category. The three categories were: reverse onus provisions; discriminatory provisions; and provisions that infringe on the separation of powers. Guidelines summarising the Constitutional Court's jurisprudence were compiled in respect of each category.
3. Sixteen randomly selected national statutes were tested against these guidelines. The outcome of the test was then compared against a control audit that tested the same statutes against the entire Bill of Rights, excluding socio-economic rights. A comparison of the outcomes revealed that a targeted revision of the statute book, in accordance with the guidelines, produced surprisingly effective results.
4. A survey of five countries (United Kingdom, Germany, Norway, Switzerland and France) was conducted. With the exception of France, all the countries have conducted or are conducting statutory revision exercises, although the motivation for and the outcomes of these exercises differ.

¹

Centre for Applied Legal Studies: University of the Witwatersrand *Feasibility and Implementation Study on the Revision of the Statute Book* Unpublished paper 2001.

3 Reports of SALRC proposing reform or repeal of discriminatory, obsolete and redundant provisions

1.8 The following reports, proposing reform of discriminatory areas of the law or the repeal of specific discriminatory provisions, were finalised by the SALRC:

- The Recognition of Customary Marriages (August 1998)
- the Review of the Marriage Act 25 of 1961 (May 2001)
- the Application of the Bill of Rights to Criminal Procedure, Criminal Law, the Law of Evidence and Sentencing (May 2001)
- Traditional courts (January 2003)
- the Recognition of Muslim marriages (July 2003)
- the Repeal of the Black Administration Act, 1927 (March 2004)
- Customary Law of Succession (March 2004)
- Domestic Partnerships (March 2006)
- Statutory Law Revision: Legislation administered by the Department of Transport (October 2009)

4 Commencement of Project

1.9 Early in 2004 the SALRC informed all national Government departments of the priority of the investigation into statutory law revision. The SALRC conducted a workshop with representatives from these departments, so as to elicit their participation in the revision process. From the outset it was clear that with the available capacity at the SALRC and in government departments, the review would, at this stage, focus on national legislation.

1.10 As mentioned previously, a provisional audit of all national legislation on the statute book — from 1910 to 2004 — was conducted by the SALRC, in July 2004. This audit revealed that there are in the region of 2 800 individual statutes, comprising principal Acts, amendment Acts, private Acts, additional or supplementary Acts and partially repealed Acts. Government departments were then requested, in August 2004, to study the

provisional audit of national legislation and to confirm their respective responsibilities for administering the statutes that were allocated to them. A number of statutes, however, remained unaccounted for and were not claimed by any of the departments. Consequently, the SALRC launched its own investigation in order to establish which Ministers introduced these statutes. A significant problem encountered in this regard was that some departments, which existed at the time the legislation was promulgated, no longer exist. Furthermore, it was not clear which of the current Government departments inherited the legislation administered by these “old” departments. The SALRC then grouped the remaining legislation into various categories, and submitted this information, during 2005 to those departments the SALRC believed had the responsibility for administering the remaining statutes and requested them to investigate and provide feedback.

1.11 In 2006 the SALRC once again corresponded with Government departments informing them that it wished to secure their assistance in reducing the number of obsolete or redundant pieces of legislation on the statute book. The number of statutes that each department is responsible for were set out in lists which were forwarded to them. It was pointed out to the departments that it was possible that although some of these statutes may be redundant or obsolete, they still remain on the statute book, since they have never been repealed. In some instances, Principal Acts may have been repealed while their corresponding Amendment Acts were never listed in a Schedule to the repealing Act — thus causing the Amendment Acts, although of no legal force, to clutter up the statute book (unless, of course, they contain substantive provisions).

B What is Statutory Law Revision?

1.12 Statutory law revision is the process of repealing statutes that are no longer of practical utility. 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. This, in turn helps, to avoid unnecessary costs. Moreover, it also ensures that people are not misled by obsolete laws masquerading as ‘live’ law. If

Acts still feature in the statute book and are referred to in the text-books, people reasonably assume those Acts still serve a purpose.

1.13 Legislation identified for repeal is selected on the basis that it is no longer of practical utility. Usually this is because these laws no longer have any legal effect on technical grounds - because they are spent, unnecessary or obsolete. But sometimes they are selected because, although strictly speaking they do continue to have legal effect, the purposes for which they were enacted, either no longer exist, or are currently being met by alternative means.

1.14 Provisions commonly recommended for repeal include the following:²

- References to bodies, organisations, etc. that have been dissolved or wound up or which have otherwise ceased to serve any purpose.
- References to issues which are no longer relevant as a result of changes in social or economic conditions.
- References to Acts that have been superseded by more modern legislation or by international conventions.
- References to statutory provisions (i.e. sections, schedules, orders, etc.) that have been repealed.
- Repealing provisions e.g. "Section 33 is repealed/shall cease to have effect".
- Commencement provisions once the whole Act is in force.
- Transitional or savings provisions that are spent.
- Provisions that are self-evidently spent, for example a once-off statutory obligation to do something becomes spent once the required act has duly been performed.
- Powers that have never been exercised over a period of many years or where any previous exercise is now spent.

² These guidelines are based on *Background Notes on Statute Law Repeals* Law Commission for England and Wales 28 April 2011 Web 28 May 2011
< [http://www.lawcom.gov.uk/docs/background notes.pdf](http://www.lawcom.gov.uk/docs/background%20notes.pdf) >

1.15 The meaning of the terms *expired*, *spent*, *repealed in general terms*, *virtually repealed*, *superseded* and *obsolete* was explained by the Law Commission of India as follows:³

- Expired – that is, enactments which having been originally limited to endure only for a specified period by a distinct provision, have not been either perpetuated or kept in force by continuance, or which have merely had as their object the continuance of previous temporary enactments for periods now gone by effluxion of time;
- Spent – that is, enactments spent or exhausted in operation by the accomplishment of the purposes for which they were passed, either at the moment of their first taking effect or on the happening of some event or on the doing of some act authorised or required;
- Repealed in general terms – that is, repealed by the operation of an enactment expressed only in general terms, as distinguished from an enactment specifying the Acts which it is to operate;
- Virtually repealed – where an earlier enactment is inconsistent with, or is rendered nugatory by, a later one;
- Superseded – where a later enactment effects the same purposes as an earlier one by repetition of its terms or otherwise;
- Obsolete – where the state of things contemplated by the enactment has ceased to exist, or the enactment is of such a nature as to be no longer capable of being put in force, regard being had to the alteration of political or social circumstances.

1.16 The obsolescence of statutes tends to be a gradual process. Usually there is no single identifiable event that makes a statute obsolete, often it is simply a case of legislation being overtaken by social and economic changes. Inevitably some provisions fade away more quickly than others. These include commencement and transitory

³ Law Commission of India *Ninety-Sixth Report on Repeal of Certain Obsolete Central Acts* March 1984
The Law Commission of India 15 July 2011 Web 26 September 2011
< <http://lawcommissionofindia.nic.in/51-100/Report96.pdf> >

provisions and 'pump-priming' provisions (e.g. initial funding and initial appointments to a Committee or a Board) to implement the new legislation. Next to go may be subordinate legislation-making powers that are no longer needed. Then the Committee or Board established by the Act no longer meets and can be abolished.

1.17 Much statutory law revision is possible because of the general savings provisions contained in section 12(2) of the Interpretation Act 33 of 1957. This section provides as follows:

Where a law repeals any other law, then unless the contrary intention appears, the repeal shall not-

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any law so repealed or anything duly done or suffered under the law so repealed; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as is in this subsection mentioned,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing law had not been passed.

1.18 The constitutional validity aspect of this project focused on statutes or provisions in statutes that are clearly inconsistent with the right to equality in section 9 of the Constitution. In practical terms this means that this leg of the investigation was limited to those statutes or provisions in statutes that –

- differentiate between people or categories of people, and which are not rationally connected to a legitimate government purpose; or
- unfairly discriminate against people or categories of people on one or more grounds listed in section 9(3) of the Constitution; or
- unfairly discriminates on grounds which impair or have the potential to impair a person's fundamental human dignity as a human being.

1.19 Consequently, a law or a provision in a law which appears, in the face of it, to be neutral and non-discriminatory but which has or could have discriminatory effect or consequences has been left to the judicial process.

C Scope of Project

1.20 This investigation accordingly, focused not only on obsolescence or redundancy of provisions but also on the question of the constitutionality of provisions in statutes. In 2003 Cabinet agreed that the highest priority be given to reviewing provisions that would result in discrimination as defined in section 9 of the Constitution which prohibits unfair discrimination on the basis of race, gender, sex, pregnancy, marital status, ethnic and social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. The SALRC agreed that the project should proceed by scrutinising and revising national legislation which discriminates unfairly.⁴ However, even the section 9 inquiry was limited, dealing primarily with statutory provisions that are blatantly in conflict with section 9 of the Constitution. This was necessitated by, among other considerations, time and capacity. However, other inconsistencies with the Constitution and anomalies have been identified and recommendations have been made on how to address them.

⁴ Professor Cathi Albertyn prepared guidelines for the SALRC for assessing the South African Statute Book for constitutionality against section 9 of the Constitution. Albertyn C *Summary of the Equality Jurisprudence and Guidelines for assessing the SA Statute Book for constitutionality against section 9 of the 1996 Constitution* Unpublished paper prepared for the South African Law Reform Commission 2006.

D Assistance by government Departments and other stakeholders

1.21 In 2004 Cabinet endorsed that Departments should be requested to participate in and contribute to this investigation. Sometimes it is impossible to tell whether a provision can be repealed without factual information that is not readily ascertainable without access to 'inside' knowledge held by a Department or other organisation. Examples of this include savings or transitional provisions which are there to preserve the status quo, until an office-holder ceases to hold office or until repayment of a loan has been made. In cases like these, the repeal notes drafted by the SALRC invited the Department or organisation being consulted to supply the necessary information.

E Statutes administered by National Treasury

1.22 In respect of legislation administered by the National Treasury,⁵ the SALRC initially identified 624 statutes, which were enacted between 1910 and 2004, as being statutes administered by the National Treasury. Thirteen of these statutes have since been repealed.⁶ The SALRC has conducted an investigation to determine whether any of the remaining 611 statutes may be repealed as a result of redundancy, obsolescence or for

⁵ The National Treasury is responsible for managing South Africa's national government finances. The Constitution, in Chapter 13, mandates the National Treasury to ensure transparency, accountability and sound financial controls in the management of public finances. The National Treasury's legislative mandate is also described in the Public Finance Management Act, in Chapter 2 of that Act, as being to promote government's fiscal policy framework; to coordinate macroeconomic policy and intergovernmental financial relations; to manage the budget preparation process; to facilitate the Division of Revenue Act, which provides for an equitable distribution of nationally raised revenue between national, provincial and local government; and to monitor the implementation of provincial budgets. See <http://www.treasury.gov.za/nt/info.aspx#>

⁶ The Insurance Act 27 of 1943; Stamp Duties Act 77 of 1968; Public Investment Commissioners Act 45 of 1984; Stock Exchanges Control Act 1 of 1985; Financial Markets Control Act 55 of 1989; Public Accountants' and Auditors' Act 80 of 1991; Custody and Administration of Securities Act (former title: Safe Deposit of Securities Act) 85 of 1992; Audit Arrangements Act 122 of 1992; Auditor General Act 12 of 1995; Tax Amnesty Act 19 of 1995; Uncertified Securities Tax Act 31 of 1998; Insider Trading Act 135 of 1998; and the Division of Revenue Act 5 of 2004.

being inconsistent with section 9 of the Constitution. The first leg of the review of the National Treasury legislation primarily focussed on the Pensions (Supplementary) Acts; the Appropriation Acts and other miscellaneous Acts. This report thus contains the findings and recommendations of the SALRC in respect of these statutes. The review of the Income Tax Acts⁷, Value Added Tax Acts, the Abolition of Quitrent Acts and the Savings Bank Societies Borrowing Powers Act has already commenced. The SALRC will publish its tentative findings and proposals shortly for public comments and information.

1.23 In this report, the SALRC identifies a number of Acts that may be wholly repealed and provisions in legislation that require amendment or repeal. The SALRC has, as it is mandated by section 5(5) of the South African Law Reform Commission Act of 1973, included a draft Bill in this report which, if enacted and promoted by the National Treasury, will give effect to the SALRC's recommendations. Furthermore, Chapter 2 of this report sets out the reasons why these statutes or provisions have been identified as candidates for repeal or amendment.

1.24 In the light of the fact that the majority of statutes administered by the National Treasury, for example, the Pension (Supplementary) Acts, confer rights and create obligations, it is imperative to state right from the outset that the repeal of these Acts would have no impact on the enforcement of the rights and obligations created by these statutes. Section 12(2)(c) of the Interpretation Act 33 of 1957 clearly states that the repeal of a law will not affect any right, privilege, obligation or liability acquired, accrued or incurred under the law repealed and that legal proceedings or remedy may be instituted, continued or enforced as if the repealing law had not been passed.

⁷ Except for the Income Tax Act 23 of 1922, which has been reviewed and which is recommended for repeal in this report.

F Consultation with National Treasury

1.25 As stated above, the SALRC has reviewed a number of statutes administered by the National Treasury. In June 2008 and in accordance with its policy to consult widely and to involve the Department likely to be affected by the proposals made, the SALRC developed and submitted a consultation paper to the National Treasury explaining the background to statutory law revision, setting out the guidelines utilised by the SALRC to test the constitutionality and redundancy of statutes and provided detailed findings and proposals for legislative reform in respect of legislation found wanting; appended a draft repeal Bill setting out legislation which needed to be repealed and the extent of such repeal and invited the National Treasury to peruse the preliminary findings, proposals and questions for comment and submit comments to the SALRC. The National Treasury has engaged internally and with the various entities that fall under its auspices in respect of the preliminary findings and proposals set out in the consultation paper.

1.26 In June 2010, the National Treasury submitted comments to the SALRC. In a nutshell, the National Treasury submitted that, although past legislation such as Appropriation Acts; Additional Appropriation Acts; Part Appropriation Acts; Post Office, Railways and Harbours Appropriation Acts; and the various Finance Act, may technically be redundant, they form a legislative historical record which may be necessary to retain. The National Treasury conceded that while it is possible that the obligations created by these enactments has been fulfilled and these statutes may thus be considered as being spent, it was however of the view that they should not be repealed as they constitute the legislative authority for the spending actions of government that remains part of the state's inherited financial legacy. This legacy, according to the National Treasury, is the basis upon which subsequent Finance and Appropriation Acts build. Furthermore, the National Treasury submitted that this legislation must be retained for the purposes of ongoing financial accountability, transparency and continuity.

1.27 The recommendations contained in this report that the Appropriation Acts and other miscellaneous statutes identified by the SALRC as being obsolete or redundant be repealed are not novel. In the late 1970s, the SALRC conducted an investigation into statutory law revision the purpose of which was to establish a simplified, coherent and accessible statute book. This investigation culminated in the enactment of the Repeal of

Laws Act 94 of 1981 which repealed, among other statutes, a number of Appropriation Acts, Part Appropriation Acts, Additional Appropriation and Railways and Harbours Appropriation Acts enacted between 1910 and 1978. In the light of this precedent, the SALRC submits that similar statutes enacted between 1979 and 2004 can also be repealed, provided they no longer serve any useful purpose. Furthermore, the SALRC submits that the repeal of these statutes will not affect the enforcement of the rights and obligations created by these statutes. The general transitional provisions contained in section 12(2) of the Interpretation Act 33 of 1957 unequivocally provides that the repeal of legislation will not affect any right, privilege or obligation or liability acquired, accrued or incurred under any law so repealed and that legal proceedings or remedy may be instituted continued or enforced as if the repealing law had not been passed.

G Review of legislation administered by National Treasury

1.28 The SALRC has reviewed all legislation administered by the National Treasury, with the exception of the Income Tax Acts, the Value Added Tax Act, the Abolition of Quitrent Acts of 1934 and 1937 and the Savings Bank Societies Borrowing Powers Act,⁸ to determine whether any of these Acts contain provisions that are inconsistent with the Constitution, redundant or obsolete. The subject-matter of these Acts varies and includes Pensions (Supplementary) Acts; Revenue Law Amendment Acts; Appropriation Acts and other miscellaneous pieces of legislation. The SALRC has found that the Pensions (Supplementary) Acts; Appropriation Acts; Railways and Harbours Appropriation Acts; Post Office Appropriation Acts; Additional Appropriation Acts; Transport Services Appropriation Acts; Part Appropriation Acts and other miscellaneous pieces of legislation that are still in force, and administered by the National Treasury, serve no useful purpose anymore. The SALRC recommends, in this report, that these statutes be repealed.

⁸ The review of these statutes has already commenced. The findings and recommendations of the SALRC will be published in due course, after consultation with the National Treasury.

Furthermore, the SALRC has identified a number of provisions in other statutes administered by the National Treasury that require amendment. As it is authorised by section 5(5) of the South African Law Reform Commission Act 19 of 1973, the SALRC has included in this report a draft Bill entitled the National Treasury Laws Amendment and Repeal Bill which, if promoted by the National Treasury and enacted by Parliament, will give effect to the recommendations contained in this report. In the ensuing chapters, a detailed explanation why the selected Acts and provisions listed in the draft Bill should be repealed or amended, as the case may be, is provided.

CHAPTER 2 PENSION AND APPROPRIATION ACTS

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CHAPTER 2

PENSION AND APPROPRIATION ACTS

A Pensions (Supplementary) Acts

1 General

2.1 The National Treasury is currently responsible for the administration of 86 Pensions (Supplementary) Acts. Eighty-four of these Acts were enacted before 1994, and two in 2003.⁹ The Pensions (Supplementary) Acts enacted between 1913 and 1979, owe their existence to section 74 of the Public Service and Pensions Act 29 of 1912.¹⁰ Although this Act was later repealed by the General Pensions Act 29 of 1979, 14 Pensions (Supplementary) Acts were enacted between 1980 and 1993. The 2003 Acts were

⁹ These are the Pensions (Supplementary) Act 8 of 2003 and the Pensions Second (Supplementary) Act 39 of 2003.

¹⁰ This provision reads:

“74. From and after the date of commencement of this Act –

the grant of an increased pension, annuity, or gratuity in respect of former employment in the Public Service or in the public or civil service of any part of South Africa included in the Union;

the alteration of any condition, and the condonation of a breach of any condition, upon which any such pension, annuity, or gratuity, is by law earned or to be earned;

any increase whatever of benefits or privileges in respect of any such pension, annuity, or gratuity,

shall not be lawful, unless the same be sanctioned –

in respect of persons who became officers in the Public Service by reason of section *one hundred and forty* of the South Africa Act, 1909, by the law governing pensions in the Colony in which they were serving on the thirtieth day of May, 1910; and

in respect of persons appointed to the Public Service after that day, by this Act;

or in respect of either of such classes of persons, unless the grant, the alteration, the condonation of breach or the increase of benefits or privileges be sanctioned by an Act of Parliament which specifically prescribes the grant, condonation, or increase and the person in whose favour the same is sanctioned.

The provision of section *sixty-two* of the South Africa Act, 1909, shall apply in respect of any Bill for such an Act.”

enacted pursuant to section 213(2) of the 1996 Constitution which provides that money may be withdrawn from the National Revenue Fund only in terms of an Act of Parliament.

2.2 These Acts were enacted to award pensions, grants, gratuities and other pensionable benefits to deserving individuals who would otherwise not have qualified for such benefits. This view is bolstered by the inclusion of a provision in these statutes that:

Notwithstanding anything to the contrary in any law contained, it shall be lawful to award to persons mentioned in the Schedule to this Act, the pension, grant, gratuity or other pensionable benefit specified in the said Schedule, in respect of each such person.¹¹

2 Pensions (Supplementary) Acts recommended for repeal

2.3 The SALRC has painstakingly reviewed the following Pensions (Supplementary) Acts for redundancy, constitutionality or obsolescence: Pensions (Supplementary) Acts 36 of 1913, 37 of 1914, 25 of 1915, 45 of 1916, 27 of 1918, 44 of 1919, 39 of 1920, 37 of 1921, 39 of 1922, 33 of 1923, 37 of 1924, 44 of 1925, 41 of 1926, 32 of 1927, 20 of 1928, 28 of 1929, 33 of 1930, 33 of 1931, 30 of 1932, 24 of 1933, 65 of 1934, 54 of 1935, 26 of 1936, 49 of 1937, 7 of 1938, 40 of 1939, 28 of 1940, 32 of 1941, 43 of 1942, 32 of 1943, 43 of 1944, 42 of 1945, 56 of 1946, 47 of 1947, 24 of 1948, 46 of 1949, 32 of 1950, 48 of 1951, 57 of 1952, 46 of 1953, 53 of 1954, 66 of 1955, 67 of 1956, 80 of 1957, 15 of 1958, 68 of 1959, 67 of 1960, 65 of 1961, 82 of 1962, 94 of 1963, 83 of 1964, 100 of 1965, 60 of 1966, 93 of 1967, 84 of 1968, 100 of 1969, 95 of 1970, 94 of 1971, 98 of 1972, 75 of 1973, 78 of 1974, 68 of 1975, 116 of 1977, 106 of 1978, 106 of 1979, 93 of 1980, 115 of 1981, 106 of 1982, 97 of 1983, 124 of 1984, 100 of 1985, 102 of 1986 (House of Assembly), 109 of 1986, 89 of 1987, 32 of 1989, 118 of 1990, 133 of 1991, 138 of 1992, 128 of 1993; and the Second Pensions (Supplementary) Acts 42 of 1926, 21 of 1938, 46 of 1948, 47 of 1958, 111 of 1983, and 86 of 1989.

¹¹ In most Pensions (Supplementary) Acts this provision is found in section 1. This provision is then followed by the provision containing the short title.

2.4 Due to the number of items contained in the Schedules to the Acts listed above, the SALRC deems it inexpedient to deal with each and every item in this report. However, in view of the fact that subject-matter of these Acts is the same, the SALRC recommends these Acts for repeal for the following reasons:

1. A significant number of these Acts have been rendered nugatory by the passage of time. For example, Act 36 of 1913 came into operation 93 years ago, and sought, amongst other things, to condone breaks in the service of certain specified employees that occurred between 1876 and 1912. This Act is no doubt obsolete and may be repealed.
2. The items contained in the Schedules to some of these statutes have expired. For example, item 12 contained in the Schedule to Act 44 of 1919 awarded £1 5s per month to a widow for a period of two years. Item 13 awarded £36 per annum to a widow on behalf of her minor children, with effect from April 1919, for a period of three years. These provisions have expired.
3. Some of the items contained in some of these Acts are now spent and can no longer be used. A significant number of items contained in these statutes condoned breaks in the service of certain employees; awarded benefits to specified individuals for specific period; increased pension awarded to some beneficiaries; provided that certain people who lost their limbs, be provided with artificial limbs (see for example, Act 65 of 1934); and awarded compensation to people who got injured during the Anglo-Boer War, and so on. In all probability, these obligations have been met and these items are now spent and may be repealed.
4. Furthermore, it is doubtful whether the beneficiaries mentioned in some of these statutes are still alive or whether payments are still being made pursuant to these statutes.

2.5 The SALRC has also reviewed the Pensions (Supplementary) Act 8 of 2003 and the Pensions Second (Supplementary) Act 39 of 2003 for constitutionality and redundancy and recommends that these Acts be retained in the statute book. Act 8 of 2003 authorised payment of arrear additional pension for a period of six months from 1 September 2001 to 28 February 2002 in an amount of R1500 per month and an additional monthly pension of R1500 per month with effect from 15 March 2002 to a person specified in the Act. Act 39

of 2003 authorised the payment from the National Revenue Fund of a monthly pension of R2 353, 48, with effect from 1 December 2002 to a person specified in the Act. These Acts are fairly recent and it is highly probable that the beneficiaries mentioned in these Acts are still alive.

2.6 With regard to the Pensions (Supplementary) Acts recommended for repeal above, the SALRC further submits that the rights and obligations created by these Acts will not become unenforceable if they are repealed. The general savings provisions contained in section 12(2)(c) of the Interpretation Act 33 of 1957 unequivocally provide that where a law repeals any other law, then unless the contrary intention appears, the repeal shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under the law so repealed. Furthermore, the SALRC deems it unnecessary to incorporate verbatim or by reference the provisions of the Interpretation Act in the proposed Bill.

B Appropriation Acts

1 General

2.7 The SALRC has also reviewed a number of Appropriation Acts; Additional Appropriation Acts; Part Appropriation Acts; Appropriation Adjustment Acts; Railways and Harbours Appropriation Acts; Railways and Harbours Additional Appropriation Acts; Post Office Appropriation Acts; Post Office Part Appropriation Acts; Additional Post Office Appropriation Acts; Transport Services Appropriation Acts; Transport Services Part Appropriation Act; and Transport Services Additional Appropriation Acts for redundancy and unconstitutionality and recommends, for the reasons discussed in paragraph (c) below, that these Acts be repealed.

2 Appropriation Acts recommended for repeal

(a) *Appropriation Acts*

2.8 The Appropriation Acts recommended for repeal under this heading are Act 120 of 1979; Act 103 of 1980; Act 109 of 1981; Act 95 of 1982; Act 98 of 1983; Act 98 of 1984; Act 62 of 1985 (Appropriation Act for the Administration: House of Delegates, 1985); Act 63 of 1985 (Appropriation Act of the Administration: House of Assembly, 1985); Act 66 of 1985 (Appropriation Act of the Administration: House of Representatives, 1985); Act 73 of 1985; Act 55 of 1986 (Appropriation Act (House of Delegates), 1986); Act 61 of 1986 (Appropriation Act (House of Representatives), 1986); Act 63 of 1986 (Appropriation Act, 1986); Act 39 of 1987 (Appropriation Act (House of Representatives), 1987); Act 49 of 1987 (Appropriation Act (House of Assembly), 1987); Act 77 of 1987 (Appropriation Act (House of Delegates); Act 83 of 1987; Act 58 of 1988 (Appropriation Act (House of Representatives), 1988); Act 61 of 1988 (Appropriation Act (House of Delegates), 1988); Act 62 of 1988 (Appropriation Act (House of Assembly), 1988); Act 79 of 1988; Act 67 of 1989; Act 81 of 1989 (Appropriation Act (House of Assembly), 1989); Act 82 of 1989 (Appropriation Act (House of Representatives), 1989); Act 83 of 1989 (Appropriation Act: House of Delegates), 1989); Act 57 of 1990 (House of Assembly); Act 58 of 1990 (Appropriation Act: House of Delegates); Act 93 of 1990; Act 103 of 1990 (Appropriation Act: House of Representatives); Act 91 of 1991 (Appropriation Act (House of Assembly), 1991); Act 92 of 1991 (Appropriation Act (House of Representatives), 1991); Act 93 of 1991 (Appropriation Act (House of Delegates), 1991); Act 132 of 1991; Act 72 of 1992 (Appropriation Act (House of Assembly), 1992); Act 73 of 1992 (Appropriation Act (House of Representatives), 1992); Act 74 of 1992 (Appropriation Act (House of Delegates), 1992); Act 95 of 1992; Act 74 of 1993 (Appropriation Act (House of Representatives), 1993); Act 75 of 1993 (Appropriation Act (House of Delegates), 1993); Act 77 of 1993 (Appropriation Act (House of Assembly), 1993); 16 of 1994; 42 of 1995; and Act 41 of 1996; Act 29 of 1997; Act 29 of 1998; Act 31 of 1999; Act 23 of 2000; Act 18 of 2001; Act 29 of 2002; and Act 18 of 2003.

(b) Additional Appropriation Acts

2.9 Additional Appropriation Acts recommended for repeal here are Acts 15 of 1979; 1 of 1980; 37 of 1981; 46 of 1982; 15 of 1983; 28 of 1984; 32 of 1985; 33 of 1985 (Additional Appropriation Act of the Administration: House of Assembly, 1985); 34 of 1985 (Additional Appropriation Act of the Administration: House of Representatives, 1985); 35 of 1985 (Additional Appropriation Act for the Administration: House of Delegates, 1985); 17 of 1986; 19 of 1986 (Additional Appropriation Act (House of Representatives), 1986); 20 of 1986 (Additional Appropriation Act (House of Delegates), 1986); 21 of 1986 (Additional Appropriation Act: House of Assembly, 1986); 13 of 1987 (Additional Appropriation Act (House of Delegates), 1987); 14 of 1987 (Additional Appropriation Act, 1987); 19 of 1987 (Additional Appropriation Act (House of Representatives), 1987); 22 of 1987 (Additional Appropriation Act (House of Assembly), 1987); 15 of 1988; 16 of 1988 (Additional Appropriation Act (House of Representatives), 1988); 17 of 1988 (Additional Appropriation Act (House of Delegates), 1988); 18 of 1988 (Additional Appropriation Act (House of Assembly), 1988); 5 of 1989; 15 of 1989 (Additional Appropriation Act (House of Representatives), 1989); 16 of 1989 (Additional Appropriation Act (House of Delegates, 1989)); 17 of 1989 (Additional Appropriation Act (House of Assembly), 1989); 6 of 1990; 19 of 1990 (Additional Appropriation Act: House of Assembly); 20 of 1990 (Additional Appropriation Act: House of Representatives); 21 of 1990 (Additional Appropriation Act: House of Delegates); 26 of 1991; 31 of 1991 (Additional Appropriation Act (House of Assembly), 1991); Act 32 of 1991 (Additional Appropriation Act (House of Representatives), 1991); 33 of 1991 (Additional Appropriation Act (House of Delegates), 1991); 24 of 1992 (Additional Appropriation Act (House of Assembly), 1992); 25 of 1992 (Additional Appropriation Act (House of Representatives), 1992); 26 of 1992 (Additional Appropriation Act (House of Delegates), 1992); 28 of 1992; Act 1 of 1993; 24 of 1993 (Additional Appropriation Act (House of Assembly), 1993); 25 of 1993 (Additional Appropriation Act (House of Representatives), 1993); and 26 of 1993 (Additional Appropriation Act (House of Delegates), 1993).

(c) Part Appropriation Acts

2.10 The Acts recommended for repeal under this heading are Act 8 of 1937; Act 28 of 1979; Act 10 of 1980; Act 39 of 1981; Act 41 of 1982; Act 14 of 1983; Act 24 of 1984; Act

22 of 1985 (Part Appropriation Act of the Administration: House of Assembly, 1985); Act 23 of 1985 (Part Appropriation Act of the Administration: House of Representative); Part Appropriation Act of the Administration: House of Delegates 24 of 1985; Act 37 of 1985; Act 6 of 1986; Act 13 of 1986 (Part Appropriation Act (House of Assembly), 1986); Act 14 of 1986 (Part Appropriation Act (House of Representatives), 1986); Act 15 of 1986 (Part Appropriation Act (House of Delegates), 1986); Act 5 of 1987; Act 10 of 1987 (Part Appropriation Act (House of Assembly), 1987); Act 11 of 1987 (Part Appropriation Act (House of Representatives), 1987); Act 12 of 1987 (Part Appropriation Act (House of Delegates), 1987); Act 4 of 1988; Act 6 of 1988 (Part Appropriation Act (House of Representatives), 1988); Act 7 of 1988 (Part Appropriation Act (House of Delegates), 1988); 10 of 1988; Act 1 of 1989; Act 10 of 1989 (Part Appropriation Act (House of Assembly), 1989); Act 11 of 1989 (Part Appropriation Act (House of Representatives), 1989); Act 12 of 1989 (Part Appropriation Act (House of Delegates), 1989); Act 1 of 1990; Act 7 of 1990 (Appropriation Act: House of Representatives); Act 8 of 1990 (Part Appropriation Act: House of Assembly); Act 11 of 1990 (Part Appropriation Act: House of Delegates); Act 27 of 1991 (Part Appropriation Act, 1991); Act 28 of 1991 (Part Appropriation Act (House of Assembly), 1991); Act 29 of 1991 (Part Appropriation Act (House of Representatives), 1991); Act 30 of 1991 (Part Appropriation Act (House of Delegates), 1991); Act 27 of 1992; Act 30 of 1992 (Part Appropriation Act (House of Assembly); Act 31 of 1992 (Part Appropriation Act (House of Representatives), 1992); and Act 32 of 1992 (Part Appropriation Act (House of Delegates), 1992).

(d) *Adjustments Appropriation Acts*

2.11 The Adjustments Appropriation Acts were enacted to make provision for the appropriation of additional amounts of money for the requirements of the Administration. The wording used in these Acts is also similar to that used by the legislature in Additional Appropriation Acts and since these statutes were enacted for a particular financial year, their operation has been exhausted and are thus recommended for repeal. These pieces of legislation are Act 160 of 1993; Act 164 of 1993 (House of Assembly); Act 165 of 1993 (Adjustment Estimate Act (House of Delegates) which, despite a slightly different title, also appropriated an additional amount of money for the requirements of the Administration; and Act 167 of 1993; Act 1 of 1995; and Act 1 of 1996; Act 3 of 1998; Second Adjustments Appropriation Act 129 of 1998; Act 51 of 1999; the Second Adjustments Appropriation Act

52 of 1999; the Second Adjustments Appropriation Act 55 of 2000; Act 59 of 2001; Act 73 of 2002; and Act 37 of 2003.

**(e) *Post Office, Railways and Harbours and Transport Services
Appropriation Acts***

2.12 The Acts recommended for repeal under this heading are: the Railways and Harbours Additional Appropriation Act 4 of 1979; the Post Office Additional Appropriation Act 22 of 1979; the Railways and Harbours Appropriation Act 27 of 1979; the Post Office Appropriation Act 33 of 1979; the Railways and Harbours Additional Appropriation Act 14 of 1980; the Railways and Harbours Appropriation Act 17 of 1980; the Post Office Appropriation Act 18 of 1980; the Railways and Harbours Additional Appropriation Act 34 of 1981; the Railways and Harbours Part Appropriation Act 49 of 1981; the Post Office Part Appropriation Act 50 of 1981; the Post Office Appropriation Act 74 of 1981; the Railways and Harbours Appropriation Act 80 of 1981; the Transport Services Additional Appropriation Act 24 of 1982; the Transport Services Appropriation Act 54 of 1982; the Post Office Appropriation Act 57 of 1982; the Transport Services Additional Appropriation Act 7 of 1983; the Additional Post Office Appropriation Act 11 of 1983; the Transport Services Appropriation Act 22 of 1983; the Post Office Appropriation Act 26 of 1983; the Additional Post Office Appropriation Act 22 of 1984; the Transport Services Appropriation Act 34 of 1984; the Post Office Appropriation Act 41 of 1984; the Transport Services Appropriation Act 38 of 1985; the Post Office Appropriation Act 40 of 1985; the Additional Post Office Appropriation Act 16 of 1986; the Transport Services Appropriation Act 26 of 1986; the Post Office Appropriation Act 28 of 1986; the Transport Services Part Appropriation Act 7 of 1987; the Post Office Part Appropriation Act 15 of 1987; the Post Office Appropriation Act 28 of 1987; the Transport Services Appropriation Act 30 of 1987; the Transport Services Appropriation Act 23 of 1988; the Post Office Appropriation Act 34 of 1988; the Additional Post Office Appropriation Act 2 of 1989; the Transport Services Additional Appropriation Act 4 of 1989; the Transport Services Appropriation Act 28 of 1989; the Post Office Appropriation Act 38 of 1989; the Additional Post Office Appropriation Act 2 of 1990; the Transport Services Additional Appropriation Act 4 of 1990; the Post Office Appropriation Act 22 of 1990; the Post Office Appropriation Act 35 of 1991; the Post Office Appropriation Act 35 of 1993; the Post Office Appropriation Act 11 of 1994;

the Additional Post Office Appropriation Act 4 of 1995; the Post Office Appropriation Act 17 of 1995; and the Post Office Appropriation Act 30 of 1996.

(f) *Reasons for the proposed repeals*

2.13 Each of the Acts referred to in the preceding paragraphs appropriated money for the requirements of the State, former provinces, or a department of state. A distinctive feature of these Acts is that their long title specifies financial year or years in relation to which it was enacted, and in some instances the amount of money that may be appropriated. Unlike the Division of Revenue Acts, which provide for the equitable division of revenue among national, provincial and local spheres of government,¹² none of these Acts contain a sunset provision or section repealing the earlier Appropriation Acts, with the result that although they can no longer be applied, they remain in force indefinitely. Furthermore, the Repeal of Laws Act 94 of 1981 repealed quite a significant number of similar Acts which were enacted between 1910 and 1978. As shown above, the legislature has since then promulgated a number of Appropriation Acts. The SALRC recommends that all the Acts listed in the preceding paragraphs be repealed because:

1. they have become spent (that is, the purpose for which these Acts were enacted has been accomplished),
2. they have expired (these Acts were only enacted to endure only for a specified period),
3. they have been virtually repealed (each of these statutes has been rendered nugatory by a later one); and
4. they have become obsolete (some of the institution referred to in some of these Acts no longer exist).

¹² See for example, section 49(1) of the Division of Revenue Act 2 of 2006 which provides for the repeal of the Division of Revenue Act, 2005 (Act 1 of 2005).

CHAPTER 3 TAXATION AND REVENUE ACTS

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CHAPTER 3

TAXATION AND REVENUE ACTS

A Special Taxation Amendment Acts

1 Special Taxation Amendment Act 54 of 1946

3.1 The purpose of the Special Taxation Amendment Act 54 of 1946 (this Act) was to amend three Acts namely, the Income Tax Act of 1940, the Special Taxation Act of 1942 and the Special Taxation Act of 1944 and to repeal laws relating to the levy of gold mines special contribution, the new motor car sales tax, the personal and savings fund levy and the railway passengers' tax.¹³

3.2 This Act originally had 18 sections and a Schedule. Sections 1 to 12 were repealed by the Special Taxation Amendment Act 29 of 1947. The remaining substantive provisions, namely section 13, substituted section 2 of the Special Taxation Act 39 of 1944 and sections 14 to 16 amended various provisions of Act 39 of 1944. Section 17 of this Act repealed certain laws specified in the schedule and section 18 contains the short title. The Special Taxation Act 39 of 1944 was subsequently repealed by the Repeal of Laws Act 94 of 1981. However, this Act was not amended consequentially by repealing the provisions relating to Act 39 of 1944. In the light of the fact that the remaining provisions of this Act have become redundant, the SALRC thus recommends that this Act be repealed in its entirety.

¹³ See the long title.

2 Special Taxation Amendment Act 29 of 1947

3.3 The Special Taxation Amendment Act 29 of 1947 (this Act) originally had six sections. Section 1 was repealed by section 7 of the Income Tax Act 64 of 1951. Sections 2 and 3 effected amendments to sections 2 and 9 respectively of the Special Taxation Act 39 of 1944. Section 4 repeals the laws specified in the schedule and deals with the effects of such repeal. Section 5 deals with the payments to and from loan account.¹⁴ Section 6 contains the short title. This is followed by the Schedule. The Special Taxation Act of 1944 amended by sections 2 and 3 of this Act (Act 29 of 1947) was repealed by the Repeal of Laws Act 94 of 1981. With the exception of the Special Taxation Amendment Act 54 of 1946, all the Acts listed in the Schedule to this Act have been repealed by some or other statute. As far as the Special Taxation Amendment Act 54 of 1946 is concerned, this Act provided that Chapter I and II would cease to exist on the first day of July 1946 and Chapter III on the first day of March 1947. These provisions became spent on the dates specified and no longer serve any useful purpose. Furthermore, the SALRC has recommended in this report that Act 54 of 1946 be repealed in its entirety. If this recommendation is promoted and implemented the provisions of this Act relating to Act 54 of 1946 will become redundant. The SALRC thus recommends that this Act be repealed in its entirety.

3 Special Taxation Amendment Act 38 of 1948

3.4 The Special Taxation Amendment Act 38 of 1948 (this Act) contains two sections only. Section 1 of this Act substituted section 1 of the Special Taxation Act 39 of 1944, and section 2 effected amendments to section 2 of Act 39 of 1944. As stated above, the Special Taxation Act 39 of 1944 was repealed by the Repeal of Laws Act 94 of 1981.

¹⁴ Section 5 of this Act provides that:

“So much of the amount collected in each successive period of twelve months as from the first day of April 1947, in respect of excess profits duty, trade profits special levy and fixed property profits tax, as exceeds the amount of such duty, levy or tax refunded in the relative period, shall be paid to the credit of the loan account, and so much of the amount so refunded as exceeds the amount of duty, levy or tax so collected in any such period, shall be paid as a drawback from current loan receipts.”

However, this Act was not contemporaneously repealed when the Special Taxation Act 39 of 1944 was repealed. The SALRC recommends that this Act be repealed in its entirety.

B Revenue Laws Amendment Acts

1 Revenue Laws Amendment Act 71 of 1961

3.5 The long title of this Act lists a number of Acts the legislature sought to amend, namely the Stamp Duties 30 of 1911; the Licenses Consolidation Act 32 of 1925; the Licenses Amendment Act 26 of 1927; the Estate Duty Act 45 of 1955; and the Cinematograph Films Tax Act 56 of 1960. All these Acts, except the Estate Duty Act of 1955, have been repealed by some or other Act.¹⁵ In Discussion Paper 119, the SALRC recommended that the long title be amended by deleting reference to the Acts mentioned above. The SALRC has, in view of the fact that one of the Acts amended by this Act is still in force and that amending the long title as initially proposed in the discussion paper might obliterate the legislative history reflected therein, reconsidered and recommends that this Act be retained in the statute book as it is currently couched.

2 Revenue Laws Amendment Act 70 of 1963

3.6 Part of the long title, and section 1 of the Revenue Laws Amendment Act 70 of 1963 (this Act) provides that “Any reference in any law or document to the Commissioner for Inland Revenue shall be construed as a reference to the person who, in terms of the Public Service Act, 1957 (Act 54 of 1957), is for the time being the head of the Department of Inland Revenue.”

3.7 The Public Service Act 54 of 1957 was repealed by the Public Service Act 111 of 1984. Furthermore, this Act has been superseded by the more recent revenue legislation. Section 34(2) of the South African Revenue Service Act 34 of 1997 provides that a

¹⁵ See Acts 44 of 1962, 59 of 1962 and 57 of 1982.

reference in any other legislation to, among others, the Commissioner for Inland Revenue must be construed as reference to the Commissioner referred to in Act 34 of 1997. The definition of “Commissioner”, read in conjunction with section 6(1) of Act 34 of 1997, provides that the Commissioner is the Commissioner for the South African Revenue Service. The SALRC also noted that section 1 of this Act (Act 70 of 1963) is wider than the provisions of section 34(2) of Act 34 of 1997 in that it deals not only with how the expression “Commissioner for Inland Revenue” in legislation other legislation is to be construed but also with the interpretation of this expression when it is used in other documents. The SALRC recommends, for the sake of legal certainty and to align this Act with other Acts; that section 1 of the Revenue Laws Amendment Act be amended to read as follows:

“1 A reference in any law or document to Commissioner for Inland Revenue to be construed as a reference to the [head of the Department of Inland Revenue] Commissioner for the South African Revenue Service

A reference in any law or document to the Commissioner for Inland Revenue shall be construed as a reference to the **[person who, in terms of the Public Service Act, 1957 (Act 54 of 1957), is for the time being the head of the Department of Inland Revenue] Commissioner for the South African Revenue Service as contemplated in the South African Revenue Service Act, 1997 (Act 34 of 1997).**”

3 Revenue Laws Amendment Act 77 of 1964

3.8 Section 1(a) of the Revenue Laws Amendment Act 77 of 1964 (this Act) deleted the word “Commissioner” in the definition section of the Transfer Duty Act 40 of 1949 (Act 40 of 1949). This word was once again inserted by section 4(1)(a) of the Revenue Laws Amendment Act 106 of 1980. This rendered the amendment redundant. Subsection (b) of section 1 of this Act inserted the word “Secretary” to the definition section of Act 40 of 1949. The definition of “Secretary” was later deleted by section 4(1)(c) of Act 106 of 1980 referred to above. Section 1(a) and (b) of this Act serves no useful purpose anymore and is hereby recommended for repeal.

3.9 Section 3(b) of this Act amended subsection (5) of section 9 of Act 40 of 1949. The subsection affected by this amendment was subsequently deleted by the Taxation Laws Amendment Act 136 of 1992. As a result, section 3(b) of this Act has ceased to have any useful purpose and is recommended for repeal.

3.10 Section 8(a) and (b) of this Act amended section 3(3)(c) of the Estate Duty Act 45 of 1955 (Act 45 of 1955). Section 3(3)(c) of Act 45 of 1955 was subsequently deleted by section 9(1)(a) of the Taxation Laws Amendment Act 87 of 1988, rendering section 8(a) and (b) of this Act redundant. Section 8(c) of this Act amended section 3(4) of Act 45 of 1955. Section 3(4) of Act 45 of 1955 was later deleted by section 7(b) of the Taxation Laws Amendment Act 97 of 1993. Therefore, section 8(c) of this Act does not serve any useful purpose anymore, and is hereby recommended for repeal.

3.11 Section 9(1)(a) of this Act amended section 4 of Act 45 of 1955 by substituting paragraphs (k) and (l) respectively. These paragraphs were later substituted by other legislation, including the Revenue Laws Amendment Act considered below, and eventually deleted by the Taxation Laws Amendment Act 87 of 1988. Subsection (2) of section 9 provides that amendments effected by paragraph (a) referred to above shall apply in respect of any person who dies or died after 16 March 1964. This subsection is clearly ancillary to subsection (1). The SALRC recommends that section 9(1)(a) and (2) of this Act be repealed.

3.12 Section 11 of this Act amended paragraph (b) of section 16 of Act 45 of 1955. Paragraph (b) of section 16 of Act 45 of 1955 was subsequently deleted by the Taxation Laws Amendment Act 87 of 1988. As a result the amendment effected by section 11 of this Act no longer serves any useful purpose and is hereby recommended for repeal.

3.13 One of the Acts amended by this Act was the Licenses Act 44 of 1962. The Licenses Act 44 of 1962 was repealed by a number of provincial Ordinances, namely Ordinance 19/1972 (Cape); Ordinance 8/1972(OFS); Ordinance 11/1973 (Natal); and Ordinance 19/1974 (Tvl). For this reason, the SALRC recommends that sections 16, 17 and 18 of this Act which purported to effect amendments to the provisions of Act 44 of 1962 be repealed because that Act no longer exist.

4 Revenue Laws Amendment Act 81 of 1965

3.14 Section 3(1)(b) and (c) of the Revenue Laws Amendment Act of 1965 (this Act) amended section 4 of the Estate Duty Act 45 of 1955 by substituting paragraphs (k) and (l) respectively. Section 3(2) of this Act is ancillary to subsection (1) in that it provides that the amendment effected by paragraph (b) in subsection (1) shall apply in respect of an estate of any person who dies or died on or after the twenty-fourth day of March 1965, and that the amendment effected by paragraph (c) of that subsection shall apply in respect of the estate of any person who died on or after the first day of February 1965.

3.15 As stated above in respect of Act 77 of 1964, both these paragraphs of the Estate Duty Act of 1955 which were amended by section 3(1)(b) and (c) of this Act were deleted by section 10(1)(b) and (c) of the Taxation Laws Amendment Act 87 of 1988 respectively. Therefore, amendments introduced by this Act have redundant. The SALRC recommends that section 3(1)(b), (c) and 3(2) of this Act be repealed.

5 Revenue Laws Amendment Act 56 of 1966

3.16 The purpose of this Act was to effect amendments to, amongst others, the Transfer Duty Act 40 of 1949. To that end, section 1 of this Act amended section 2 of the Transfer Duty Act of 1955 by substituting subsection (2). This subsection was deleted by section 3(1)(b) of Revenue Laws Amendment Act 88 of 1974. Although subsection (2) of section two of the Transfer Duty Act was later inserted by section 1 of the Revenue Laws Amendment Act 31 of 2005, this insertion did not have the effect of reviving subsection (2) which was introduced by this Act. As a result, the amendment introduced by section 1 has no useful purpose anymore, and is hereby recommended for repeal.

6 Revenue Laws Amendment Act 94 of 1967

3.17 According to its long title, the Revenue Laws Amendment Act 94 of 1967 (this Act) was enacted to amend certain provisions of the Companies Act of 1926, Estate Duty Act of 1955, and the Stamp duties Act of 1962. To that end, this Act contained four sections. The Companies Act of 1926 purportedly amended by this Act was repealed by the Companies

Act 61 of 1973, and the Stamp Duties Act of 1962 was repealed by the Unemployment Insurance Act 30 of 1966. It is therefore not surprising that sections 1 and 3, and section 4 of this Act, were repealed by sections 442 of the Companies Act 61 of 1973 and by section 34(1) of the Stamp Duties Act 77 of 1968 respectively.

3.18 The remaining section, section 2 effected amendments to section 4 of the Estate Duty Act 45 of 1955. Section 2(1)(a) of this Act substituted paragraph (k) of section 4 of the Estate Duty Act; and section 2(1)(b) substituted paragraph (l) of the same section. As stated above, these paragraphs were eventually deleted by sections 10(1)(a) and 10(1)(c) of the Taxation Laws Amendment Act 87 of 1988. Subsection (2) of section 2 of this Act is ancillary to subsection (1) as it merely states that amendments affected by subsection (1) shall apply in respect of the estate of any person who dies or died on or after the twenty-third day of March 1967. Therefore, section 2(1)(a) and (b), together with subsection (2), no longer serve any useful purpose and in view of the fact that section 2 is the only provision remaining in the Act, it is recommended that the entire Act be repealed.

7 Revenue Laws Amendment Act 103 of 1969

3.19 It is apparent from the long title of the Revenue Laws Amendment Act 103 of 1969 (this Act) that its purpose was to effect amendments to various provisions of the Marketable Securities Tax Act 32 of 1948, the Transfer Duty Act of 1949, the Diamond Export Duty Act of 1957, and the Cinematography Films Tax Act of 1960 and the Stamp Duties Act 77 of 1968. The Marketable Securities Tax Act was repealed by the Revenue Laws Amendment Act 45 of 2003. The Diamond Export Duty Act was repealed by the Diamonds Act 56 of 1983. The Stamp Duties Act of 1968 has been repealed by the Revenue Laws Amendment Act 60 of 2008. And lastly, the Cinematography Films Tax Act was repealed by the Revenue Laws Amendment Act 87 of 1982. The only Act mentioned in the long title of this Act that is still in force is the Transfer Duty Act of 1949.

3.20 This Act contained 30 sections and a Schedule repealing certain laws of the former Territory of South West Africa. Sections 1 to 4 purported to amend various provisions of the Marketable Securities Tax Act. However, this Act was not amended consequentially by deleting these sections when the Marketable Securities Act was repealed. These

amendments no longer serve any useful purpose because the Act that they amended no longer exists. The SALRC recommends that they be deleted or repealed.

3.21 Section 7 of this Act introduced amendments to section 9 of the Transfer Duty Act of 1949. Some of these are now obsolete. Paragraph (c) of section 7 amended section 9(5)(b)(i) of the Transfer Duty Act. The whole of subsection (5) of section 9 of the Transfer Duty Act of 1949 was subsequently deleted by section 4(1)(b) of the Taxation Laws Amendment Act 136 of 1992. Paragraph (f) of section 7 of this Act added subsection (10) to section 9 of the Transfer Duty Act of 1949. Subsection (10) of section 9 was also deleted by section 4(1)(i) of the Taxation Laws Amendment Act 87 of 1988.

3.22 Section 9 of this Act inserted section 21A into the Transfer Duty Act. Section 21A was repealed by section 6 of the Taxation Laws Amendment Act 87 of 1988.

3.23 Sections 16 to 28 of this Act amended various provisions of the Stamp Duties Act 77 of 1968. The Stamp Duties Act of 1968 was repealed in 2008 by section 103 of the Revenue Laws Amendment Act 60 of 2008. However, the provisions of this Act were not consequentially amended when Act 60 of 2008 was enacted. Furthermore, the SALRC recommends that section 29 of this Act be amended by deleting references to the Stamp Duties Act of 1968.¹⁶

3.24 The SALRC recommends that all the provisions referred to above be repealed and that section 29 be amended.

¹⁶

Section 29 of this Act reads:

“29 Repeal of laws

Subject to the provisions of sections 23 (7A) and 24 (8A) of the Stamp Duties Act, 1968 (Act 77 of 1968), laws of the territory of South-West Africa which are specified in the Schedule to this Act are hereby repealed with effect from the first day of October 1969, to the extent set out in the third column of that Schedule: Provided that any duty which has at the said date become payable under any law so repealed, but which has not at that date been paid, shall be recovered in accordance with and subject to the provisions of the said law: Provided further that where property has before the said date been sold to a purchaser under the land settlement laws of the said territory, transfer duty in respect of the acquisition of such property by the purchaser under the sale or in respect of any acquisition by any person of such property by virtue of a cession to him of the purchaser's rights before a deed of grant is issued by the State in respect of such property, whether such cession was made before, on or after the said date, shall be chargeable under the provisions of the Transfer Duty Ordinance, 1951 (Ordinance 12 of 1951), of the said territory, as though that Ordinance was not repealed, and not under the provisions of the Transfer Duty Act, 1949 (Act 40 of 1949).”

8 Revenue Laws Amendment Act 72 of 1970

3.25 Sections 5 to 10 of this Act amended the Stamp Duties Act 77 of 1968. As stated above, the Stamp Duties Act of 1968 was repealed by the Revenue Laws Amendment Act 60 of 2008. Therefore, the SALRC recommends that section 5 to 10 of this Act be repealed as they no longer serve any useful purpose.

9 Revenue Laws Amendment Act 92 of 1971

3.26 Section 1 of this Act effected amendments to section 1 of the Marketable Securities Act 32 of 1948. Act 32 of 1948 was later repealed by the Revenue Laws Amendment Act 45 of 2003.

3.27 Section 4(1) of this Act amended section 3 of the Estate Duty Act of 1955 by substituting subsection (4)(d). Subsection (2) is ancillary to subsection (1) as it provides that the amendments effected by subsection (1) shall apply in respect of the estate of any person who died or dies on or after the first day of April 1971. Subsection (4) of section 3 of the Estate Duty Act of 1955 was later deleted by the Taxation Laws Amendment Act 97 of 1993.

3.28 Section 5(1) of this Act amended section 4 of the Estate Duty Act of 1955 by substituting paragraph (l). Subsection (2) of section 5 is ancillary to subsection (1) as it provides that the amendments effected by subsection (1) shall apply in respect of the estate of any person who died or dies on or after the first day of April 1971. Paragraph (l) of section 4 of the Estate Duty Act of 1955 was later deleted by section 10(1)(c) of the Taxation Laws Amendment Act 87 of 1988.

3.29 Sections 11 and 12 of this Act amended the Schedules to the Licences Act 44 of 1962. As stated above, this Act was repealed by ordinances of the former four provinces namely, Transvaal, Cape, Orange Free State and Natal. See, for example, Ordinance 19 of 1972 (Cape).

3.30 Section 13 of this Act amended section 23 of the Stamp Duties Act of 1968. The Stamp Duties Act was repealed by the Revenue Laws Amendment Act of 2008. However, this Act was not amended consequentially.

3.31 The SALRC recommends that all the above mentioned provisions of this Act be repealed.

10 Revenue Laws Amendment Act 89 of 1972

3.32 Section 2 of this Act amended section 9(1) of the Transfer Duty Act 40 of 1949 by inserting paragraph (bA). This paragraph was deleted by section 3(1)(a) of the Taxation Laws Amendment Act 30 of 2000.

3.33 Section 3(1) amended section 3(3) of the Estate Duty Act 45 of 1955 by substituting paragraph (c)(cc). Subsection (2) of this section is ancillary to subsection (1) as it provides that the amendment effected by subsection (1) shall apply in respect of the estate of any person who died or dies on or after 1st April 1971. Paragraph (c) of section 3(3) of the Estate Duty Act of 1955 was later deleted by section 9(1)(a) of the Taxation Laws Amendment Act 87 of 1988.

3.34 Sections 5 to 7 of this Act amended various provisions of the Licences Act 44 of 1962. As stated in the preceding paragraphs, Act 44 of 1962 was repealed by various ordinances of the former four provinces, including Ordinance 19 of 1972 (Cape).

3.35 Sections 9 to 13 of this Act amended various provisions of the Stamp Duties Act of 1968. As stated above, the Stamp Duties Act was repealed by the Revenue Laws Amendment Act 60 of 2008, which rendered these amendments redundant.

3.36 The SALRC recommends that all the provisions of this Act discussed above be repealed because they no longer serve any useful purpose.

11 Revenue Laws Amendment Act 66 of 1973

3.37 The SALRC recommends that the following provisions of the Revenue Laws Amendment Act 66 of 1973 (this Act) be repealed because they effected amendments to pieces of legislation provisions in legislation that have in the meantime been repealed or deleted by some or other statute.

3.38 The first such provision is section 1, which amended section 228 of the Companies Act 46 of 1926. The Companies Act 26 of 1946 was repealed by the Companies Act 61 of 1973.

3.39 Paragraph (b) of section 3 of this Act amended section 9 of the Transfer Duty Act of 1949 by inserting paragraph (bC). This paragraph (paragraph (bC)) was repealed by section 6(2) of the South African Abattoir Corporation Act 120 of 1992.

3.40 Section 4 of this Act inserted section 9A into the Transfer Duty Act of 1949. Section 9A of the Transfer Duty Act was repealed by section 4 of the Taxation Laws Amendment Act 17 of 2009.

3.41 Sections 5 to 20 of this Act amended various provisions of the Stamp Duties Act of 1968. The Stamp Duties Act was repealed by the Revenue Laws Amendment Act 60 of 2008. As a result of this repeal, these sections no longer serve any useful purpose. The SALRC recommends that all these sections be repealed.

12 Revenue Laws Amendment Act 88 of 1974

3.42 Sections 1 and 2 of this Act amended the definition of “joint account” and section 3 of the Marketable Securities Tax Act 32 of 1948. The Marketable Securities Act 32 of 1948 was repealed by the Revenue Laws Amendment Act 45 of 2003, and as a result these two sections no longer serve any useful purpose.

3.43 Sections 7 to 26 of this Act amended various provisions of the Stamp Duties Act 77 of 1968. The Stamp Duties Act was repealed by the Revenue Laws Amendment Act 60 of 2008. However, consequential amendments repealing provisions which make reference to the Stamp Duties Act were not made to this Act.

3.44 The SALRC recommends that sections of this Act referred to above be repealed.

13 Revenue Laws Amendment Act 70 of 1975

3.45 This Act has four sections. The SALRC has identified three provisions as possible candidates for repeal namely sections 2(1) and (2), 3 and 4 of this Act. Section 2(1) of this amending Act effected amendments to section 4 of the Estate Duty Act 45 of 1955 by substituting paragraphs (k) and (l). Both paragraphs were deleted by section 10(1)(b) and (c) of the Taxation Laws Amendment Act 87 of 1988. Subsection (2) of section 2 should fall with subsection (1) because it is an ancillary provision which provides that amendments effected by subsection (1) shall apply in respect of the estate of any person who dies on or after 27 March 1975.

3.46 Sections 3 and 4 of this Act amended section 7 and 24 respectively of the Stamp Duties Act 77 of 1968. The Stamp Duties Act was repealed by the Revenue Laws Amendment Act of 2008.

3.47 The SALRC recommends that the sections alluded to above be repealed.

14 Revenue Laws Amendment Act 104 of 1976

3.48 Section 1(1)(b) of this Act amended section 4 of the Estate Duty Act 45 of 1955 by substituting paragraph (l). This paragraph was deleted by section 10(1)(c) of the Taxation Laws Amendment Act 87 of 1988. Section 2 amended section 24 of the Estate Duty Act by substituting subsection (8). This subsection no longer exists, as a result of further amendments to the section. Section 3(a) and (b) of this Act amended item 15 of Schedule 1 to the Stamp Duties Act 77 of 1968. The Stamp Duties Act 77 of 1968 was repealed in 2008 by the Revenue Laws Amendment Act 60 of 2008. However, no consequential amendments were made to this Act pursuant to the repeal of the Stamp Duties Act of 1968.

3.49 The SALRC recommends that sections 1(1)(b), 2, and 3(a) and (b) of this Act be repealed.

15 Revenue Laws Amendment Act 114 of 1977

3.50 A number of amendments introduced by this Act serve no useful purpose anymore because those Acts or provisions in Acts which they amended have either been repealed or deleted by subsequent legislation. Sections 1 to 6 of this Act amended various provisions of the Marketable Securities Tax Act 32 of 1948. The Marketable Securities Act 32 of 1948 was repealed by section 224(1) of the Revenue Laws Amendment Act 45 of 2003. Therefore, these sections have no legal effect anymore. Sections 9 to 20 of this Act amended various provisions of the Stamp Duties Act 77 of 1968. As stated in the preceding paragraphs, the Stamp Duties Act was repealed by the Revenue Laws Amendment Act 60 of 2008, rendering the provisions of this Act relating to the Stamp Duties Act redundant.

3.51 Section 22 of this Act amended section 174 of the Companies Act 61 of 1973 by substituting subsection (2). The whole of section 174 of the Companies Act of 1973 was repealed by section 8 of the Companies Amendment Act 31 of 1986. Section 23 of this Act amended section 175 of the Companies Act 61 of 1973 by substituting in the first proviso the word “eighty” for the word “fifty”. This section (section 175) was later repealed by section 9(1) of the Companies Amendment Act 29 of 1982. In any event, the Companies Act of 1973 has been repealed by section 224 of the Companies Act 71 of 2008.

3.52 The SALRC recommends that the provisions of this Act identified *supra* be repealed.

16 Revenue Laws Amendment Act 95 of 1978

3.53 The purpose of this legislation was to amend, inter alia, the Marketable Securities Tax Act 32 of 1948. Section 1 of this Act gives effect to this purpose by amending section 3 of the Marketable Securities Tax Act 32 of 1948. The Marketable Securities Tax Act of 1948 was subsequently repealed by the Revenue Laws Amendment Act 45 of 2003.

3.54 The SALRC thus recommends that section 1 of this Act be repealed. Furthermore, the SALRC recommends that sections 4 to 8 of this Act which amended the Stamp Duties

Act 77 of 1968 be repealed as the Stamp Duties Act of 1968 has been repealed by the Revenue Laws Amendment Act 60 of 2008.

17 Revenue Laws Amendment Act 102 of 1979

3.55 The purpose of this Act was to amend, among other Acts, the Marketable Securities Tax Act of 1948 and the Stamp Duties Act 77 of 1968. To this end, section 1 of this Act amends section 2 of the Marketable Securities by substituting the expression “one percent” for the expression “one and a half percent”. As stated above, the Marketable Securities Act 32 of 1948 was repealed by the Revenue Laws Amendment Act 45 of 2003. In the light of this repeal, the SALRC recommends that section 1 of this Act be repealed.

3.56 Section 4(1)(a) and (b) of this Act purported to effect amendments to section 4 of the Estate Duty Act 45 of 1955 by substituting in paragraph (k) the expression “R40 000” for the expression “thirty-five thousand rand”; and by substituting in paragraph (l) the expression “R80 000” for the expression “seventy thousand rand”. These paragraphs were deleted by section 10(1) of the Taxation Laws Amendment Act 87 of 1988. It is recommended that this section, together with subsection (2) (which states that amendments effected by subsection (1) applied in respect of the estate duty of any person who died on or after 1 April 1979), be repealed as a result of redundancy.

3.57 Section 5(1) of this Act amended section 4A of the Estate Duty Act 45 of 1955 by substituting the expression “R35 000” for the expression “thirty thousand rand” wherever it occurred. However, none of the provisions in section 4A refer to this expression. It is recommended that this section, together with subsection (2), which is ancillary to subsection (1), be repealed.

3.58 Sections 6 to 8 of this Act amended the Stamp Duties Act of 1968. The Stamp Duties Act was repealed in 2008 by the Revenue Laws Amendment Act 60 of 2008. However, consequential amendments were not made to this Act. The SALRC thus recommends that sections 6 to 8 be repealed as they no longer serve any useful purpose.

18 Revenue Laws Amendment Act 106 of 1980

3.59 A number of Acts mentioned in the long title of this Act no longer exist. The first such law is the Marketable Securities Tax Act 32 of 1948, which was repealed by the Revenue Laws Amendment Act 45 of 2003. The second is the Diamond Export Duty Act of 1957, which was repealed by the Diamonds Act 56 of 1986. The third is the Cinematograph Films Tax Act 56 of 1960, which was repealed by the Revenue Laws Amendment Act 87 of 1982.

3.60 Sections 1 to 3 of this Act purported to amend various provisions of the Marketable Securities Tax Act of 1948. The SALRC recommends that these sections be repealed because Act 32 of 1948 no longer exists.

3.61 Section 5(1) of this Act amended section 2(1)(b) of the Transfer Duty Act 40 of 1949 by substituting the expression 'R30 000' for the expression 'twenty thousand rand', wherever it occurred, and subsection (2) provided that subsection (1) shall be deemed to have come into operation on 1 April 1980 and shall apply in respect of any acquisition of property or any renunciation of an interest in or restriction upon the use for disposal of property upon or after that date. As a result of further amendments, section 2(1)(b) of the Transfer Duty no longer reflects the expression "R30 000".¹⁷ The SALRC recommends that section 5(1) and (2) of this Act be repealed.

¹⁷ Section 2(1)(b) of the Transfer Duty Act currently reads:

"2. Position of transfer duty

(1) Subject to the provisions of section 9, there shall be levied for the benefit of the National Revenue Fund a transfer duty (hereinafter referred to as the duty) on the value of any property (which value shall be determined in accordance with the provisions of sections 5, 6, 7 and 8) acquired by any person on or after the date of commencement of this Act by way of a transaction or in any other manner, or on the amount by which the value of any property is enhanced by the renunciation, on or after the said date, of an interest in or restriction upon the use or disposal of that property, at the rate of-

- (a) ...
- (b) subject to subsection (5)-
 - (i) 0 per cent of so much of the said value or the said amount, as the case may be, as does not exceed R500 000;
 - (ii) 5 per cent of so much of the said value or the said amount, as the case may be, as exceeds R500 000 but does not exceed R1 million; and
 - (iii) 8 per cent of so much of the said value or the said amount, as the case may be, as exceeds R1 million,

3.62 Section 6 of this Act amended section 9 of the Transfer Duty Act 40 of 1949 by adding subsection (12). This subsection was later deleted by section 3(1)(b) of the Taxation Laws Amendment Act 30 of 2002. The SALRC is of the view that that section 6 may be repealed.

3.63 Section 7(1) of this Act amended section 9A of the Transfer Duty Act of 1949 by substituting the words preceding paragraph (a) and by substituting paragraph (b). Section 9A of the Transfer Duty Act of 1949 was later repealed by section 4 of the Taxation Laws Amendment Act 17 of 2009. Subsection (2) is ancillary to subsection (1) in that merely provides that subsection (1) shall come into operation on the date of commencement of the Share Blocks Control Act, 1980: Provided that if section 23 (2) of the said Act applies to any transfer of ownership as contemplated in section 9A of the Transfer Duty Act, 1949, the said section 9A shall be deemed not to have been amended by the said subsection (1). The SALRC therefore recommends that section 7 be repealed in its entirety.

3.64 Section 10(1) of this Act amended section 3 of the Transfer Duty Act of 1949 by substituting paragraph (a)*bis*. Subsection (2) of section 10 of this Act provided that subsection (1) shall apply in respect of the estate of any person who died or dies on or after 1 April 1979. Paragraph (a)*bis* was deleted by section 2(1)(b) of the Revenue Laws Amendment Act 60 of 2008 with effect from 1 January 2009 and applicable in respect of the estate of a person who dies on or after that date. This deletion rendered section 10 of this Act redundant. The SALRC recommends that it be repealed.

3.65 Section 11 of this Act amended section 4 of the Estate Duty Act 45 of 1955 by substituting in paragraphs (k) and (l) certain expressions. Subsection (2) provides that subsection (1) shall apply in respect of the estate of any person who died on or after 1 April 1980. The paragraphs affected by section 11 were deleted by the Taxation Laws Amendment Act 87 of 1988. Therefore, section 11(1) and (2) may be repealed.

if the person who acquires the property or in whose favour or for whose benefit the said interest or restriction is renounced is a natural person.”

3.66 Section 12 of this Act also purported to amend section 4A of the Estate Duty Act by substituting the expression “R37 500” for the expression “R35 000”, wherever it occurred. Unfortunately none of the provisions of section 4A make reference to this expression. Therefore this amendment serves no purpose and may be repealed.

3.67 Section 16(1) of this Act amended the Diamond Export Duty Act 16 of 1957. Subsection (2) provided that the amendment shall be deemed to come into operation on 1 April 1980. As stated, this Act was repealed in 1986 and this amendment serves no useful purpose anymore, and may be repealed.

3.68 Sections 19 to 22 of this Act amended various provisions of the Stamp Duties Act of 1968. As stated in the preceding paragraphs, the Stamp Duties Act of 1968 was repealed by the Revenue Laws Amendment Act 60 of 2008. Therefore, these sections no longer serve any useful purpose and the SALRC recommends that they be repealed.

3.69 Section 23 of this Act provides that:

23. Construction of certain acts of and references in documents to Secretary for Inland Revenue

Anything done by or on behalf of the Secretary for Inland Revenue in the administration of any law shall be deemed to have been done by or on behalf of the Commissioner for Inland Revenue, and a reference in any document to the Secretary for Inland Revenue shall be construed as a reference to the Commissioner for Inland Revenue.

3.70 The SALRC recommends, in the light of the provisions of section 34 of the South African Revenue Services Act of 1997¹⁸ and for legal certainty, that references to the

¹⁸ Section 34 of the South African Revenue Service Act provides:

“34. Amendment of legislation affected by this Act

(1) The legislation mentioned in Schedule 3 is hereby amended to the extent set out in the third column of the Schedule.

(2) A reference in any other legislation to the Commissioner for Inland Revenue, the Secretary for Customs and Excise or the Commissioner for Customs and Excise must be construed as a reference to the Commissioner in terms of this Act.”

“Inland Revenue” be deleted and replaced with references to the “South African Revenue Service.”

19 Revenue Laws Amendment Act 99 of 1981

3.71 Section 1 of the Revenue Laws Amendment 99 of 1981 (this Act) amended section 3(3) of the Transfer Duty Act 40 of 1949 by substituting the expression 'Directorate: Inland Revenue, Department of Finance' for the expression 'Department of Inland Revenue'. Further amendments to section 3(3) of the Transfer Duty Act have deleted the amendment effected by section 1 of this Act, thus rendering it redundant.¹⁹

3.72 Section 3(1) of this Act amended section 4 (l) of the Estate Duty Act 45 of 1955 by substituting item (ii). Subsection (2) of this section provides that subsection (1) shall apply in respect of the estate of any person who died or dies on or after 1 April 1980. Paragraph (l) of section 4 of the Estate Duty Act of 1955 was later deleted by section 10(1)(c) of Act 87 of 1988.

3.73 Section 4(1) of this Act amended section 4A of the Estate Duty Act 45 of 1955 by (a) substituting in paragraph (a) the expression 'R50 000' for the expression 'R37 500'; (b) substituting in paragraphs (b) and (c) the expression 'R40 000' for the expression 'R37 500', wherever it occurs; and (c) substituting in paragraph (d) the expression 'R50 000' for the expression 'R37 500'. Subsection (2) merely provides that subsection (1) shall apply in respect of the estate of any person who died or dies on or after 1 April 1981. As a result of further amendments, section 4A of Act 45 of 1955 no longer makes reference to the figures referred to above. The SALRC recommends that section 4(1) and (2) of this Act be repealed.

¹⁹ Section 3(3) of Act 40 of 1949 currently states that:
“(3) The payment of any duty, penalty or interest under section 4 must be made by way of an electronic payment.”

3.74 Section 5 of this Act amended section 26(3) and (5) of the Estate Duty Act 45 of 1955 by substituting the expression 'Table of the House of Assembly' for the expression 'Tables of both Houses of Parliament', wherever it occurs. Both subsections of section 26 were later deleted by section 9 (b) of the Taxation Laws Amendment Act 27 of 1997.

3.75 Sections 7 to 9 amended various provisions of the Stamp Duties Act of 1968. The latter Act was repealed by the Revenue Laws Amendment Act 60 of 2008.

3.76 The SALRC recommends that all the provisions of this Act referred to above be repealed as they no longer serve any useful purpose.

20 Revenue Laws Amendment Act 87 of 1982

3.77 The Revenue Laws Amendment Act of 1982 (this Act) sought to amend, amongst other Acts, the Marketable Securities Tax Act of 1948. To that end, sections 1 and 2 of this Act amended sections 3(c) and (5) respectively of the Marketable Securities Tax Act. The Marketable Securities Act was repealed by the Revenue Laws Amendment Act 45 of 2003. Therefore, the amendments introduced by this Act to the Marketable Securities Tax Act of 1948 have become obsolete, and may be repealed.

3.78 Sections 4 to 7 of this Act amended various provisions of the Stamp Duties Act of 1968. The Stamp Duties Act was repealed by the Revenue Laws Amendment Act 60 of 2008. However, this Act was not amended consequentially. The SALRC thus recommends that these sections be repealed.

3.79 Section 9 of this Act amended section 9 of the Companies Amendment Act 29 of 1982 by adding subsection (3).²⁰ The SALRC recommends that section 9 be repealed,

²⁰

This section reads:

“(1) Repeals section 175 of the Companies Act 61 of 1973.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1982.

(3) Notwithstanding the repeal of section 175 of the principal Act by subsection (1) of this section, the provisions of the said section 175, as in force and applicable at any time prior to the said repeal in respect of a financial year of any external company (as defined in section 1 of the principal Act) which ended on or before 31 March 1982, shall remain applicable in respect of the financial year concerned

firstly because the principal Act, namely the Companies Act 61 of 1973 to which the amendment introduced by section 9 of this Act, has been repealed in its entirety by the Companies Act 71 of 2008. Secondly, this provision, although it promotes legal certainty, was unnecessary in the light of section 12 of the Interpretation Act 33 of 1957 which clearly states that the repeal of legislation (or a provision of legislation) will not affect any obligations incurred under the law repealed.²¹ Furthermore, section 9 of this Act will become redundant when the new Companies Act comes into force.

21 Revenue Laws Amendment Act 92 of 1983

3.80 The purpose of the Revenue Laws Amendment Act 92 of 1983 (this Act) was to amend, among other Acts, the Marketable Securities Tax Act 32 of 1948 and the Stamp Duties Act 77 of 1968. To that end, section 1(a) and (b) of this Act amended section 3 of the Marketable Securities Tax Act of 1948. The Marketable Securities Act was later repealed by the Revenue Laws Amendment Act 45 of 2003. In light of this development, the SALRC recommends that section 1 of this Act be repealed.

and annual duty shall in respect of that financial year be paid accordingly (date of commencement 1 April 1982).”

²¹ Section 12 of the Interpretation Act 33 of 1957 provides:

“12. Effect of repeal of a law

(1) Where a law repeals and re-enacts with or without modifications, any provision of a former law, references in any other law to the provision so repealed shall, unless the contrary intention appears, be construed as references to the provision so re-enacted.

(2) Where a law repeals any other law, then unless the contrary intention appears, the repeal shall not-

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any law so repealed or anything duly done or suffered under the law so repealed; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as is in this subsection mentioned, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing law had not been passed.”

3.81 Sections 5 to 17 of this Act amended various provisions of the Stamp Duties Act 77 of 1968. The Stamp Duties Act of 1968 was repealed by the Revenue Laws Amendment Act 60 of 2008. However, these provisions were not contemporaneously repealed when Act 77 of 1968 was repealed. The SALRC recommends that they be repealed.

22 Revenue Laws Amendment Act 118 of 1984

3.82 The purpose of this Act was to amend the Marketable Securities Tax Act of 1948, the Transfer Duty Act 40 of 1949 and the Stamp Duties Act of 1968. To this end, section 1 of this Act amended section 3 of the Marketable Securities Act by substituting paragraph (3). The Marketable Securities Act was repealed by Act 45 of 2003, and the reference to it in this Act may be deleted or repealed as it no longer serves any purpose.

3.83 Section 2 of this Act amended section 9 of the Transfer Duty Act 40 of 1949 by adding subsection (13). Subsection (13) was later deleted by section 3(1)(e) of the Taxation Laws Amendment Act 30 of 2000. The SALRC recommends that section 2 be repealed as it no longer serves any useful purpose.

3.84 Sections 3 to 11 amended various provisions of the Stamp Duties Act of 1968. This Act was repealed by the Revenue Laws Amendment Act 60 of 2008. However, these sections were not repealed contemporaneously with the Stamp Duties Act of 1968. The SALRC recommends that they be repealed.

23 Revenue Laws Amendment Act 81 of 1985

3.85 The purpose of this Act was to amend, inter alia, the Marketable Securities Act of 1948 and the Stamp Duties Act 77 of 1968. To that end, section 1 of this Act amended section 3(c) of the Marketable Securities Tax Act 32 of 1948 by deleting the word 'or' at the end of subparagraph (xiii) by adding the word 'or' after subparagraph (xiv), and by adding subparagraph (xv). The Marketable Securities Act was repealed by section 224 of the Revenue Laws Amendment Act 45 of 2003, which rendered this amendment redundant. It is recommended that section 1 be repealed.

3.86 Section 3 of this Act amended section 9(1)(b) of the Transfer Duty Act 40 of 1949 by adding the words: 'or the Local Authorities Loans Fund Board established by section 2 of the Local Authorities Loans Fund Act, 1984 (Act 67 of 1984)'. The amendments made to section 9(1)(b) of Act 40 of 1949 have been substituted by further amendments, and as a result the words added by section 3 of this Act to section 9(1)(b) of Act 40 of 1949 no longer appear in that section. The SALRC recommends that section 3 be repealed.

3.87 Paragraph (b) of section 4(1) of this Act substituted in paragraph (c) of section 3(3) of the Estate Duty Act 45 of 1955 the words preceding subparagraph (i). Paragraph (c) was deleted in its entirety by section 9(1)(a) of Act 87 of 1988, which resulted in this amendment serving no useful purpose anymore. It is recommended that it be repealed or deleted.

3.88 Section 10 and 11 amended section 4(1)(b) and item 15 of the Stamp Duties Act 77 of 1968 respectively. The Stamp Duties Act was repealed in 2008 by the Revenue Laws Amendment Act 60 of 2008. However, this Act was not amended consequentially when the Stamp Duties Act was repealed. It is recommended that these sections be repealed.

24 Revenue Laws Amendment Act 71 of 1986

3.89 The purpose of this Act was to amend, among other Acts, the Marketable Securities Tax Act 32 of 1948 and the Stamp Duties Act 77 of 1968. Section 1 of this Act amended section 2 of the Marketable Securities Act of 1948. As stated in the preceding paragraphs, the Marketable Securities Act was repealed by the Revenue Laws Amendment Act 45 of 2003. It is thus recommended that section 1 of this Act be repealed.

3.90 Section 2(1)(a) to (d) of this Act amended section 4A of the Estate Duty Act 45 of 1955 by substituting in paragraph (a) the expression "R100 000" for the expression "R50 000" and in paragraphs (b) and (c) the expression "R80 000" for the expression "R40 000" wherever it occurs; and substituted in paragraph (d) the expression "R100 000" for the

expression “R50 000” wherever it occurred. These expressions, as a result of further amendments to these paragraphs, no longer appear in these paragraphs.²² Since subsection (2) of this section is ancillary to subsection (1) in that it provides that subsection (1) shall apply in respect of the estate of any person who died or dies on or after 1 April 1986. It is therefore recommended that section 2(1)(a) to (d) and subsection (2) of this Act be repealed.

3.91 Sections 4 and 5 of this Act amended various provisions of the Stamp Duties Act of 1968. The Stamp Duties Act was repealed by the Revenue Laws Amendment Act of 2008. However, no consequential amendments were made to this Act. It is recommended that these sections be repealed.

25 Revenue Laws Amendment Act 140 of 1993

3.92 Section 13(1)(c) of this Act amended section 64C(4) of the Income Tax Act of 1962 by substituting paragraph (h). Paragraph (h) affected by this amendment was later deleted by section 59(1)(j) of the Revenue Laws Amendment Act 45 of 2003. This repeal has rendered section 13(1)(c) redundant. The SALRC recommends that this section be repealed.

²²

The affected sections of section 4 now read:

“Net value of an estate shall be determined by making the following deductions from the total value of all property included therein in accordance with section 3, that is to say-

- (a) so much of the funeral, tombstone and death-bed expenses of the deceased which the Commissioner considers to be fair and reasonable;
- (b) all debts due by the deceased to persons ordinarily resident within the Republic (other than any debt which constitutes a claim by such a person to property donated by the deceased in terms of a donation which was exempt from donations tax under section 56 (1) (c) or (d) of the Income Tax Act, 1962 (Act 58 of 1962)), which it is proved to the satisfaction of the Commissioner have been discharged from property included in the estate;
- (c) all costs which have been allowed by the Master in the administration and liquidation of the estate, other than expenses incurred in the management and control of any income accruing to the estate after the date of death;
- (d) all expenditure incurred in carrying out the requirements of the Master or the Commissioner in pursuance of the provisions of this Act.”

3.93 Section 17(1) of this Act amended Item 15 of Schedule 1 to the Stamp Duties Act 77 of 1968. Subsection (2) of section 17 provides that subsection (1) shall be deemed to have come into operation on 29 June 1993. In the light of the fact that the Stamp Duties Act of 1968 was repealed by the Revenue Laws Amendment Act of 2008, the SALRC recommends that section 17(1) and (2) of this Act be repealed.

26 Revenue Laws Amendment Act 46 of 1996

3.94 This Act amended, inter alia, the Marketable Securities Tax Act 32 of 1948, and the Stamp Duties Act 77 of 1968.²³ The Marketable Securities Tax Act of 1948 was repealed by the Revenue Laws Amendment Act 45 of 2003. It is thus recommended sections 1 to 3 of this Act which amended provisions of the Marketable Securities Tax Act of 1948 be repealed because the Act they refer to an Act that no longer exists.

3.95 Section 9(1)(a) and (b) of this Act amended section 10(1)(t) of the Income Tax Act 58 of 1968 by deleting paragraphs (viii) and (ix) respectively. Later amendments to the Income Tax Act of 1968 have reinserted these paragraphs, rendering these amendments redundant. It is recommended that section 9(1)(a) and (b) of this Act be repealed. Subsection (2) of this section should fall with it because it deals with the commencement dates of the amendments effected by subsection (1).

3.96 Sections 16 to 19 of this Act amended various provisions of the Stamp Duties Act of 1968. The Stamp Duties Act was repealed by the Revenue Laws Amendment Act of 2008. These amendments, therefore, no longer serve any useful purpose. It is recommended that they be repealed.

²³ See the long title.

27 Revenue Laws Amendment Act 53 of 1999

3.97 Sections 1 to 5 of this Act amended various provisions, and the Afrikaans text, of the Marketable Securities Tax Act 32 of 1948. The Marketable Securities Tax Act 32 of 1948 was repealed by Act the Revenue Laws Amendment Act 45 of 2003. It is recommended that these provisions be repealed because they are redundant.

3.98 Section 74 to 79 of this Act amended various provisions of the Stamp Duties Act 77 of 1968. As stated in the preceding paragraphs, the Stamp Duties Act was repealed in 2008 by the Revenue Laws Amendment Act 60 of 2008. However, this Act was not amended consequentially. The SALRC recommends that these sections be repealed.

3.99 Paragraphs (a) to (d) of section 81(1) of this Act amended the definition of “commercial rental establishment” in section 1 of the Value-Added Tax Act 89 of 1991. This definition was deleted by section 65(1)(b) of the Revenue Laws Amendment Act 19 of 2001. This amendment, therefore, no longer serves any purpose and it is hereby recommended for repeal.

3.100 Section 82(b) of this Act purported to amend section 2 of the Value-Added Tax of 1991 by, inter alia, substituting subsection (2)(v). However, section 2 of the Value-Added Tax does not have subsection (2)(v). For this reason, it is recommended that paragraph (b) of section 82 be repealed.

3.101 Paragraph (h) of section 85(1) of this Act added in subsection (2) of section 11 of the Value-Added Tax Act of 1991 the word “or” at the end of paragraph (p). Paragraph (p) was deleted by section 169(1)(h) of the Revenue Laws Amendment Act 45 of 2003. Therefore, paragraph (h) of section 85(1) may be repealed.

3.102 Section 96 of this Act amended section 33A(1)(a) of the Value-Added Tax Act of 1991 by substituting the expression “R30 000” for the expression “R20 000”. Section 98 of this Act amended section 44 of the Value-Added Tax Act of 1991 by substituting in paragraph (ii) of the proviso to subsection (1) the expression “R25” for the expression “R10”, and substituted in subsection (3)(b) the expression “R25” for the expression “R10”, and lastly substituted in subsection (4) the expression “R25” for the expression “R10”.

These amendments no longer exist as a result of further amendments to these sections. Therefore, these amendments no longer serve any useful purpose and may be repealed.

3.103 Section 108 of this Act amended section 39(1) of the Taxation Laws Amendment Act 20 of 1994 by, inter alia, substituting the definition of “listed company”. This definition reads: “‘listed company’ means a company the equity share capital of which is listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985)”. The problem with this definition is that it makes reference to an Act that no longer exists namely, the Stock Exchanges Control Act of 1985. Act 1 of 1985 was repealed by the Securities Services Act 36 of 2004. It is recommended that this definition be amended so that it reflects the current law.²⁴

3.104 Section 109 and 110 of this Act amended the Uncertificated Securities Tax Act 31 of 1998 by inserting section 1A and by inserting section 1A in section 7 of that Act. The Uncertificated Securities Tax Act of 1998 was repealed by the Securities Transfer Tax Act 25 of 2007. The SALRC recommends that these two sections be repealed.

28 Revenue Laws Amendment Act 59 of 2000

3.105 Section 2(f) of this Act amended section 1(1) of the Income Tax Act 58 of 1962 by inserting the definition of “international headquarter company”. This definition was repealed by section 12(1)(g) of the Revenue Laws Amendment Act 45 of 2003. Therefore, section 2(f) of this Act has become redundant. The SALRC recommends that section 2(f) of this Act be repealed.

²⁴ The SALRC proposes the following amendment to the definition of “listed company” in section 39(1) of Act 20 of 1994:
 “‘listed company’ means a company **[the equity share capital of which is listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985)]** where its shares or depository receipts in respect of its shares are listed on an exchange as defined in section 1 of the Securities Services Act, 2004 (Act 36 of 2004) and licensed under section 10 of that Act.”

3.106 Section 63(1) of this Act amended item 15 of Schedule 1 to the Stamp Duties Act 77 of 1968 by substituting paragraph (hA)(i) under the heading 'Exemptions from duty under paragraph (3)'. Subsection (2) of section 63 is ancillary in that it provides that subsection (1) shall be deemed to have come into operation on 1 March 2000. The Stamp Duties Act of 1968 was repealed by the Revenue Laws Amendment Act 60 of 2008. Section 63(1) and (2) of this Act no longer serve any purpose. It is recommended that this section be repealed.

3.107 Section 64(a) of this Act amended section 1 of the Value Added Tax Act 89 of 1991 by adding a proviso to the definition of "local authority". This definition was deleted by section 40(1)(i) of the Small Business Tax Amnesty and Amendment of Taxation Laws Act 9 of 2006. Therefore, section 64(a) has become redundant. The SALRC recommends that this section be repealed.

29 Revenue Laws Amendment Act 19 of 2001

3.108 Section 37(1) of this Act amended section 18(1) of the Customs and Excise Act 91 of 1964 by substituting paragraphs (a), (b) and (c). Subsection (2) of this section provided that subsection (1) shall come into operation on a date fixed by the President by proclamation in the Gazette. Subsection (1) came into operation in March 2002. Therefore, subsection (2) is no longer necessary and may be repealed.

3.109 Section 38(1) of this Act amended section 18A of the Customs and Excise Act of 1964 by substituting subsection (4). Subsection (2) of this section also provides that subsection (1) shall come into operation on a date to be fixed by the President in the Gazette. Subsection (1) of this section came into operation in March 2002. Therefore, subsection (2) is now redundant and may be repealed.

3.110 Section 41(1) of this Act amended section 20(4) of the Customs and Excise Act 91 of 1964 by substituting the words preceding paragraph (a). Subsection 2 of this section provided that subsection (1) shall come into operation on a date fixed by the President by proclamation in the Gazette. Subsection (1) of this section came into operation in October 2002. Therefore, subsection (2) has become redundant and may be repealed.

3.111 Section 45(1) of this Act inserted section 59A in the Customs and Excise Act of 1964. Subsection (2) of this section provides that subsection (1) shall come into operation on a date fixed by the President by proclamation in the *Gazette*. Subsection (1) of section 45 came into operation in February 2002. Therefore, section 45(2) is now redundant and may be repealed.

3.112 Section 48(1) of this Act inserted sections 64D and 64E in the Customs and Excise Act of 1964. Subsection (2) of this section provides that subsection (1) shall come into operation on a date fixed by the President in the *Gazette*. Section 48(1) of this Act came into operation in March 2002. Subsection (2) of section 48 is therefore redundant, and may be repealed.

3.113 Section 51(2) of this Act inserted section 101A in the Customs and Excise Act of 1964. Subsection (2) of this section provides that subsection shall come into operation on a date fixed by the President by proclamation in the *Gazette*. Subsection (1) of section 51 came into operation in December 2002. This has redundant section 51(2) redundant and it may be repealed.

3.114 Sections 54 to 64 of this Act amended various provisions in the Stamp Duties Act of 1968. As stated in the preceding paragraphs, the Stamp Duties Act of 1968 was repealed by the Revenue Laws Amendment Act of 2008. However, consequential amendments were not made to this Act. The SALRC recommends that sections 54 to 64 be repealed.

3.115 Section 67 of this Act amended section 8(6) of the Value-Added Tax Act 89 of 1991 by deleting the word “and” at the end of paragraph (a), by adding the word “and” at the end of paragraph (b), and by adding paragraph (c). Section 8(6) of the Value-Added was amended subsequent to the amendment made by section 67 of this Act. As a result it no longer has paragraphs.²⁵ The SALRC recommends that section 67 be repealed because it no longer serves any useful purpose.

²⁵ The current section 8(6) of the Value-Added Tax Act of 1991 reads:

3.116 Section 69(1) of this Act amended section 12(c) of the Value-Added Tax Act of 1991 referred to above by adding subparagraphs (iii) and (iv). Section 69(2) provides that subsection (1) comes into operation on 1 October 2001. This paragraph, as a result of further amendments, no longer has subparagraphs (iii) and (iv). The SALRC recommends that section 69(1) and (2) be repealed.

3.117 Section 74 of this Act amended section 5 of the Road Accident Fund Act 56 of 1996 by adding subsection (3). This subsection was deleted by section 126(1) of the Revenue Laws Amendment Act 31 of 2005. The SALRC recommends that section 74 be repealed.

30 Second Revenue Laws Amendment Act 60 of 2001

3.118 One of the Acts sought to be amended by this Act was the Marketable Securities Tax Act 32 of 1948. To that effect, section 1 to 5 of this Act amended various provisions of the Marketable Securities Act of 1948. The Marketable Securities Tax Act 32 of 1948 was repealed by section 224(1) of the Revenue Laws Amendment Act 45 of 2003. Therefore, these sections no longer serve any purpose because they effected amendments to an Act that has been repealed. The SALRC recommends that sections 1 to 5 of this Act be repealed.

3.119 Section 10(1) of this Act substituted section 18 of the Transfer Duty Act 40 of 1949. Subsection (2) of this section provides that subsection (1) shall come into operation on a date fixed by the President by proclamation in the *Gazette*. Subsection (1) of section 10 of this Act came into operation in April 2003. As a result, subsection (2) referred to above does not serve any useful purpose anymore and the SALRC recommends that it be repealed.

“(6) For the purposes of this Act the transfer of all its assets and liabilities by an administrative unit of a municipality that is separately registered under subsection (2) of section 50, to the vendor intended in subsection (1) of that section, shall be deemed not to be a supply.”

3.120 Section 11(1) of this Act repealed section 19 of the Transfer Duty Act of 1949. Subsection (2) provides that subsection (1) shall come into operation on a date to be fixed by the President by proclamation in the *Gazette*. The commencement provision contained in subsection (2) does not serve any useful purpose anymore because subsection (1) came into operation in April 2003. The SALRC recommends that it be repealed.

3.121 Section 14(1) of this Act amended section 9A of the Estate Duty Act 45 of 1955 by substituting the words preceding the proviso. Subsection (2) of this section provides that subsection (1) shall come into operation on a date to be fixed by the President by proclamation in the *Gazette*. Subsection (1) came into operation in April 2003. As a result, subsection (2) does not serve any useful purpose anymore. The SALRC recommends that subsection (2) of section 14 be repealed.

3.122 Section 15(1) substituted section 24 of the Estate Duty Act of 1955. Subsection (2) of the same section provides that subsection (1) shall come into operation on a date fixed by the President by proclamation in the *Gazette*. Subsection (1) came into operation in April 2003. The SALRC recommends that subsection (2) be repealed because it no longer serves any useful purpose anymore.

3.123 Section 114 of this Act amended section 3 of the Customs and Excise Act 91 of 1964 by adding subsection (3). Subsection (3) added by section 114 of this Act was deleted by section 32 (b) of Act 45 of 2003. The SALRC recommends that section 114 of this Act be repealed because it no longer serves any useful purpose anymore.

3.124 Section 121(1) of this Act inserted section 21A in the Customs and Excise Act of 91 of 1964. Subsection (2) provides that subsection (1) shall come into operation on a date fixed by the President by proclamation in the *Gazette*. Section 121(1) came into operation in January 2005. Therefore, subsection (2) of this section has become redundant and the SALRC recommends that it be repealed.

3.125 Section 126(1) of this Act amended section 47 of the Customs and Excise Act of 1964. Subsection (2)(a) of this section (section 126) provides that subsection (1)(a) to (e) shall come into operation on the date of promulgation of this Act (the Second Revenue Laws Amendment Act of 2001). This Act came into operation in December 2001. The question is whether this provision is still necessary. The SALRC recommends that

subsection (2)(a) of section 126 of this Act be repealed. Furthermore, subsection (2)(b)(ii) of section 126 of this Act provides that subsection (1)(f) shall, in so far as it inserts subsection (13), come into operation on the date of promulgation of this Act. As stated above, this Act came into operation in December 2001. In the light of this, the SALRC recommends that subsection (2)(b)(ii) of section 126 of this Act be repealed as well.

3.126 Section 134(1) of this Act amended inserted section 93A in the Customs and Excise Act of 1964. Section 93A inserted by this section (section 134(1) of this Act) was repealed by section 151 of Act 45 of 2003. Section 134 has therefore become redundant. The SALRC recommends that section 134(1) be repealed. Furthermore, the SALRC recommends that subsection (2) which is ancillary to subsection (1) be repealed as well.²⁶

3.127 Sections 141 to 147 of this Act amended various provisions of the Stamp Duties Act of 1968. The Stamp Duties Act was repealed by the Revenue Laws Amendment Act 60 of 2008. The SALRC recommends that these sections be repealed as they no longer serve any purpose.

3.128 Section 150(a) of this Act amended section 6 of the Value-Added Tax Act 89 of 1991 by substituting the proviso to subsection (1). The problem is that the proviso amended by this section makes reference to an Act that was repealed. Subsection (1) of section 6 of the Value-Added Tax Act of 1991 reads:

- A person employed in carrying out the provisions of this Act shall not –
- (a) disclose to any person or his representative any matter in respect of any other person that may in the exercise of his powers or the performance of his duties under the said provisions come to his knowledge; or
 - (b) permit any person to have access to any records in the possession or custody of the Commissioner, except in the exercise of his powers or the performance of his duties in terms of this Act or by order of a competent court: Provided that-

²⁶ This subsection reads: “The provisions contained in the regulations prescribing the circumstances under which the Commissioner may settle any dispute and the reporting requirements, as contemplated in section 93A of the Customs and Excise Act, 1964, must be tabled in Parliament within a period of 12 months from the date that the regulations come into operation for incorporation into the Customs and Excise Act, 1964”.

- (i) the Auditor-General in the performance of his duties in terms of section 3 of the Auditor-General Act, 1995 (Act 12 of 1995), shall have access to all records and documents in the possession or custody of the Commissioner for the purposes of this Act; and
- (ii) the Commissioner shall disclose to the Director-General of the National Treasury information in respect of ...

3.129 The Act referred to in subparagraph (i) of the proviso, namely the Auditor-General Act 12 of 1995 was repealed by the Public Audit Act 25 of 2004. The SALRC recommends that subparagraph (i) of the proviso be amended to read as follows:

“Provided that –

- (i) the Auditor-General in the performance of his or her duties in terms of **[section 3 of the Auditor-General Act, 1995 (Act 12 of 1995)]** the Public Audit Act, 2004 (Act 25 of 2004), shall have access to all records and documents in the possession or custody of the Commissioner for the purposes of this Act.“

3.130 Section 154(1)(b) of this Act substituted paragraph (h) of section 12 of the Value-Added Tax Act of 1991. Section 12(h)(i) of the Value Added Tax Act of 1991 reads:

the supply of educational services-

- (aa) provided by the State or a school registered under the South African Schools Act, 1996 (Act 84 of 1996), or a further education and training institution established by the State or such institution registered under the Further Education and Training Act, 1998 (Act 98 of 1998).

3.131 The Further Education and Training Act 98 of 1998 referred to in this provision was repealed by section 58(1) of the Further Education and Training Colleges Act 16 of 2006. The SALRC recommends that section 12(h)(i) of the Value-Added Tax Act of 1991 substituted by paragraph (b) of this Act be amended so as to reflect this change that has taken place. Subsections (2)(a) and (b) provide that subsection (1)(a) and (1)(b) and (c) shall come into operation in November 2001 and March 2002 respectively. The commencement dates mentioned in subsection (2)(a) and (b) have passed and this subsection is now spent. The SALRC recommends that subsection (2)(a) and (b) of section 154 be repealed.

3.132 Section 155(b) of this Act amended section 13 of the Value-Added Tax Act of 1991 by substituting subsection (4). However, this subsection was deleted by section 100(1)(c) of the Revenue Laws Amendment Act 32 of 2004. The SALRC recommends that paragraph (b) of section 155 of this Act be repealed on grounds that it no longer serves any useful purpose.

3.133 Section 156(d) of this Act amended section 16 of the Value-Added Tax Act of 1991 by adding subsection (3)(l). Section 16(3)(l) of the Value-Added Tax Act of 1991 reads:

... an amount as determined by the Commissioner in lieu of a refund in respect of the purchase and use of diesel paid by a vendor to a supplier of pastoral, agricultural or other farming products who is not a vendor, in terms of a scheme operated by the controlling body of an industry for the development of small-scale farmers approved by the Minister with the concurrence of the Minister of Agriculture and Land Affairs to compensate that supplier for an amount refundable in the production of such goods.

3.134 This provision makes reference to the Department of Agriculture and Land Affairs. Agriculture and Land Affairs are now two separate departments, each headed by a Minister. The question that arises is whether this provision applies to both or only to one of these ministries. The SALRC recommends that this provision be amended so as to clarify the situation.

3.135 Section 157(a) of this Act amended section 20 of the Value-Added Tax Act of 1991 by inserting subsection (1A). This subsection was deleted by section 104(1)(b) of the Revenue Laws Amendment Act 32 of 2004. Therefore, paragraph (a) of section 157 of this Act has become redundant. The SALRC recommends that it be repealed.

3.136 Section 160(1) of this Act amended various provisions of section 33 of the Value-Added Tax Act of 1991. Subsection (2) of section 160 provides that subsection (1) shall come into operation on a date fixed by the President by Proclamation in the *Gazette*. Subsection (1) of section 160 of this Act came into operation in April 2003. Therefore, subsection (2) of this section is no longer necessary. The SALRC recommends that it be repealed.

3.137 Section 166 of this Act amended section 39 of the Value-Added Tax Act of 1991 by deleting subsection (5). Subsequent to this deletion, subsection (5) was once again

inserted by section 50 (1) (a) of the Taxation Laws Amendment Act 16 of 2004. As a result, section 166 has no practical utility anymore. The SALRC recommends that section 166 of this Act be repealed.

3.138 Section 179(1)(a) of this amended section 39 of the Taxation Laws Amendment Act 20 of 1994 by inserting in subsection (1) the definition of “marketable securities tax”. This definition reads: “‘marketable securities tax’ means the marketable securities tax leviable under the Marketable Securities Tax Act, 1948 (Act 32 of 1948)”. It is no longer possible to levy marketable securities tax in terms of the Marketable Securities Tax Act 32 of 1948 because the Act was repealed by the Revenue Laws Amendment Act 45 of 2003. Therefore, this definition has become redundant. The SALRC recommends that section 179(1)(a) of this Act be repealed.

3.139 Sections 180 to 182 of this Act amended various provisions of the Uncertificated Securities Tax Act 31 of 1998. The Uncertificated Securities Tax Act of 1998 was repealed by the Securities Transfer Tax Act 25 of 2007. However, consequential amendments were not made to this Act when the Uncertificated Securities Tax Act of 1998 was repealed. The SALRC recommends that sections 180 to 182 of this Act be repealed.

31 Revenue Laws Amendment Act 74 of 2002

3.140 This Act amended, among other Acts, the Marketable Securities Tax Act of 1948. To that end, section 1(1) of this Act amended section 3 of the Marketable Securities Tax Act by substituting paragraph (f). The Marketable Securities Tax Act of 1948 was subsequently repealed by the Revenue Laws Amendment Act 45 of 2003. Therefore, section 1(1) of this Act no longer serves any useful purpose. The SALRC recommends that section 1(1), together with subsection (2)(a) and (b) which is ancillary to subsection (a),²⁷ be repealed.

²⁷ Subsection (2)(a) and (b) of section 1 of Act 74 of 2002 reads:
“Subsection (1) shall-

3.141 Section 108(1) of this Act inserted section 64F in the Customs and Excise Act 91 of 1964. Subsection (2) of section 108 provides that subsection (1) shall come into operation on a date fixed by the President by proclamation in the Gazette. Subsection (1) of section 108 came into operation in April 2003. The commencement provision contained in section 108(2) of this Act no longer serves any useful purpose. The SALRC recommends that it be repealed.

3.142 Section 111(1) of this Act amended section 105 of the Customs and Excise Act 91 of 1964. Subsection (2) of section 111 of this Act provides that subsection (1) shall come into operation on a date fixed by the President by proclamation in the Gazette. The President fixed 1 April 2003 as the date of commencement of section 111(1) of this Act. The SALRC recommends that subsection (2) of section 111 be repealed.

3.143 Section 113(1)(a) of this Act amended item 15 of Schedule 1 to the Stamp Duties Act 77 of 1968 by substituting paragraph (g) in Exemptions from the duty under paragraph (1) or (2). The Stamp Duties Act 77 of 1968 was repealed in 2008 by the Revenue Laws Amendment Act 60 of 2008. However, consequential amendments were not made to this Act by repealing section 113(1)(a). The SALRC recommends that section 113(1)(a) of this Act be repealed.

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- (a) to the extent that it substitutes the word 'company' with the word 'person' be deemed to have come into operation on 1 October 2001, and applies in respect of any purchase of a marketable security on or after that date; and
 - (b) to the extent that it amends the rest of section 3, come into operation on 6 November 2002 and shall apply in respect of any purchase of marketable securities on or after that date."

CHAPTER 4

CUSTOMS AND EXCISE ACT AND AMENDMENT ACTS

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CHAPTER 4

CUSTOMS AND EXCISE ACT AND AMENDMENT ACTS

A Customs and Excise Act 91 of 1964

1 References to repealed legislation

4.1 The purpose of the Customs and Excise Act 91 of 1964 (this Act), as stated in the long title, is to provide for the levying of customs and excise duties and a surcharge; fuel levy; Road Accident Fund levy; air passenger tax and environmental levy; and the prohibition and control of the importation, export, manufacture or use of certain goods. This Act contains provisions which make reference to functionaries or statutes that no longer exist. In the ensuing paragraphs these are identified and recommended for either repeal or amendment.

4.2 Section 4(3E) of this Act provides that “Notwithstanding anything to the contrary contained in subsection (3), the Auditor-General shall in the performance of the Auditor-General’s duties in terms of section 3 of the Auditor-General Act, 1995 (Act 12 of 1995) have access to the documents in the possession or custody of the Commissioner or a Controller”. The Auditor-General Act 12 of 1995 was repealed in 2004 by the Public Audit Act 25 of 2004 (the new Act). The SALRC recommends that this provision be amended to refer to the powers and duties of the Auditor-General contained in sections 4, 5, 15 and 16 of the new Act. The SALRC recommends the following amendment:

“(3E) Notwithstanding anything to the contrary contained in subsection (3), the Auditor-General shall in the performance of the Auditor-General’s duties in terms of **[section 3 of the Auditor-General Act, 1995 (Act 12 of 1995)]** the Public Audit Act, 2004 (Act 25 of 2004) have access to the documents in the possession or custody of the Commissioner or a Controller.”

4.3 Section 30(2) of this Act provides that “The blending of brandy in terms of section 9(1)(b) of the Wines and Spirits Control Act, 1970 (Act 47 of 1970)...shall be subject to such supervision by an officer as the Commissioner may in each case consider necessary”. Act 47 of 1970 referred to in this provision has, by virtue of section 58D which was inserted in the Wines and Spirits Act 47 of 1970 by section 6 of Wine and Spirit Control Amendment Act 25 of 1998, lapsed. Section 58D reads:

58D. Lapsing of this Act

This Act shall lapse and the laws mentioned in Schedule 3 be repealed to the extent indicated in the third column of Schedule 3 –

- (a) on a date determined by the Minister in the Gazette in consultation with the management authority; or
 - (b) on 30 June 1999,
- whichever date may occur first.

4.4 Therefore, Act 47 of 1970 has lapsed. Therefore, the part of section 30(2) which makes reference to Act 47 of 1970 has become redundant and the SALRC recommends it be deleted. The manufacturing of brandy, as is the case with other alcoholic beverages, is now regulated by the Liquor Products Act 60 of 1989. The SALRC thus recommends that reference to section 9(1)(b) of the Wine and Spirits Control Act 47 of 1970 in section 30(2) of the Customs and Excise Act of 1964 be deleted and replaced with reference to the Liquor Products Act of 1989. The SALRC recommends the following amendment of section 30(2):

“The **[blending of brandy in terms of section 9 (1) (b) of the Wine and Spirits Control Act, 1970 (Act 47 of 1970)]** manufacturing of spirit which complies with the Liquor Products Act, 1989 (Act 60 of 1989) for the class of spirit manufactured or sold under the name of brandy, and the production from spirits of any other beverage or any other non-excisable goods shall be subject to such supervision by an officer as the Commissioner may in each case consider necessary”.

4.5 Section 35(1)(a) of this Act empowers the Commissioner to license the premises of, amongst others, the Deciduous Fruit Board, to deal in wine in wholesale quantities, as a special customs and excise warehouse for the purposes of manufacturing wine. The question that arises in respect to this provision is whether it is still necessary to refer to the

Deciduous Fruit Board. It seems that this Board is now operating under a different name after it was privatized. This inference is based on section 10 of the Taxation Laws Amendment Act 89 of 1990 which provides that:

10. Special exemption in respect of privatization of the Deciduous Fruit Board

No transfer duty or stamp duty shall be payable in respect of the passing of assets, rights, liabilities and obligations of the Deciduous Fruit Board to Unifruco Limited in terms of the agreement dated 1 March 1990 between the Deciduous Fruit Board, Unifruco Limited and Universal Frustrate (Co-operative) Limited”.

4.6 The SALRC recommends the following amendment to section 35(1)(a) as the Deciduous Fruit Board no longer exists:

“35. Special provisions regarding wine

(1)(a) The Commissioner may, subject to such conditions as he or she may impose in each case, license the premises of a wine-grower, wine-growers' co-operative agricultural society [**, the Deciduous Fruit Board**] or a person who holds a licence under any law to deal in wine in wholesale quantities, as a special customs and excise warehouse for the purpose of manufacturing wine.”

4.7 Section 48(1)(b) of this Act provides that:

The Minister may from time to time by notice in the Gazette amend the General Notes to Schedule 1 and Part 1 of the said Schedule or substitute the said Part 1 and amend Part 2 of the said Schedule in so far as it relates to imported goods-

- (a) ...
- (b) in order to give effect to any request by the Minister of Trade and Industry and for Economic Co-ordination”.

4.8 As a result of changes that took place after 1994, the Ministry referred to in this section, namely, “Trade and Industry and for Economic Co-ordination” no longer exists. It is recommended that the provision be amended by deleting the words: “and for Economic Co-ordination”.

4.9 Section 75(2)(b)(ii) and (iii) of this Act provide that a rebate of duty in respect of any goods described in Schedule 3 shall be allowed only in respect of goods entered for

use, inter alia, in a factory which is registered under the Machinery and Occupational Safety Act, 1983 (Act 6 of 1983) or in a mine or works as defined in section 1 of the Mines and Works Act, 1956 (Act 27 of 1956). The Acts referred to in subparagraphs (ii) and (iii) were subsequently repealed. The Machinery and Occupational Safety Act of 1983 was repealed by the Occupational Health and Safety Act 85 of 1993, and the Mines and Works Act of 1956 was repealed by the Minerals Act 50 of 1991. The Occupational Health and Safety Act of 1993, like its predecessor, does not contain a provision which requires factories to be registered. However, like the 1983 Act, it empowers the Minister of Manpower (now Minister of Labour) to make regulations with regard to, among other things, the registration of premises where employees perform any work. The Minerals Act 50 of 1991 has also been repealed by the Mineral and Petroleum Resources Development Act 28 of 2002. The latter Act also contains the definition of “mine” but does not contain the definition of “works”. In the light of these developments, the SALRC thus recommends that section 75(2)(b)(ii) and (iii) be amended as follows:

“(2) A rebate of duty in respect of any goods described in Schedule 3 shall be allowed

–

- (a) ...
- (b) only in respect of goods entered for use-
 - (i) in **[a factory premises which is registered under the Machinery and Occupational Safety Act, 1983 (Act 6 of 1983)]** premises registered under the Occupational Health and Safety Act, 1993 (Act 85 of 1993);
 - (ii) in a mine **[or works]** as defined in section 1 of the **[Mines and Works Act, 1956 (Act 27 of 1956)]** Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002); or
 - (iii) elsewhere in any other activity which the Commissioner may approve for the purposes of this subparagraph.”

2 Constitutionally suspect provisions of Act 91 of 1964

4.10 Section 4(9)(d) of this Act provides that:

(d) If any lock, seal or mark placed upon any goods on board a ship or vehicle by an officer in terms of the provisions of this section is wilfully opened, broken, obliterated or altered or if any goods which have been

locked, sealed, marked or otherwise secured in terms of this section are removed or if the hatchways of any such ship are, after having been fastened down by an officer, opened without his consent, the master of any such ship, the pilot of any aircraft concerned or the person in charge of any other such vehicle, as the case may be, shall be guilty of an offence unless he proves that it was not possible for him to have prevented the act in question.

4.11 Although falling outside the scope of this project, the SALRC is of the view that this is a reverse onus provision which may be unconstitutional.

4.12 Section 62(2) of the Customs and Excise Act 91 of 1964 regulates the issuing of licenses to agricultural distillers.²⁸ It reads:

- (2) After the commencement of this Act a licence under this Act as an agricultural distiller shall not be granted to any person-
- (a) who had not at any time before such commencement been licensed under any law relating to excise as an agricultural distiller; or
 - (b) who, after such commencement, has for any continuous period of more than twelve months not been the holder of a licence as an agricultural distiller issued under this Act.

4.13 First, this provision is couched in peremptory terms. It states that “a licence under this Act ... **shall** not be granted to any person” (emphasis added) and precludes certain categories of people from obtaining licences. Interpreted literally, only people who had licences prior to the commencement of this Act could be issued with licences as agricultural distillers in terms of this Act. The exclusion of people who did not have licences prior to the coming into operation of this Act from the benefits provided for in this section offends the right to equality entrenched in the Constitution. Paragraph (b) of this subsection prohibits the granting of a licence *in terms of this Act* to any person who has for an uninterrupted of more than twelve months not been the holder of a licence *issued in terms of this Act*. This paragraph is vague. It is not clear whether the purpose of this provision is to prohibit people who had been issued with licenses and never used them

²⁸

Section 1 provides that:

“ ‘agricultural distiller’ means any owner or occupier of a farm in the Republic who-

- (a) is licensed to keep a still on such farm; and
- (b) is licensed to distil spirits exclusively from prescribed fresh fruit grown by him on such farm; or”.

from being issued with new licences in terms of this Act. Both paragraphs also seem to be inconsistent with section 22 of the Constitution, which guarantees the right of everyone to choose their trade, occupation or profession freely. The SALRC recommends that 62(2)(a) and (b) of this Act be repealed, unless it serves a legitimate government purpose.

4.14 Section 88(1)(a) of this Act reads:

88 Seizure

(1) (a) An officer, magistrate or member of the police force may detain any ship, vehicle, plant, material or goods at any place for the purpose of establishing whether that ship, vehicle, plant, material or goods are liable to forfeiture under this Act.

(b) Such ship, vehicle, plant, material or goods may be so detained where they are found or shall be removed to and stored at a place of security determined by such officer, magistrate or member of the police force, at the cost, risk and expense of the owner, importer, exporter, manufacturer or the person in whose possession or on whose premises they are found, as the case may be”.

(bA) No person shall remove any ship, vehicle, plant, material or goods from any place where it was so detained or from a place of security determined by an officer, magistrate or member of the police force.

4.15 Although it is beyond the scope of this project, the SALRC is concerned that the inclusion of magistrates in this provision violates the doctrine of separation of powers embedded in the Constitution and recommends that the word “magistrate” be deleted from this provision. Furthermore, the Constitution provides the security service of the Republic shall consist of, among others, a single police service, which must be established by legislation.²⁹ It is therefore recommended that the words “police service” be substituted for the words “police force” in this section.

²⁹ Sections 199(1) and 205(2) of the Constitution.

B Custom and Excise Amendment Acts

1 Customs and Excise Amendment Act 95 of 1965

4.16 Section 17 of the Customs and Excise Amendment Act 95 of 1965 amended paragraph (d) of section 113 of the Customs and Excise Act 91 of 1964. This paragraph was later deleted by section 25 of the Customs and Excise Amendment Act 86 of 1982. This section may therefore be deleted as it serves no useful purpose any more.

2 Customs and Excise Amendment Act 57 of 1966

4.17 The purpose of the Customs and Excise Amendment Act 57 of 1966 (this Act) was to amend the Customs and Excise Act 91 of 1964 (the principal Act). However, some of the amendments effected by this Act to the principal Act have been deleted by other pieces of legislation.

4.18 Section 62(1) of the principal Act was substituted by section 8(a) of this Act. This section (section 62(1) of the principal Act) was deleted by section 12(1)(a) of the Customs and Excise Amendment Act 86 of 1982.

4.19 Paragraph (k) of section 113(1) inserted by section 14(a) of this Act to the principal Act was later deleted by section 12(c) of the Customs and Excise Amendment Act 98 of 1993. Subsection (10) of section 113 was added by section 14(d) of this Act was subsequently deleted by section 12(c) of Act 98 of 1993.

4.20 The SALRC recommends that sections 8(a) and 14(a) and (d) of this Act be repealed because they effected changes to provisions of the principal Act that were subsequently repealed.

3 Custom and Excise Amendment Act 96 of 1967

4.21 The Customs and Excise Amendment Act 96 of 1967 (this Act) has four sections only. According to the long title, the purpose of this Act was to amend section 77 and Schedules 1 to 6, inclusive, of the Customs and Excise 91 of 1964 (the principal Act). Section 3 of this Act reads:

3. Refund of excise duties on certain kaffircorn malt

(1) If a manufacturer of sorghum beer proves to the satisfaction of the Secretary, as defined in section 1 of the principal Act, that the full excise duty has been paid on any kaffircorn malt delivered prior to the twenty-third day of March 1967, from any customs and excise warehouse and used in the manufacture of sorghum beer in respect of which a rebate of the full excise duty was not applicable during any period after the said date, and on which the non-rebated portion of the excise duty has been paid, the Secretary may refund to the manufacturer of such beer the excise duty paid on any such malt which has been so used.

(2) For the purposes of subsection (1)-

- (a) kaffircorn malt used in the manufacture of sorghum beer shall be deemed to include kaffircorn malt used in the manufacture of sorghum beer powder or mash subsequently used in the manufacture of sorghum beer; and
- (b) the Secretary may in his discretion accept proof of payment in respect of kaffircorn malt or sorghum beer powder or mash by a manufacturer of sorghum beer of a price which in the opinion of the Secretary included any excise duty on kaffircorn malt as proof that the excise duty on such kaffircorn malt has been paid.

(3) No refund of duty shall be paid by virtue of the provisions of this section unless the application for refund is received by the Controller, as defined in section 1 of the principal Act, within six months after the date of commencement of this section and any such application and any refund in pursuance of such application shall otherwise be subject to the provisions of sections 76 and 77 of the principal Act.

4.22 There are two problems with regard to this section. The first, is the requirement contained in section 3(1) that the manufacturer of sorghum beer must prove to the satisfaction of the "Secretary, as defined in section 1 of the principal Act" that the full excise duty has been paid on any kaffircorn malt delivered prior to the twenty-third day of March 1967. Two comments can be made in respect of this provision. First, the definition of "Secretary" in the principal Act was deleted by section 1(1)(d) of the Customs and Excise Amendment Act 98 of 1980, thus rendering this provision meaningless. Second, this provision requires the manufacturer to prove that full excise duty has been paid in

respect of malt that was delivered prior to 21 March 1967. The question that arises with regard to this provision is whether it is still being applied (in other words, the SALRC suspects that this provision has become obsolete). The second problem is the use of the word “kaffircorn” in the heading to this section and in section 3(1); (2)(a) and (b). This word, whether used as a noun or as an adjective, is offensive. Subsection (3) of the section 3 of this Act is ancillary to subsections (1) and (2). The SALRC recommends that it be repealed together with subsections (1) and (2).

4.23 The SALRC recommends that this section be repealed in its entirety on the grounds that it is obsolete, makes reference to definitions in the principal Act that have been deleted or repealed and that it contains an expression that is offensive.

4 Customs and Excise Amendment Act 85 of 1968

4.24 Section 6 of this Act substituted section 67 of the Customs and Excise Act 91 of 1964. Section 67 affected by this amendment was later repealed by section 22 of the Second Customs and Excise Amendment Act 112 of 1977. Although section 67 was later inserted by another Act, the amendment introduced by section 6 of this Act ceased to have any legal effect when it was repealed by Act 112 of 1977. The SALRC recommends that section 6 of this Act be repealed.

5 Customs and Excise Amendment Act 105 of 1969

4.25 The purpose of the Customs and Excise Amendment Act 105 of 1965 (this Act) was to effect amendments to the Customs and Excise Act 91 of 1964 (the principal Act). Paragraph (c) of section 1 of this Act substituted the definition of “custom tariff”. This definition was later deleted by section 1(d) of the Customs and Excise Amendment Act 59 of 1990. Paragraph (h) of the same section inserted the definition of “sales duty” and “sales duty goods”. Both definitions were later deleted by section 1(h) and (j) respectively of Act 59 of 1990.

4.26 Section 18 of this Act amended section 48 of the principal Act. Paragraph (a) inserted subsection (3A). This subsection was deleted by section 8(c) of the Customs and Excise Amendment Act 105 of 1976.

4.27 Section 23 inserted section 70 in the principal Act. Section 70 was later repealed by section 28 of the Customs and Excise Amendment Act 59 of 1990 referred to above. Section 24 amended section 75 by adding subsection (1)(e). This subsection was deleted by section 29(1) of Act 59 of 1990. Section 34 inserted section 116A in the Customs and Excise Act. This section was deleted by section 33 of the Customs and Excise Amendment Act 84 of 1987. Of particular interest is section 40, which empowers the Minister to amend the Schedules to the Customs and Excise Act with retrospective effect. It provides that:

The Minister may, at any time before the date on which he introduces the Appropriation Bill in respect of the financial year 1970-'71, apply the provisions of section 48(3A) or 75(15)(a) of the principal Act, in so far as they relate to sales duty as defined in that Act, with retrospective effect to a date which he considers reasonable but not earlier than the twenty-sixth day of March 1969, if he considers such action is warranted or in order to avoid serious detriment to any manufacturer, owner, importer, or other person affected to an unforeseen extent by sales duty.

4.28 This power had to be exercised before the promulgation of the Appropriation Act for the financial year 1970-71. The Appropriation Act referred to in section 40 above was promulgated, and later repealed by the Repeal of Laws Act 94 of 1981. Therefore, this section is now spent, and may be repealed. Furthermore, section 48(3A) referred to in this section was deleted by section 8(c) of the Customs and Excise Amendment Act 105 of 1976.

6 Customs and Excise Amendment Act 98 of 1970

4.29 Section 1(b) of this Act amended section 1 of the Customs and Excise Act 91 of 1964 by substituting, inter alia, the definition of "Government Brandy Board". This definition was deleted by section 32 of the Liquor Products Act 60 of 1989.

4.30 Section 3 of this Act amended section 48 of the Customs and Excise Act by substituting subsection (7). This subsection was deleted by section 3(c) of the Customs and Excise Amendment Act 19 of 1994.

4.31 Section 10 of this Act provides that the Minister may at any time before the date on which he introduces the Appropriation Bill in Parliament in respect of the financial year 1971-'72, apply the provisions of section 48(3A) or 75(15)(a) of the principal Act, ...with retrospective effect...". As stated above, this provision became spent when the Minister introduced the Appropriation Bill for the 1971-1972 financial year. These amendments may therefore be repealed.

7 Customs and Excise Amendment Act 89 of 1971

4.32 The only provision in this Act that has ceased to have any legal effect is section 3(1). This section empowers the Minister "at any time before the date on which he introduces the Appropriation Bill in Parliament in respect of the financial year 1972-'73, to apply the provisions of sections 48(3A) or 75(15)(a) of the principal Act". This provision became spent when the Minister introduced the Bill in Parliament which eventually became the Appropriation Act for the financial year 1972 to 1973. This section serves no useful purpose anymore and the SALRC recommends that it be repealed.

8 Customs and Excise Amendment Act 103 of 1972

4.33 Two sections of this Act effected amendments to sections of the Customs and Excise Act 91 of 1964, which has been deleted by various pieces of legislation. The first such section is section 3, which amended section 35 of the Customs and Excise Act by substituting subsection (2). This subsection was deleted by section 23 of the Customs and Excise Amendment Act 45 of 1995. The second section is section 11(b) which amended section 113 of the Customs and Excise Act by substituting subsection (1)(d)(i). Subsection (1)(d)(i) of section 113 of the Customs and Excise Act was later deleted by the Financial Institutions Amendment Act 86 of 1982. The SALRC recommends that both sections referred to above be repealed.

9 Customs and Excise Amendment Act 68 of 1973

4.34 Two provisions contained in this piece of legislation have been deleted by other statutes. Section 1(c) substituted subsection (3A)(a) in section 48 of the Customs and Excise Act 91 of 1964. This subsection was later deleted by section 8(c) of the Customs and Excise Amendment Act 105 of 1976. Section 5 amended section 113(1)(d) of the Customs and Excise Act of 1964. This section (s 113) was later deleted by section 25 of the Customs and Excise Amendment Act 86 of 1982.

4.35 The SALRC recommends that both provisions, namely section 1(c) and section 5 be repealed.

10 Customs and Excise Amendment Act 71 of 1975

4.36 Section 3(a) and (b) of this amending Act amended section 7(2) of the Customs and Excise Act 91 of 1964 by inserting and substituting paragraphs (aA) and (b) respectively. Section 7(2) of the Customs and Excise Act was later deleted by section 4(b) of the Customs and Excise Amendment Act 45 of 1995. The SALRC recommends that this section be repealed.

11 Customs and Excise Amendment Act 105 of 1976

4.37 Section 2 of this amending Act amended section 11(1) of the Customs and Excise Act 91 of 1964 by adding a proviso. This proviso no longer exists as a result of substitution of this section by section 6 of the Customs and Excise Amendment Act 45 of 1995. Section 9(1)(a) and (b) of this Act amended various parts of section 70 of the Customs and Excise Act. Section 9(2) is ancillary to subsection (1) as it provides that subsections (1) and (2)(*sic*) shall be deemed to have come into operation on 25 April, 1969. Section 70 was repealed by section 29 of the Customs and Excise Amendment Act 59 of 1990. Section 12(b) of this Act substituted subsection (2) of section 91 of the Customs and Excise Act. Subsection (2) of section 91 was later deleted by section 133 of the Second Revenue Laws Amendment Act 60 of 2001.

4.38 The SALRC recommends that sections 2, 9(1)(a) and (b), 9(2) and 12(b) of this Act be repealed.

12 Second Customs and Excise Amendment Act 112 of 1977

4.39 Section 2 of this Act amended section 13 of the Customs and Excise Act 91 of 1964 by substituting subsection (2). Section 13(2) of the Customs and Excise Act was later deleted by section 3(b) of the Customs and Excise Amendment Act 101 of 1985. Section 23 of this Act amended various provisions of section 70 of the Customs and Excise Act of 1964. Section 70 was subsequently repealed by section 28 of the Customs and Excise Amendment Act 59 of 1990. Therefore, these two sections serve no useful purpose anymore and may be repealed.

13 Customs and Excise Amendment Act 93 of 1978

4.40 The purpose of this Act was to amend various provisions of the Customs and Excise Act 91 of 1964. Section 7 of this Act amended section 70 of the Customs and Excise Act by substituting words in subsections or the subsections themselves. However, section 70 was later repealed by section 28 of the Customs and Excise Amendment Act 59 of 1990. In addition, paragraph (b) of section 8 of this Act inserted section 18(cA) in the Customs and Excise Act. This provision (section 18(cA)) was later deleted by section 92(1)(l) of the Revenue Laws Amendment Act 31 of 2005. Therefore, these amendments have become redundant, and may be repealed.

14 Customs and Excise Amendment Act 98 of 1980

4.41 Section 2 of this Act inserted sections 1A and 1B to the Customs and Excise Act 91 of 1964. These sections were repealed by section 34(1) of the South African Revenue Service Act 34 of 1997. The SALRC recommends that section 2 of this Act be repealed.

15 Customs and Excise Amendment Act 86 of 1982

4.42 Section 2 of this Act amended section 30 of the Customs and Excise Act 91 of 1964 by substituting subsection (2). This subsection provides:

The blending of brandy in terms of section 9(1)(b) of the Wine and Spirits Control Act, 1970 (Act 47 of 1970), and the production from spirits of any other beverage or any other non-excisable goods shall be subject to such supervision by an officer as the Commissioner may in each case consider necessary.

4.43 The Wine and Spirits Control Act 47 of 1970 referred to in this provision has lapsed in terms of section 58D of that Act.³⁰ The manufacturing of brandy, as is the case with other alcoholic beverages, is now regulated by the Liquor Products Act 60 of 1989. The SALRC thus recommends that reference to section 9(1)(b) of the Wine and Spirits Control Act 47 of 1970 in section 30(2) of the Customs and Excise Act of 1964 be deleted and replaced with reference to the Liquor Products Act of 1989. The SALRC recommends the following amendment of section 30(2):

“The **[blending of brandy in terms of section 9 (1) (b) of the Wine and Spirits Control Act, 1970 (Act 47 of 1970)]** manufacturing of spirit which complies with the Liquor Products Act, 1989 (Act 60 of 1989) for the class of spirit manufactured or sold under the name of brandy, and the production from spirits of any other beverage or any other non-excisable goods shall be subject to such supervision by an officer as the Commissioner may in each case consider necessary”.

4.44 Section 16 of this Act amended section 70 of the Customs and Excise Act of 1964 by substituting subsection (1). Section 70 of the Customs and Excise Act affected by this amendment was subsequently repealed by section 28 of the Customs and Excise

³⁰ Section 58D of Act 47 of 1970 reads:

“This Act shall lapse and the laws mentioned in Schedule 3 be repealed to the extent indicated in the third column of Schedule 3-

(a) on a date determined by the Minister in the Gazette in consultation with the management authority; or

(b) on 30 June 1999,
whichever date may occur first.”

Amendment Act 59 of 1990. In the light of this repeal, the SALRC recommends that section 16 of this Act be repealed.

4.45 Section 19(a) of this Act amended section 75 of the Customs and Excise Act of 1964 by substituting subsection (2)(b). This subsection reads:

A rebate of duty in respect of any goods described in Schedule 3 shall be allowed-

- (a) ...
- (b) only in respect of goods entered for use-
 - (i) in a factory which is registered under the Machinery and Occupational Safety Act, 1983 (Act 6 of 1983);
 - (ii) in a mine or works as defined in section 1 of the Mines and Works Act, 1956 (Act 27 of 1956); or
 - (iii) elsewhere in any other activity which the Commissioner may approve for the purposes of this subparagraph.

4.46 The two Acts referred to in this provision namely the Machinery and Occupational Safety Act 6 of 1983 and the Mines and Works Act 27 of 1956 were repealed by the Occupational Health and Safety Act 85 of 1993 and by section 68(1) of the Minerals Act 56 of 1991 respectively. The latter Act has also been repealed by the Mineral and Petroleum Resources Development Act 28 of 2002. The SALRC recommends, in the light of these developments, that this provision be amended to read:

“A rebate of duty in respect of any goods described in Schedule 3 shall be allowed-

- (a) ...
- (b) only in respect of goods entered for use-
 - (i) in **[a factory which is registered under the Machinery and Occupational Safety Act, 1983 (Act 6 of 1983)]** premises registered under the Occupational Health and Safety Act, 1993 (Act 85 of 1993);
 - (ii) in a mine **[or works]** as defined in section 1 of the **[Mines and Works Act, 1956 (Act 27 of 1956)]** Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002); or
 - (iii) elsewhere in any other activity which the Commissioner may approve for the purposes of this subparagraph.”

4.47 Section 23 of this Act repealed section 96A of the Customs and Excise Act of 1964. Section 96A has, once again, been inserted by section 9 of the Customs and Excise

Amendment Act 89 of 1984. Therefore, the repeal introduced by section 23 serves no useful purpose anymore. The SALRC recommends that section 23 of this Act be repealed.

16 Customs and Excise Amendment Act 89 of 1983

4.48 Section 11(2) of this Act provides that sections 1 and 2 shall come into operation 30 days after the date of its promulgation. This Act came into operation on 6 July 1983. The 30 days lapsed on 6 August 1983 and these provisions came into force on that day. As a result, this subsection is now spent, and the SALRC recommends that this subsection be repealed.

17 Customs and Excise Amendment Act 89 of 1984

4.49 Section 4 of this Act amended section 56 of the Customs and Excise Act 91 of 1964 by substituting subsection (7). However, as a result of further amendments, section 56 of the Customs and Excise Act of 1964 no longer has subsection (7). The SALRC thus recommends that section 4 of this Act be repealed as it serves no useful purpose anymore.

18 Customs and Excise Amendment Act 101 of 1985

4.50 The purpose of this Act was to amend various provisions of the Customs and Excise Act 91 of 1964. Section 1 amended section 7(2) of the Customs and Excise Act by substituting paragraph (a). This section (section 7(2)) was deleted by section 4(b) of the Customs and Excise Amendment Act 45 of 1995, with the result that this amendment has become redundant. The SALRC recommends that section 1 of this Act be repealed.

4.51 Section 11(c) of this Act amended, inter alia, section 75 of the Customs and Excise Act of 1964 by inserting subsection (18)(bA)). This subsection was deleted by section 92(1)(j) of the Revenue Laws Amendment Act 31 of 2005. The SALRC recommends that section 11(c) be repealed.

4.52 Section 12 of this Act amended section 102 of the Customs and Excise Act by substituting subsection (4). This provision is a reverse onus provision. The question is whether it is consistent with the Constitution. It reads:

(4) If in any prosecution under this Act or in any dispute in which the State, the Minister or the Commissioner or any officer is a party, the question arises whether the proper duty has been paid or whether any goods or plant have been lawfully used, imported, exported, manufactured, removed or otherwise dealt with or in, or whether any books, accounts, documents, forms or invoices required by rule to be completed and kept, exist or have been duly completed and kept or have been furnished to any officer, it shall be presumed that such duty has not been paid or that such goods or plant have not been lawfully used, imported, exported, manufactured, removed or otherwise dealt with or in, or that such books, accounts, documents, forms or invoices do not exist or have not been duly completed and kept or have not been so furnished, as the case may be, unless the contrary is proved.

19 Customs and Excise Amendment Act 52 of 1986

4.53 Section 7(a) and (b) of this Act amended section 56 of the Customs and Excise Act 91 of 1964 by substituting subsection (1A) and by adding subsection (2)(b)(iii) respectively. However, and as a result of further amendments, the current section 56 no longer reflects subsections (1A) and (2)(b)(iii).³¹ Therefore, section 7(a) and (b) serves no useful purpose anymore. The SALRC recommends that section 7(a) and (b) of this Act be repealed.

³¹

Section 56 currently reads:

“56. Imposition of anti-dumping duties

(1) The Minister may from time to time by notice in the Gazette amend Schedule 2 to impose an anti-dumping duty in accordance with the provisions of section 55 (2).

(2) The Minister may, in accordance with any request by the Minister of Trade and Industry, from time to time by notice in the Gazette-

(a) withdraw or reduce, with or without retrospective effect and to such extent as may be specified in the notice; or

(b) otherwise amend, from the date of such amendment or any later date to such extent as may be specified in the notice,

any anti-dumping duty imposed under subsection (1).

(3) The provisions of section 48 (6) shall mutatis mutandis apply in respect of any amendment, withdrawal or reduction made under the provisions of subsection (1) or (2) of this section.”

4.54 Section 9(a) of this Act amended section 75 of the Customs and Excise Act of 1964 by substituting subsection (2)(b). This subsection has already been discussed in relation to Act 86 of 1982 above. The recommendation made in that regard applies to section 9(a) of this Act.

4.55 Sections 10 to 17 of this Act increased the amounts of money appearing in sections 78 to 81, 83 to 86. However, these amounts were subsequently changed by further amendments. As a result of these further amendments, the SALRC is of the view that the amendments effected by sections 10 to 17 of this Act serve no useful purpose anymore and may be repealed.

20 Customs and Excise Amendment Act 84 of 1987

4.56 The purpose of the Customs and Excise Amendment Act of 1987 (this Act) was to effect amendments to various provisions of the Customs and Excise Act 91 of 1964. To that end, section 2(a) and (b) amended section 4 of the principal Act by substituting subsection (3)(c) and (4)(a)(iv) respectively. Due to further amendments, the current section 4 of the principal Act has neither of these subsections.

4.57 Section 3 of this Act amended section 9(3) of the principal Act by substituting paragraph (g). However, as a result of further amendments, section 9(3) no longer has paragraphs.³² The SALRS thus recommends that section 3 of this Act be repealed.

4.58 Section 9 of this Act amended section 38 of the Customs and Excise Act by substituting in subsection (1)(a)(v) the expression “R200” for the words “one hundred rand”. This amount was changed by subsequent amendments to the subsection.

³² Section 9(3) of the principal Act currently reads:
“(3) For the purposes of this section 'sealable goods' means any goods which are prescribed by rule to be sealable goods.”

4.59 Section 19 inserted section 48A in the Customs and Excise Act. Section 48A was repealed by section 40 of the Customs and Excise Amendment Act 45 of 1995.

4.60 Section 21 amended section 58(1) of the Customs and Excise Act by adding a proviso. Section 58(1) no longer contains a proviso (as a result of further amendments to the section).

4.61 Paragraph (c) of section 23 of this Act added subsection (1)(f) and (g) in section 75 of the Customs and Excise Act. Both subsections were later deleted by section 50(1)(b) of the Revenue Laws Amendment Act 19 of 2001 and by section 53(b) of the Customs and Excise Amendment Act 45 of 1995 respectively. Paragraph (p) of section 23 of this Act amended section 75 of the Customs and Excise Act by adding subsection (18)(f). This subsection was later deleted by section 130(1)(i) of the Second Revenue Laws Amendment Act 60 of 2001.

4.62 Paragraph (c) of section 24(1) of this Act added the word “or” to subsection (2)(f) of section 76 of the Customs and Excise Act. This word no longer appears in this subsection.

4.63 Section 26(a) and (b) of this Act amended section 77 of the Customs and Excise Act by substituting subsection (1)(a) and subsection (2). These subsections no longer appear in section 77, instead the section has two paragraphs namely, paragraph (a) and (b). Section 29 of this Act amended section 91(2) of the Customs and Excise Act by substituting certain expression for other words. Section 91(2) was deleted by section 133 of the Second Revenue Laws Amendment Act 60 of 2001. The amendments effected by these sections referred to above are therefore redundant and are hereby recommended for repeal.

4.64 The SALRC recommends that all the provisions of this Act discussed above be repealed on the basis of redundancy.

21 Customs and Excise Amendment Act 69 of 1988

4.65 Section 8(a) and (b) of this Act amended section 75 of the Customs and Excise Amendment Act 91 of 1964 by substituting subsection (1)(f)(iv) and by adding subsection (1)(f)(v). The subsections affected by this amendment were deleted by section 50(1)(b) of the Revenue Laws Amendment Act 19 of 2001. Paragraph (c) of section 8 of this Act added subsection (1)(g)(ii) in section 75 of the Customs and Excise Act of 1964. This subsection was deleted by section 53(b) of the Customs and Excise Amendment Act 45 of 1995.

4.66 Section 10(1) of this Act amended section 77(4) of the Customs and Excise Act by substituting paragraph (a). Subsection (2) of this section is ancillary to subsection (1) in that it provides that section 10(1) shall be deemed to have come into operation on 1 November 1987. However, as a result of further amendments, the current section 77 has no subsections but two paragraphs, (a) and (b). It is thus recommended that these provisions be repealed.

4.67 The SALRC recommends that section 8(a), (b), (c) and section 10(1) and (2) of this Act be repealed.

22 Customs and Excise Amendment Act 68 of 1989

4.68 Section 8 of this Act amended section 48A of the Customs and Excise Act 91 of 1964 by substituting subsection (1). Section 48A was later repealed by section 40 of the Customs and Excise Amendment Act 45 of 1995. Section 15 amended section 88 of the Customs and Excise Act by substituting subsection (1). This subsection provides:

88. Seizure

(1)(a) An officer, magistrate or member of the police force may detain any ship, vehicle, plant, material or goods at any place for the purpose of establishing whether that ship, vehicle, plant, material or goods are liable to forfeiture under this Act.

(b) Such ship, vehicle, plant, material or goods may be so detained where they are found or shall be removed to and stored at a place of

security determined by such officer, magistrate or member of the police force, at the cost, risk and expense of the owner, importer, exporter, manufacturer or the person in whose possession or on whose premises they are found, as the case may be.

4.69 Although it is beyond the scope of this project, the SALRC is concerned that the inclusion of magistrates in this provision violates the doctrine of separation of powers embedded in the Constitution and recommends that the word “magistrate” be deleted from this provision. Furthermore, the Constitution provides the security service of the Republic shall consist of, among others, a single police service which must be established by legislation.³³

23 Customs and Excise Amendment Act 59 of 1990

4.70 Section 2 of this Act substituted section 1B of the Customs and Excise Act 91 of 1964. Section 1B was repealed by section 34(1) of Act 34 of 1997. Section 4 of this Act substituted subsection (9) of section 4 of the Customs and Excise Act of 1964. Paragraph (d) of this subsection reads:

(d) If any lock, seal or mark placed upon any goods on board a ship or vehicle by an officer in terms of the provisions of this section is wilfully opened, broken, obliterated or altered or if any goods which have been locked, sealed, marked or otherwise secured in terms of this section are removed or if the hatchways of any such ship are, after having been fastened down by an officer, opened without his consent, the master of any such ship, the pilot of any aircraft concerned or the person in charge of any other such vehicle, as the case may be, shall be guilty of an offence unless he proves that it was not possible for him to have prevented the act in question.

4.71 Although falling outside the scope of this project, the SALRC is of the view that this is a reverse onus provision which may be unconstitutional.

³³ Section 199(1) and 205(2) of the Constitution.

4.72 Section 9 amended section 9(3) of the Customs and Excise by substituting paragraph (g). Section 9(3) of the Customs and Excise Act of 1964, as a result of further amendments, no longer has paragraphs. The SALRC recommends that section 9 be repealed as it is now redundant.

4.73 Section 14 amended section 20(5) of the Customs and Excise Act by substituting the proviso. Section 20(5), as a result of further amendments, no longer has a proviso. Therefore, section 14 of this Act may be repealed.

4.74 Paragraph (b) of section 29(1) of this Act amended section 75 of the Customs and Excise Act by substituting the proviso to subsection (1)(f)(i). Section 29(2) provides that paragraph (b) of subsection (1) shall be deemed to have come into operation on 1 October 1989. However, section 75(1)(f) of the Customs and Excise Act was later deleted by section 50(1)(b) of the Revenue Laws Amendment Act 19 of 2001. Therefore, the SALRC recommends that both section 29(1)(b) and 29(2) of this Act be repealed.

4.75 Paragraph (c) of this section substituted subsection (2)(b)(i) of section 75 of the Customs and Excise Act. This subsection reads:

- (2) A rebate of duty in respect of any goods described in Schedule 3 shall be allowed-
- (b) only in respect of goods entered for use –
 - (i) in a factory which is registered under the Machinery and Occupational Safety Act, 1983 (Act 6 of 1983).

4.76 Proposed amendments to this section have already been discussed in preceding paragraphs.

24 Customs and Excise Amendment Act 61 of 1992

4.77 Section 4(a) of this Act amended section 48 of the Customs and Excise Act 91 of 1964 by substituting subsection (1)(b). This subsection reads:

- “48(1)The Minister may from time to time by notice in the Gazette amend the General Notes to Schedule 1 and Part 1 of the said Schedule or substitute the said Part 1 and amend Part 2 of the said Schedule in so far as it relates to imported goods-
- (a)...

(b) in order to give effect to any request by the Minister of Trade and Industry and for Economic Co-ordination”.

4.78 As a result of changes that took place after 1994, the Ministry referred to in this section, namely, “Trade and Industry and for Economic Co-ordination” no longer exists. It is recommended that the provision be amended by deleting the words: “and for Economic Co-ordination”.

4.79 Section 13(b) of this Act amended section 75 of the Customs and Excise Act by substituting in subsection (1)(f)(i) the words preceding the proviso. Subsection (1)(f) was deleted by section 50(1)(b) of the Revenue Laws Amendment Act 19 of 2001. Therefore, this amendment no longer serves any useful purpose. The SALRC recommends that it be repealed.

4.80 Section 13(d) of this Act also amended section 75 of the Customs and Excise Act by substituting section 14A. This section (section 14A) was deleted by section 53(m) of the Customs and Excise Amendment Act 45 of 1995. This amendment, as the one mentioned above, may be repealed as a result of redundancy.

25 Customs and Excise Second Amendment Act 105 of 1992

4.81 The only problem presented by this statute is section 1 which amended section 4 of the Customs and Excise Act 91 of 1964 by inserting subsection (3A). This subsection reads:

(3A) The Chief of the Central Statistical Services or the Director General of the Department of Trade and Industry or the Treasury as defined in the Exchange Control Regulations, 1961, or the Governor of the South African Reserve Bank or the National Commissioner of the South African Police Service or the National Director of Public Prosecutions or the Director-General of the National Treasury or any person acting under the direction and control of such Chief of the Central Statistical Services or Director-General of the Department of Trade and Industry or Governor of the South African Reserve Bank or National Commissioner of the South African Police Service or National Director of Public Prosecutions or the Director-General of the National Treasury, shall not disclose any information supplied under the proviso to subsection (3) to any person or permit any person to have access thereto, except in the exercise of his powers or the

carrying out of his duties under any Act from which such powers or duties are derived.

4.82 The question is whether this subsection is consistent with the right of access to information entrenched in the Constitution and the Promotion of Access to Information Act 2 of 2000.

26 Customs and Excise Amendment Act 98 of 1993

4.83 Section 10 of this Act amended section 88(1) of the Customs and Excise Act by inserting paragraph (bA). This paragraph reads:

(bA) No person shall remove any ship, vehicle, plant, material or goods from any place where it was so detained or from a place of security determined by an officer, magistrate or member of the police force.

4.84 This paragraph makes reference to the “police force”. It is recommended that the expression “police service” be substituted for the expression “Police force”.

4.85 Paragraph (b) of section 11 of this Act amended section 92 of the Customs and Excise Act by adding subsections (2) and (3). These subsections were deleted by section 61(1)(b) of the Customs and Excise Amendment Act 45 of 1995. Therefore, this amendment has become redundant and the SALRC recommends that they be repealed.

27 Customs and Excise Amendment Act 19 of 1994

4.86 Section 4 of this Act amended section 48A of the Customs and Excise Act of 1964. Section 48A of the Customs and Excise Act was repealed by section 40 of the Customs and Excise Amendment Act 45 of 1995. This has resulted in section 4 of this Act becoming redundant. The SALRC recommends that section 4 of this Act be repealed.

28 Customs and Excise Amendment Act 45 of 1995

4.87 Section 2 of this Act amended section 4 of the Customs and Excise Act 91 of 1964 by deleting subsection (3B). This subsection was once again added by section 34(1) of the South African Revenue Services Act 34 of 1997, rendering this deletion redundant. The SALRC recommends that section 2 of this Act be repealed.

4.88 Section 36(b) of this Act amended section 46 of the Customs and Excise Act by deleting subsection (5). This subsection was again added by section 52(c) of Act 53 of 1999. The SALRC is of the view that section 36(b) of this Act is no longer necessary and that it may be repealed.

4.89 Section 53(a), (d), (e), (k), (o), and (p) of this Act amended section 75 of the Customs and Excise Act by substituting, inter alia, subsection (1)(f)(ii); (1A)(g)(i); (1A)(h)(i), (13),(18)(bA), and (18)(dA) respectively. All these subsections were subsequently deleted by some or other Act. It is recommended that section 53(a), (d), (e), (k), (o), and (p) of this Act be repealed.

4.90 Furthermore, section 53(l) of this Act also substituted in subsection (14)(b) of section 75 the proviso to subparagraph (i). Section 75(14)(b), as a result of further amendments, no longer has a proviso. Therefore, it is recommended that section 53(l) of this Act be repealed.

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CHAPTER 5

PUBLIC ACCOUNTANTS AND AUDITORS, FINANCIAL INSTITUTIONS AND FINANCE ACTS

A Public Accountants' and Auditors' Amendment Acts

1 Public Accountants' and Auditors' Amendment Act 70 of 1993

5.1 The purpose of this Act was to amend the Public Accountants' and Auditors' Act 80 of 1991. The Public Accountants' and Auditors' Act of 1991 was repealed by section 58(1) of the Auditing Profession Act 26 of 2005. However, this Act was not repealed contemporaneously with Act 80 of 1991. It has therefore become redundant, and it is hereby recommended for repeal in its entirety.

2 Public Accountants' and Auditors' Amendment Act 23 of 1995

5.2 This Act amended certain provisions of the Public Accountants' and Auditors' Act 80 of 1991; extended the application of Act 80 of 1991 to the self-governing territories; transferred the assets, rights, liabilities and obligations of the Transkei Public Accountants' and Auditors' Board; and repealed certain laws. The Public Accountants' and Auditors Act 80 of 1991 was repealed, recently, by the Auditing Profession Act 26 of 2005. However, this Act was not repealed contemporaneously with Act 80 of 1991. Therefore, the amendments effected by this Act have become redundant, and it is recommended that this Act be repealed.

3 Public Accountants' and Auditors' Amendment Act 5 of 1997

5.3 This Act amended sections 13(1) and 22A (1) of the Public Accountants' and Auditors' Act 80 of 1991. The Accountants' and Auditors Act of 1991 was repealed by section 58(1) of the Auditing Profession Act 26 of 2005. However, this Act was not repealed contemporaneously with Act 80 of 1991. This amending Act is therefore redundant, and it is hereby recommended for repeal.

B Financial Institutions Amendment Acts

1 Financial Institutions Amendment Act 99 of 1967

5.4 The purpose of the Financial Institutions Amendment Act 99 of 1967 (this Act) was to amend the Unit Trusts Control Act of 1947 and the Building Societies Act of 1965. To that end, it contained a long title, and sections 1 to 5. Sections 1 and 2 were repealed by section 46(1) of the Unit Trust Control Act 54 of 1981. Sections 3 and 4 were repealed by section 95(1) of the Mutual Banks Act 124 of 1993. The only remaining provision is section 5, containing the short title. The SALRC recommends that this Act be repealed in its entirety as it no longer has any useful purpose.

2 Financial Institutions Amendment Act 65 of 1968

5.5 Section 14 of this Act amended section 37 of the of the Pension Funds Act 24 of 1956 by substituting subsection (1)(a). Subsection (1) of Act 24 of 1956 was later deleted by section 14(a) of the Financial Services Laws General Amendment Act 22 of 2008. The deletion of subsection (1)(a) of Act 24 of 1956 rendered section 14 of this Act redundant. The SALRC recommends that section 14 of this Act be repealed.

3 Financial Institutions Amendment Act 80 of 1969

5.6 The purpose of the Financial Institutions Amendment Act 80 of 1969 (this Act) was to amend section 19 of the Pension Funds Act 24 of 1956 by adding subsection (6) (b), the existing subsection becoming paragraph (a) and to amend the Banks Act of 1965. It contained a long title, sections 1 and 2, and section 3 containing a short title. Section 1 amended section 19 of the Pension Funds Act 24 of 1956. This subsection was later deleted by section 17 of the Financial Institutions Amendment Act 86 of 1984. Section 2 was repealed in its entirety by section 95(1) of the Banks Act 94 of 1990. Therefore, this Act no longer has substantive provisions and the SALRC recommends that it be repealed.

4 Financial Institutions Amendment Act 23 of 1970

5.7 The Financial Institutions Amendment Act 23 of 1970 contained 11 sections. Sections 1 and 3 to 10 were repealed by various Acts. Section 11 contains the short title. The remaining section, section 2, amended section 19(1) of the Pension Funds Act 24 of 1956. Subsection (1) of section 19 of Act 24 of 1956 was deleted in its entirety by section 8(a) of the Financial Institutions Amendment Act 53 of 1989. Therefore, this amendment relates to a provision that no longer exists and has for that reason become redundant. The entire Act is hereby recommended for repeal.

5 Second Financial Institutions Amendment Act 75 of 1970

5.8 The purpose of this Act was to amend the Insurance Act of 1943 and the Unit Trusts Control Act of 1947. It had two substantive provisions, sections 1 and 2. Section 3 contains a short title of the Act. Sections 1 was repealed by section 73 of the Long-term Insurance Act 52 of 1998 and section 2 was repealed by section 46(1) of the Unit Trusts Control Act 54 of 1981. Therefore this Act has become obsolete and is hereby recommended for repeal.

6 Financial Institutions Amendment Act 91 of 1972

5.9 Only three provisions of this Act require repeal. Section 7(a) amended section 19 of the Pension Funds Act 24 of 1956 by substituting subsection (1). As stated in the preceding paragraphs, section 19(1) of Act 24 of 1956 was deleted in its entirety by section 8(a) of Act 53 of 1989. Section 7(c) of this Act added subsection (6)(c) in section 19. This subsection was later deleted by section 11(a) of Act 64 of 1990. The SALRC thus recommends that section 7(a) and (c) be repealed.

5.10 Section 8 of this Act amended section 11(1) of the Friendly Societies Act 25 of 1956 by inserting the words 'or a Provincial Auditor' after the words 'Auditor-General'. These words were deleted by subsequent amendments to section 11(1) of Act 25 of 1956. The SALRC thus recommends that section 8 be repealed.

7 Financial Institutions Amendment Act 67 of 1973

5.11 This Act originally had 16 sections. Sections 1 to 13 were repealed by various Acts. Sections 14 and 15 effected amendments to the Securities' Transfer Act 69 of 1965. The Securities' Transfer Act of 1965 was later repealed by the Companies Act 61 of 1973. Section 16 contains the short title. The SALRC recommends that this Act be repealed on the ground of obsolescence.

8 Financial Institutions Amendment Act 101 of 1976

5.12 The Financial Institutions Amendment Act 101 of 1976 (this Act), which originally had 57 sections, effected amendments to a number of Acts that have been repealed. All these Acts are mentioned in the long title. These Acts are the Insurance Act of 1943; the Stock Exchanges Control Act of 1947; the Unit Trusts Control Act of 1947; the Pension Funds Act of 1956; Friendly Societies Act of 1956; Inspection of Financial Institutions Act of 1962; Participation Bonds Act of 1964; the Banks Act of 1965; and the Building Societies Act of 1965. All the Acts, except the Pension Funds Act of 1956 and the Friendly Societies Act of 1956, have been repealed by some or other Act. This resulted in the repeal of sections 1 to 20 and 32 to 56 of this Act. The provisions of this Act which are still

in force are sections 21 to 24 which amended the Pension Funds Act of 1956 and sections 25 to 31, which amended the Friendly Societies Act 25 of 1956.

5.13 Various amendments effected by this Act in the Pension Funds Act 24 of 1956 were deleted by other pieces of legislation. Section 22 of this Act amended section 3 of the Pension Funds Act 24 of 1956 by substituting subsection (2). Due to further amendments, section 3 of Act 24 of 1926 no longer has subsections. Therefore, section 22 of this Act no longer serves any useful purpose. The SALRC recommends that it be repealed.

5.14 Paragraph (a) of section 23 amended section 19 of the Pension Funds Act by substituting subsection (1), paragraph (d) substituted subsection (6)(b), paragraph (e) substituted subsection (7)(b) and paragraph (f) added subsection (8). Subsection (1) of section 19 of Act 24 of 1956 was deleted by section 8(a) of the Financial Institutions Amendment Act 53 of 1989. Subsections (6)(b), (7)(b) and (8) were deleted by section 17(d),(e) and (f) respectively of the Financial Institutions Amendment Act 86 of 1984. The SALRC recommends that section 23(a),(d), (e), and (f) be repealed.

5.15 Section 26 of this Act amended section 4 of the Friendly Societies Act 25 of 1956 by substituting subsection (2). However, as a result of further amendments, section 4 of Act 25 of 1956 no longer has subsections.³⁴ The SALRC thus recommends that section 26 of this Act be repealed as it no longer serves any useful purpose.

5.16 Paragraphs (a) and (b) of section 28 amended section 20 of the Friendly Societies Act 26 of 1956 by substituting subsections (2) and (3) respectively. These subsections were both deleted by section 10(a) of the Financial Institutions Amendment Act 53 of 1989.

5.17 The SALRC thus recommends that paragraphs (a), (d), (e) and (f) of section 23 of this Act and paragraphs (a) and (b) of section 28 of this Act be repealed.

³⁴

Section 4 of Act 25 of 1956 currently reads:

"4 Registrar and Deputy Registrar of Friendly Societies

The executive officer and a deputy executive officer mentioned in section 1 of the Financial Services Board Act, 1990 (Act 97 of 1990), shall also be the Registrar and the Deputy Registrar of Friendly Societies, respectively."

9 Financial Institutions Amendment Act 94 of 1977

5.18 This Act originally had 24 sections. Various sections were repealed by various pieces of legislation, with the result that the only remaining provisions are sections 9, 10, 11, 12, 13, and 24(1) and (2) containing the short title and commencement provisions. The long title to this Act refers to Acts that no longer exist, namely the Insurance Act 27 of 1943; the Inspection of Financial Institutions Act 68 of 1962; the Banks Act 23 of 1965; and the Building Society Act 26 of 1965.

5.19 Section 10 of this Act amended section 2(3) of the Pension Funds Act 24 of 1956, as follows: paragraph (a) substitutes the words following paragraph (a) (ii); paragraph (b) inserts paragraph (aA); and paragraph (c) substitutes paragraph (b). However, as a result of further amendments, section 2(3) of Act 24 of 1956 no longer has paragraphs. The SALRC recommends that section 10 of this Act be repealed as it no longer serves any useful purpose.

5.20 Section 11 of this amended section 19 of the Pension Funds Act 24 of 1956 by inserting subsection (1A). Subsection (1A) was later deleted by section 14(c) of the Financial Institutions Amendment Act 103 of 1979. Therefore, section 11 of this Act no longer serves any useful purpose.

10 Financial Institutions Amendment Act 103 of 1979

5.21 Section 13 of this Act amended section 2(1) of the Pension Funds Act 24 of 1956 by substituting the expression 'Industrial Conciliation Act, 1956 (Act 28 of 1956)' for the expression 'Industrial Conciliation Act, 1937 (Act 36 of 1937)'. As a result of further amendments, section 2(1) of Act 24 of 1956 now makes reference to the Labour Relations Act, 1995 (Act 66 of 1995). The SALRC recommends that section 13 of this Act be repealed.

5.22 Section 14 of this Act amended section 19 of the Pension Funds Act 24 of 1956, as follows: paragraph (a) substitutes in subsection (1) the words preceding paragraph (a); paragraph (b) substitutes the proviso to subsection (1). Subsection (1) of section 19 was

later deleted by section 8 (a) of Act 53 of 1989. The SALRC thus recommends that section 14(a) and (b) of this Act be repealed.

5.23 Section 19 of this Act amended section 2 (1) (g) of the Friendly Societies Act 25 of 1956 by substituting the expression 'Industrial Conciliation Act, 1956 (Act 28 of 1956)' for the expression 'Industrial Conciliation Act, 1937 (Act 36 of 1937)'. However, due to further amendments, section 2(1)(g) no longer makes reference to Act 28 of 1956. The SALRC recommends it be repealed.

5.24 Section 20 of this Act amended section 3 (1) of the Friendly Societies Act 25 of 1956 by substituting the expression 'Industrial Conciliation Act, 1956 (Act 28 of 1956)' for the expression 'Industrial Conciliation Act, 1937 (Act 36 of 1937)'. However, due to further amendments, section 3(1) of Act 25 of 1956 no longer makes reference to Act 28 of 1956. The SALRC recommends it be repealed.

5.25 Section 21 of this Act amended section 6(3) of the Friendly Societies Act 25 of 1956 by substituting the expression 'subsections (2), (3) and (4) of section 30 of the Banks Act, 1965 (Act 23 of 1965)' for the expression 'subsections (2), (3) and (4) of section thirty-three of the Banking Act, 1942 (Act 38 of 1942)'. Section 30(2), (3) and (4) of the Banks Act of 1965 regulated the amalgamation and transfer of banking institutions. In the light of the fact that the Banks Act 23 of 1965 was repealed by Act 94 of 1990 and the amalgamation of banking institutions and the consequences thereof are now regulated by section 54 of the 1990 Act, there is a need to update section 6(3) of the Friendly Societies Act. The SALRC proposes the following consequential amendments to section 6(3) of the Friendly Societies Act 25 of 1956:

“(3) The provisions of **[subsections (2), (3) and (4) of section 30 of the Banks Act, 1965 (Act 23 of 1965)]** section 54 of the Banks Act, 1990 (Act 94 of 1990), shall *mutatis mutandis* apply in relation to any change in the name of a society under this section as if the society were a banking institution within the meaning of that Act and as if the change had effected a transfer of the assets and liabilities of the society to another society known by the name under which the registration of the society has been effected.”

11 Financial Institutions Amendment Act 99 of 1980

5.26 The purpose of this amendment, as it is clear from its long title, was to amend a number of Acts, namely, the Insurance Act of 1943; the Stock Exchanges Control Act of 1947; Unit Trusts Control Act of 1947; the Pension Funds Act of 1956; the Friendly Societies Act of 1956; the Participation Bonds Act of 1964; the Banks Act of 1965; and the [Mutual] Building Society Act of 1965. These Acts, with the exception of the Friendly Societies Act of 1956 and the Pension Funds Act of 1956, have been repealed by various pieces of legislation.

5.27 Section 39(a) of this Act amended section 19 of the Pension Funds Act 24 of 1956 by substituting subsection (1)(f). Section 19 was later deleted in its entirety by section 8(a) of Act 53 of 1989. The SALRC thus recommends that section 39(a) of this Act be repealed.

5.28 Section 43 of this Act amended section 20 (2) of the Friendly Societies Act 25 of 1956 by substituting paragraph (f). Subsection (2) of section 20 of Act 25 of 1956 was later deleted by section 10(a) of Act 53 of 1989.

5.29 Furthermore, section 56(4) of this Act provides that the provisions of section 23 (of this Act) shall come into operation on a date fixed by the President by proclamation in the Gazette. Section 23 came into operation and was later repealed by the Stock Exchanges Control Act 1 of 1985. The SALRC recommends that section 56(4) be repealed.

12 Financial Institutions Amendment Act 36 of 1981

5.30 The purpose of this Act was to effect amendments to the Insurance Act of 1943; the Stock Exchanges Control Act of 1947; the Inspection of Financial Institutions Act of 1962; Unit Trusts Control Act of 1947; the Financial Institutions (Investment of Funds) Act of 1964; and the Banks Act of 1965. It had 32 sections. All the substantive provisions contained in this legislation have been repealed by some or other Act. The only remaining provisions are the long title and the short title and commencement section. The SALRC

recommends that this Act be repealed in its entirety because it serves no purpose anymore.

13 Financial Institutions Amendment Act 82 of 1982

5.31 The purpose of this Act was to amend the Insurance Act of 1943, Stock Exchanges Control Act of 1947, Pension Funds Act of 1956, Inspection of Financial Institutions Act of 1962, Banks Act of 1965, and the Building Societies Act of 1965. All these Acts, except the Pension Funds Act of 1956, were repealed by some or other Act. It is therefore not surprising that a number of provisions of this Act have also been repealed. The only provision that has not yet been repealed is section 14 which amended section 19(1) of the Pension Funds Act 24 of 1956 by substituting the proviso. Section 19(1) of Act 24 of 1956 was deleted by section 8(a) of the Financial Institutions Amendment Act 53 of 1989. As a result, the amendment effected to section 19(1) by section 14 of this Act has ceased to have any effect whatsoever. The SALRC recommends that the Financial Institutions Amendment Act 82 of 1982 be repealed in its entirety.

14 Financial Institutions Amendment Act 86 of 1984

5.32 Section 14 of this Act amended section 4(2) of the Pension Funds Act 24 of 1956 by substituting the words 'the registration fee prescribed by regulation' for the words 'a registration fee of one pound'. However, due to further amendments, section 4(2) no longer contains words substituted by section 14 of this Act.³⁵ The SALRC recommends that section 14 be repealed.

5.33 Section 16(e) of this Act amended section 16 of the Pension Funds Act 24 of 1956 by substituting subsection (7)(c) and (d). However, due to further amendments, section 16 no longer contains paragraphs. The SALRC recommends that section 16(e) be repealed.

³⁵ This section currently reads:
“(2) An application under subsection (1) shall be accompanied by the particulars and the fee prescribed.”

5.34 Section 17(a) of this Act amended section 19 of the Pension Funds Act 24 of 1956 by substituting in subsection (1) the words preceding paragraph (a). Paragraph (b) of section 17 deleted the proviso to subsection (1). Section 19(1) of Act 24 of 1956 was later deleted by section 8(a) of Act 53 of 1989. Therefore, section 17(a) and (b) of this Act no longer serve any useful purpose and the SALRC recommends that they be repealed.

5.35 Paragraphs (e) and (f) of section 17 of this Act deleted subsection (7) and substituted subsection (8) of section 19 of the Pension Funds Act 24 of 1956. Section 19(7) was later inserted by section 11(b) of Act 64 of 1990 and section 19(8) was later deleted by section 8(c) of Act 53 of 1989. In the light of these subsequent amendments, the SALRC recommends that section 17(e) and (f) of this Act be repealed.

5.36 Section 19 of this Act amended section 37 (1) of the Pension Funds Act 24 of 1956, as follows: paragraph (a) substituted paragraph (a) and paragraph (b) substituted paragraphs (i), (ii), (iii) and (iv). Section 37(1) was later deleted by section 14(a) of Act 22 of 2008. The SALRC thus recommends that section 19 be repealed.

5.37 Section 20 of this Act amended section 5(2) of the Friendly Societies Act 25 of 1956 by substituting the words 'the registration fee prescribed by regulation' for the words 'a registration fee of one pound'. However, these words were deleted by subsequent amendments to section 5(2). The SALRC recommends that section 20 be repealed.

15 Financial Institutions Amendment Act 106 of 1985

5.38 This Act, which came into operation on 31 July 1985, had 42 sections. All these sections have been repealed by some or other statute.³⁶ What is remaining is the long title and the section containing a short title and commencement. This Act is recommended for repeal in its entirety as it serves no practical purpose anymore.

³⁶ Sections 1 to 9 inclusively repealed by section 73 of Act 52 of 1998; sections 10 to 36 inclusively repealed by section 95(1) of Act 94 of 1990; section 37 to 41 inclusive repealed by section 95 (1) of Act 124 of 1993.

16 Financial Institutions Amendment Act 50 of 1986

5.39 Section 13 of this Act amended section 37(1) of the Pension Funds Act 24 of 1956 by substituting paragraph (f) and the words following thereafter. However, section 37(1) was subsequently deleted by section 14 (a) of Act 22 of 2008. The SALRC thus recommends that section 13 of this Act be repealed.

5.40 Section 14 amended section 1 of the Stock Exchanges Control Act 1 of 1985 by substituting the definition of 'president'; section 15 amended section 3(3) of the Stock Exchanges Control Act 1 of 1985 by inserting paragraph (vA); and section 16 amended section 11 of the Stock Exchanges Control Act 1 of 1985 by substituting subsection (4). The Stock Exchanges Control Act of 1985 was repealed by the Securities Services Act 36 of 2004. The SALRC thus recommends the repeal of sections 14, 15 and 16 of this Act.

17 Financial Institutions Amendment Act 6 of 1987

5.41 This Act had 19 sections, and sought to amend various pieces of legislation, namely the South African Reserve Bank Act of 1944; the Banks Act of 1965; the Mutual Building Societies Act of 1965; the Building Societies Act of 1986; the Inspection of Financial Institutions Act of 1984; the Financial Institutions (Investment of Funds) Act of 1984; and the Finance Act of 1978. All the provisions of this Act, with the exception of section 13, were repealed by some or other Act.³⁷ Section 13 amended section 1 of the Inspection of Financial Institutions Act 38 of 1984. Act 38 of 1984 was repealed by the Inspection of Financial Institutions Act 80 of 1998. Therefore, this Act has ceased to have any practical utility and the SALRC recommends that it be repealed.

³⁷ Sections 1 and 2 were repealed by section 40(1) of Act 90 of 1989; sections 3 to 7 inclusive were repealed by section 95(1) of Act 94 of 1990; section 8 and 9 were repealed by section 95(1) of Act 124 of 1993; section 10 to 12 were repealed by section 95(1) of Act 94 of 1990; sections 14 to 17 were repealed by section 11 of Act 28 of 2001; and section 18 was repealed by section 6(1) of Act 56 of 1989.

18 Financial Institutions Amendment Act 51 of 1988

5.42 Section 4 of this Act inserted section 3A in the Pension Funds Act 24 of 1956. Section 3A was later deleted by section 29 of the Financial Services Board Act 97 of 1990. Therefore, section 4 of this Act no longer serves any useful purpose and the SALRC recommends that it be repealed.

5.43 Section 5(a) and (b) of this Act amended section 19 of the Pension Funds Act by adding subsection (1)(j) and substituting subsection (2) respectively. Section 19(1) and (2) were deleted by section 8(a) of the Financial Institutions Amendment Act 53 of 1989. The SALRC recommends that section 5(a) and (b) be repealed.

5.44 Section 7 of this Act inserted section 4A in the Friendly Societies Act of 1956. Section 4A was later deleted by section 29 of the Financial Services Board Act 97 of 1990. Sections 18 to 21 of this Act amended various sections of the Participation Bonds Act 55 of 1981. The Participation Bonds Act 55 of 1981 was repealed by the Collective Investment Schemes Control Act 45 of 2002. Section 22 of this Act amended section 1 of the Inspection of Financial Institutions Act 38 of 1984. Act 38 of 1984 was repealed by the Inspection of Financial Institutions Act 80 of 1998. Sections 24 to 32 purported to amend various provisions of the Stock Exchanges Control Act 1 of 1985. This Act was also repealed by the Securities Services Act 36 of 2004. The sections referred to above serve no purpose anymore, and it is recommended that they be repealed.

19 Financial Institutions Amendment Act 53 of 1989

5.45 This Act was enacted to amend, inter alia, the Insurance Act 27 of 1943. To this end, sections 1 to 7 of this Act effected amendments to various provisions of the Insurance Act of 1943. The Insurance Act of 1943 was later repealed by the Long-term Insurance Act 52 of 1998. The repeal of the Insurance Act of 1943 has rendered the amendments redundant. It is recommended that sections 1 to 7 of this Act be repealed.

20 Financial Institutions Second Amendment Act 54 of 1989

5.46 This Act was enacted to amend the Insurance Act of 1943; the Pension Funds Act of 1956; the Friendly Societies Act of 1956; the Inspection of Financial Institutions Act of 1984; and the Stock Exchanges Control Act of 1985.³⁸ All these Acts, except the Pension Funds Act of 1956 and Friendly Societies Act of 1956, have been repealed by some or other Act.

5.47 Sections 23 and 24 amended the Inspection of Financial Institutions Act 38 of 1984. The Inspection of Financial Institutions Act 38 of 1984 was later repealed by the Inspection of Financial Institutions Act 80 of 1998. The SALRC recommends that both sections be repealed.

5.48 Sections 25 to 31 purported to amend various provisions of the Stock Exchanges Control Act 1 of 1985. The Stock Exchanges Control Act 1 of 1985 was subsequently repealed recently by the Securities Services Act 36 of 2004. In the light of these developments, it is recommended that the provisions of this Act that make references to these Acts be repealed as a result of redundancy.

21 Financial Institutions Amendment Act 64 of 1990

5.49 Sections 13 to 16 of this Act also purported to amend various provisions of the Stock Exchanges Control Act 1 of 1985. As stated in the preceding paragraphs, the Stock Exchanges Control Act was repealed by the Securities Services Act 36 of 2004. The SALRC recommends that these sections be repealed because they longer serve any useful purpose.

5.50 Section 17 of this Act provides that the Minister of Finance or any officer in the employment of the Department of Finance shall not be liable in respect of bona fide

³⁸ See the long title of the Financial Institutions Second Amendment Act 54 of 1989.

exercise of any discretion in the performance of any duty imposed upon him under the Insurance Act of 1943; the Pension Funds Act of 1956; the Friendly Societies Act of 1956; the Unit Trusts Control Act of 1981; the Participation Bonds Act of 1981; the Stock Exchanges Control Act of 1985; the Financial Markets Control Act of 1989; and the Reinsurance of Material Damage and Losses Act of 1989. All these Acts, except the Pension Funds Act of 1956 and the Friendly Societies Act of 1956, have been repealed and some have been superseded by more recent modern legislation. The SALRC recommends that the following consequential amendments be made to section 17 of this Act:

“17 Restriction of liability

The Minister of Finance, or any officer or contract worker in the employment of the Department of Finance, shall not be liable in respect of any bona fide exercise of any discretion in the performance of any duty imposed upon him or her under –

- (a) **[the Insurance Act, 1943 (Act 27 of 1943)]** the Long-term Insurance Act, 1998 (Act 52 of 1998);
- (b) the Pension Funds Act, 1956 (Act 24 of 1956);
- (c) the Friendly Societies Act, 1956 (Act 25 of 1956);
- (d) the **[Unit Trusts Control Act, 1981 (Act 54 of 1981)]** Collective Investment Schemes Control Act, 2002 (Act 45 of 2002);
- (e) **[the Participation Bonds Act, 1981 (Act 55 of 1981)]**;
- (f) the **[Stock Exchanges Control Act, 1985 (Act 1 of 1985)]** Securities Services Act, 2004 (Act 36 of 2004);
- (g) **[the Financial Markets Control Act, 1989 (Act 55 of 1989)]**;
- (h) the Reinsurance of Material Damage and Losses Act, 1989 (Act 56 of 1989); and
- (i) ...”

22 Financial Institutions Amendment Act 54 of 1991

5.51 The purpose of this Act was to effect amendments to the Insurance Act of 1943; the Pension Funds Act of 1956; the Unit Trusts Control Act of 1981; the Inspection of Financial Institutions Act of 1984; the Stock Exchanges Control Act of 1985; the Financial

Markets Control Act of 1989; and the Insolvency Act of 1936. All these statutes, except the Pension Funds Act of 1956 and the Insolvency Act of 1936 have been repealed by some or other Act. This explains why some of the provisions of this Act have also been repealed.³⁹

5.52 Section 4 of this Act amended section 16(7)(c)(i) of the Pension Funds Act 24 of 1956 by substituting items *(aa)* and *(bb)* respectively. These items, as a result of further amendments to the section, do no longer appear. In fact, section 16(7) no longer has paragraphs. The SALRC is of the view that this amendment has become redundant, and recommends that it be repealed.

5.53 Section 9 of this Act amended section 8(1) of the Inspection of Financial Institutions Act 38 of 1984. The Inspection of Financial Institutions Act 38 of 1984 was repealed by the Inspection of Financial Institution Act 80 of 1998. Therefore, this amendment serves no useful purpose anymore and may be repealed.

5.54 Sections 10 to 22 effected amendments to various provisions of the Stock Exchanges Control Act 1 of 1985. The Stock Exchanges Control Act of 1985 was repealed by the Securities Services Act 36 of 2004. These amendments have become redundant or obsolete as a result of such repeal. The SALRC recommends that these sections be repealed.

5.55 Sections 23 to 29 amended various provisions of the Financial Markets Control Act 55 of 1989. The Financial Markets Control Act of 1989 was also repealed by Act 36 of 2004. These amendments have ceased to have any usefulness, and may be repealed.

5.56 Paragraph (a) of section 30 of this Act amended section 83 of the Insolvency Act 24 of 1936 by substituting subsection (2). This subsection reads:

If such property consists of a marketable security, a bill of exchange or a financial instrument as defined in section 1 of the Financial Markets Control

³⁹ For example, section 1 of Act 54 of 1991.

Act, 1989 (Act 55 of 1989), the creditors may, after giving the notice mentioned in subsection (1) and before the second meeting of creditors, realize the property in the manner and on the conditions mentioned in subsection (8).

5.57 The Financial Markets Control Act of 1989 referred to in section 83(2) of the Insolvency Act of 1936 was repealed by the Securities Services Act 36 of 2004. The latter Act does not contain a definition of “financial instrument”.⁴⁰ The SALRC thus recommends that section 83(2) of Act 24 of 1936 be amended by deleting the words “financial instrument as defined in section 1 of the Financial Markets Control Act, 1989 (Act 55 of 1989).”

23 Financial Institutions Amendment Act 83 of 1992

5.58 The purpose of this Act was to effect amendments to the Insurance Act of 1943, the Pension Funds Act of 1956, the Unit Trusts Control Act of 1981, the Co-operatives Act of 1981,⁴¹ the Inspection of Financial Institutions Act of 1984, the Financial Institutions (Investment of Funds) Act of 1984, the Stock Exchanges Control Act of 1985, and the Financial Markets Control Act of 1989. All the Acts which this Act sought to amend, except the Pension Funds Act of 1956, have been repealed by some or other Act.⁴²

5.59 Section 15 of this Act amended section 2(3) of the Pension Funds Act 24 of 1956 by (a) substituting paragraph (a); and (b) deleting paragraph (aA) (iii). However, section

⁴⁰ However section 1 of the Securities Services Act 36 of 2004 defines “derivative instrument” as any-

(a) financial instrument; or

(b) contract”.

In the light of the fact that this definition includes “contracts” the SALRC has decided not to recommend that it be substituted for the words “financial instrument as defined in section 1 of the Financial Markets Control Act, 1989 (Act 55 of 1989)” in section 83(2) of Act 24 of 1936.

⁴¹ The Co-operatives Act of 1981 has been repealed by the Co-operatives Act 14 of 2005 which came into operation on 7 May 2007.

⁴² The Insurance Act of 1943 was repealed by Act 52 of 1998; the Unit Trusts Control Act of 1981 was repealed by Act 45 of 2002; the Inspection of Financial Institutions Act of 1984 was repealed by Act 80 of 1998; the Financial Institutions (Investment of Funds) Act of 1984 was repealed by Act 28 of 2001; the Stock Exchanges Control Act of 1985 was repealed by Act 36 of 2004 and the Financial Markets Control Act of 1989 was also repealed by Act 36 of 2004.

2(3) of Act 24 of 1956 no longer has paragraphs.⁴³ The amendments effected by section 15 of this Act to section 2(3) of Act 24 of 1956 no longer serve any useful purpose and the SALRC recommends that section 15 be repealed.

5.60 Section 31 of this Act substituted section 51 of the Co-operatives Act 91 of 1981. The Co-operatives Act of 1981 has been repealed by the Co-operatives Act 14 of 2005 which came into operation on 7 May 2007. The SALRC recommends that section 31 of this Act be repealed because the Co-operatives Act of 1981 has ceased to exist.

5.61 Section 32 of this Act amended the Inspection of Financial Institutions Act 38 of 1984 which, as stated above, was repealed. In the light of this, the SALRC recommends that section 32 of this Act be repealed because it no longer serves any useful purpose.

5.62 Sections 34 and 35 of this Act sought to amend the Stock Exchanges Control Act 1 of 1985. The Stock Exchanges Control Act 1 of 1985 was repealed by Act 36 of 2004. The SALRC recommends that both these sections be repealed because they effect amendments to pieces of legislation that have been repealed.

5.63 Sections 36 to 38 of this Act amended the Financial Markets Control Act of 1989 which was also repealed by Act 36 of 2004. These provisions are now redundant and may be repealed.

24 Financial Institutions Amendment Act 7 of 1993

5.64 The purpose of this Act, as it appears from the long title, was to effect amendments to the Insurance Act of 1943, the Pension Funds Act of 1956, the Friendly Societies Act of 1956, the Unit Trusts Control Act of 1981, the Participation Bonds Act of 1981, the Inspection of Financial Institutions Act of 1984, the Stock Exchanges Control Act of 1985,

⁴³ Section 2(3) of Act currently reads:

“(3) A pension fund contemplated in subsection (2) or (2A) must, pending registration in terms of this Act, furnish the registrar with such statistical information as may be requested by the registrar.”

and the Financial Markets Control Act of 1989. All these Acts, except the Pension Funds Act and the Friendly Societies Act of 1956, were repealed by some or other Act.

5.65 The SALRC recommends that the following sections, which amended Acts that were subsequently repealed, be repealed:

1. Section 7, which inserted section 14B in the Participation Bonds Act 55 of 1981. The Participation Bonds Act was repealed by the Collective Investment Schemes Control Act 45 of 2002.
2. Section 8, which repealed section 7 of the Inspection of Financial Institutions Act 38 of 1984. The Inspection of Financial Institutions Act of 1984 was repealed by the Inspection of Financial Institutions Act 80 of 1998.
3. Sections 9 to 14 which sought to amend provisions of the Stock Exchanges Control Act 1 of 1985. The Stock Exchanges Control Act was recently repealed by the Securities Services Act 36 of 2004.
4. Sections 15 to 19 of this Act effected amendments to the Financial Markets Control Act of 1989. The Financial Markets Control Act was also repealed by Act 36 of 2004.

25 Financial Institutions Second Amendment Act 104 of 1993

5.66 A number of Acts affected by this amending Act have been repealed by some or other Act. These Acts are the Insurance Act of 1943, Unit Trusts Control Act of 1981, the Participation Bonds Act of 1981, the Stock Exchanges Control Act of 1989, the Financial Markets Control Act of 1989, and the Safe Deposit of Securities Act of 1992.

5.67 Section 31(b) of this Act amended section 1(1) of the Friendly Societies Act 25 of 1956, by substituting the definition of “court”. According to this definition “‘court’ means a provincial or local division of the Supreme Court.” The Constitution makes reference to the High Court, and the Supreme Court is used with reference to the Supreme Court of Appeal. It is recommended that the definition of “court” in section 1(1) of Act 25 of 1956 be amended to read:

“‘court’ means a **[provincial or local]** division of the **[Supreme Court of South Africa] High Court having jurisdiction.**”

5.68 Section 34 of this Act amended section 11(1) of the Friendly Societies Act by substituting the words preceding the proviso. These words provide that: “Except where the accounts of a society are to be audited by the Auditor-General under the provisions of one or other law, every registered society shall in the manner prescribed by its rules appoint an auditor registered under the Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991), who shall not be an officer of the society”. It is no longer possible to appoint an auditor in terms of this Act, as it was repealed by the Auditing Profession Act 26 of 2005. The SALRC recommends that section 11(1) of Act 25 of 1956 be amended consequentially as follows:

“11 Appointment, powers and duties of auditor

(1) Except where the accounts of a society are to be audited by the Auditor-General under the provisions of one or other law, every registered society shall in the manner prescribed by its rules appoint an auditor registered under the **[Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991)]** Auditing Profession Act, 2005 (Act 26 of 2005), who shall not be an officer of the society: Provided that if an auditor so registered is not readily available the registrar may at the request of the society approve of the appointment of a person nominated by the society, to act as auditor of the society, or if the registrar is not satisfied that the nominated person is suitable to act as auditor of the society, he may appoint as auditor any other person whom he considers suitable.”

5.69 Sections 50, 51 and 52 amended the Participation Bonds Act 55 of 1981 which was repealed by the Collective Investment Schemes Act 45 of 2002. These amendments are no longer necessary. The SALRC recommends that sections 50, 51 and 52 of this Act be repealed.

5.70 Sections 53 and 54 amended the Inspection of Financial Institutions Act 38 of 1984 which was also repealed by the Inspection of Financial Institutions Act 80 of 1998. The SALRC recommends that sections 53 and 54 of this Act be repealed.

5.71 Sections 56 to 61 of this Act amended various provisions of the Stock Exchanges Control Act of 1985 which was repealed by the Securities Services Act 36 of 2004. The SALRC recommends that these sections be repealed.

5.72 Sections 64 to 66 of this Act amended the Financial Markets Control Act of 1989 which was also repealed by the Securities Services Act 36 of 2004. The SALRC recommends that these sections be repealed.

5.73 Section 67 of this Act amended section 1 of the Financial Services Board Act of 1990 by adding paragraph (h) to the definition of “financial institution”. As a result of further amendments to this definition, paragraph (h) no longer exists. Therefore, this amendment has become redundant, and may be repealed.

5.74 Sections 70 to 73 of this Act amended sections in the Safe Deposit of Securities Act 85 of 1992. The Safe Deposit of Securities Act of 1992 was also repealed by Act 36 of 2004 referred to above.

5.75 All the provisions of this Act discussed above are hereby recommended for repeal because they serve no useful purpose anymore.

26 Financial Institutions Amendment Act 22 of 1997

5.76 Section 4 of this Act amended section 1 of the Financial Markets Control Act 55 of 1989 by substituting the definition of “unsolicited call”. The Financial Markets Control Act was repealed by the Securities Services Act 36 of 2004. The latter Act does not contain a definition of “unsolicited call” It is recommended that section 4 be repealed.

5.77 Section 5(b) of this Act amended section 1 of the Financial Services Board Act 97 of 1990 by adding the definition of 'trust property'. This definition reads:

“'trust property' means 'trust property' as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of 1984).

5.78 The Financial Institutions (Investment of Funds) Act of 1984 referred to in the definition of “trust property” was repealed by the Financial Institutions (Protection of Funds)

Act 28 of 2001. The latter Act also contains the definition of “trust property”. It is thus recommended that the definition of trust property” in section 1 of Act 97 of 1990 be amended as follows:

“‘trust property’ means ‘trust property’ as defined in section 1 of the **[Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of 1984)]** Financial Institutions (Protection of Funds) Act, 2001 (Act 28 of 2001).”

C Finance Acts

1 Finance Acts Consolidation Act 78 of 1992

5.79 The purpose of this Act, which has a meagre 10 sections and a Schedule, was to consolidate the provisions of the Finance Acts listed in the Schedule.⁴⁴

5.80 Section 2 of this Act provides that the Minister of Finance may, after consultation with the Minister of Defence, enter into an agreement with a registered insurer as defined in section 1 of the Insurance Act 27 of 1943, or with an organisation representing insurers so registered, in terms of which he binds the Government of the Republic to indemnify such insurer or organisation on the terms and conditions set forth in such agreement, against losses sustained by such insurer or organisation, under a scheme established with the object of providing insurance on the lives of, or for the benefits on the total or partial disablement to perform any labour of, persons rendering service in the South African Defence Force, including any auxiliary service established for the South African Defence Force. This provision refers to the Insurance Act of 1943 which was repealed by the Long-term Insurance Act 52 of 1998. The SALRC recommends that this provision be amended by replacing reference to the Insurance Act of 1943 with reference to the Long-term Insurance Act of 1998 which regulates the provision of long-term insurance and disability policies contemplated in this section.

⁴⁴ These are the Finance Acts 94 of 1978; 96 of 1982; 79 of 1985; 77 of 1986; 109 of 1990; and the Second Finance Act 100 of 1980.

5.81 Section 3 of this Act makes reference to ministerial portfolios that no longer exist. Paragraph (b) of this section states that “with effect from 1 April 1980 and subject to such conditions as the Minister of Trade and Industry and for Economic Co-ordination may with the concurrence with the Minister of State Expenditure determine such rate of interest as may likewise be determined”. The SALRC recommends that the words “and for Economic Co-ordination” in this provision be deleted, and that the expression “Minister of State Expenditure” be amended by substituting it with the expression “Minister of Finance”. Furthermore, section 3(2) of this Act makes reference to the State Revenue Fund.⁴⁵ The Constitution requires that all the money received by national government must be paid into the National Revenue Fund.⁴⁶ The SALRC thus recommends that the reference to the State Revenue Fund in this section be replaced with reference to the National Revenue Fund.

5.82 Section 5 of this Act reads:

Notwithstanding the provisions of section 24(1) of the Exchequer Act, 1975 (Act 66 of 1975), **the Treasury may, prior to the due date, repay at face value internal registered** stock utilized as part payment in the purchase of land, buildings and goodwill in respect businesses in the process of land consolidation or the granting of self-government or independence to the self-governing territories and which, on presentation to the Treasury for repayment, is still being held by the persons to whom it was allocated by the Treasury or their hereditary successors.

5.83 Reference to section 24(1) of the Exchequer Act 66 of 1975 is unnecessary because Act 66 of 1975 was repealed by the Public Finance Management Act 1 of 1999. The SALRC recommends that this provision be amended by deleting reference to the Exchequer Act.

5.84 In section 8(1) and (3) of this Act one comes across the expression “Minister of State Expenditure”. Does this mean the “Minister of Finance”? If so, the SALRC

⁴⁵ Section 3(2) of this Act reads:

“(2) The amount of dividends determined in terms of subsection (1) shall be paid directly to the said Corporation, and the balance of the dividends, if any, shall be deposited in the State Revenue Fund.”

⁴⁶ Section 213 of the Constitution.

recommends that these two provisions be amended by substituting the expression “Minister of Finance” for the expression “Minister of State Expenditure”.

2 Finance Act (House of Assembly) 79 of 1993

5.85 This Act discharged certain local authorities⁴⁷ from all liability in respect of the amounts mentioned in the Schedule, being loans granted to such local authorities out of the Development and Housing Fund in terms of section 10(2)(b)(ii) read with section 33 of the Development and Housing Act 103 of 1985, and which have not yet been repaid. The SALRC is of the view that this Act is now spent and recommends that it be repealed.

⁴⁷ The local authorities listed in the Schedule are Bellville, Kleinmond, Ashton, Robertson, Lutzville and Beacon Bay.

CHAPTER 6 OTHER ACTS PASSED BEFORE 1994

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CHAPTER 6

OTHER ACTS PASSED BEFORE 1994

A Period 1922 to 1970

1 Income Tax Act 23 of 1922

6.1 Income Tax Act 23 of 1922 (this Act) contains three sections only. It is clear from the long title of this Act that it was enacted to fix the rates of normal income tax and super-tax in respect of the twelve months ended the thirtieth day of June, 1922. Section 1 of this Act makes provision for the levying of income tax in accordance with subsection (3) of section 5 of the Income Tax (Consolidation) Act 41 of 1917. Further, this provision provides that income tax shall be levied at the rate specified in subsection (1) of section one of the Income Tax Consolidation Act Further Amendment Act 29 of 1921. Section 2 of this Act makes provision for the levying of super-tax in accordance with subsection (4) of section twenty-five of Act 41 of 1917, as amended by Act 39 of 1919, at the rates specified in subsection (2) of section one of the Income Tax (Consolidation) Act Further Amendment Act 29 of 1921. Section 3 contains the short title.

6.2 All the Acts referred to in sections 1 and 2 of this Act, which are required for its application, were repealed by the Income Tax Act 40 of 1925. As a result, this Act has ceased to have any useful purpose. The SALRC recommends that this Act be repealed.

2 Currency and Exchanges Act 9 of 1933

6.3 Section 1 of this Act (the definitions section) reads:

In this Act the expression 'the principal Act' means the Currency and Banking Act, 1920 (Act 31 of 1920), as amended by the Currency and Banking Act Amendment Act, 1923 (Act 22 of 1923), and the Currency and Banking (Further Amendment) Act, 1930 (Act 26 of 1930), and any expression to which meaning is ascribed in the principal Act shall, when used in this Act, bear the same meaning.

6.4 In this Act, the expression “principal Act” is only used in section 1 referred to above. Furthermore, all the provisions of the Acts mentioned in section 1 of this Act which had not been previously repealed, were repealed by the South African Reserve Bank Act 29 of 1944. Therefore, this definition has become redundant, and the SALRC recommends that it be repealed.

6.5 Section 2 of this Act also deserves attention. This section reads

2. Obligation to repay loan in any particular money may be fulfilled by payment in Union legal tender

(1) Whenever in terms of any contract of loan of money the debtor is under an obligation to repay the money lent or any portion thereof or to pay any interest thereon in coins or notes or other instruments which are, or at any time were, legal tender in the Union, whether such obligation arose before or after or partly before and partly after the commencement of this Act, he may at his option fulfil such obligation by the payment of the amount which he is bound to pay in notes of the Bank or in coins which are legal tender in the Union at the time when the payment takes place (to the amount to which they are legal tender).

(2) Any person who after the commencement of this Act and before its promulgation in the Gazette as a law has paid any money under a contract of loan of money to which this section applies may recover from the person to whom he paid the money the difference between the amount paid by him and the amount which, in accordance with the provisions of this section, he might have elected to pay at the date when he paid the money, provided he institutes proceedings in a competent court for such recovery within three months after such promulgation.

6.6 South Africa is no longer a “Union”. It is now a Republic. The use of the expression “Union” has become obsolete. This provision may be amended to reflect this change. Section 2(2) referred to above gave the power to people to recover the difference between the money paid and that he or she would have elected to pay at the date when he or she paid the money by means of court proceedings. However, this power had to be exercised within three months after the promulgation of this Act. Since this provision has expired and can no longer be invoked by anyone, the SALRC recommends that it be repealed.

6.7 Section 9 also requires amendment:

1. Section 9(1) of this Act empowers the Governor-General to make regulations in regard to any matter directly or indirectly relating to or affecting or having a bearing upon currency, banking or exchanges.
2. Section 9(2)(a) provides that such regulations may provide that the Governor-General may apply any sanction therein set forth which he thinks fit to impose.
3. Section 9(3) empowers the Governor-General, by any such regulations, to suspend in whole or in part this Act, or any other Act of Parliament or any other law relating to or affecting or having any bearing upon currency, banking or exchanges, and also provide that any such Act or law which is in conflict or inconsistent with any such regulation shall be deemed to be suspended in so far as it is in conflict or inconsistent with any such regulation.
4. Section 9(5)(a) provides that any regulation made under this section [section 9] may provide for the empowering of such persons as may be specified therein to make orders and rules for any of the purposes for which the Governor-General is by this section authorized to make regulation.

6.8 The Interpretation Act 33 of 1957 provides, in section 1, that “Governor-General” means the “President.” The SALRC recommends that the expression “President” be substituted for the expression “Governor-General” wherever it occurs in the Act. The power given to the President to suspend Act 9 of 1933 or any other legislation that is inconsistent with the regulations made by him or her and the automatic suspension of legislation inconsistent with such regulations violates the doctrine of separation of powers implied in the Constitution which gives the power to make and repeal legislation to deliberative elected legislative bodies. The exercise of the power contained in section 9(3) of this Act by the President would deprive Parliament the opportunity to consider the inconsistency and amend legislation and is thus tantamount to the repeal of the legislation in question by the executive. The SALRC recommends that section 9(3) be repealed.

6.9 The last section that needs amendment is section 11. This section provides that:

This Act shall be known as the Currency and Exchanges Act, 1933 and, subject to the provisions of subsection (5) of section *eight*, shall be deemed to have come into operation on the twenty-eighth day of December 1932.

6.10 Section 8(5) referred to in this provision was repealed by section 5 of the South African Reserve Bank Amendment Act 92 of 1977. The SALRC recommends that the words “and, subject to the provisions of subsection (5) of section *eight*,” be deleted.

3 Union and Southern Rhodesia Death Duties Act 22 of 1933

6.11 The Union and Southern Rhodesia Death Duties Act (this Act), which has a meagre two sections,⁴⁸ was enacted to give effect to an agreement entered into between the Government of the Union of South Africa and the Government of Southern Rhodesia (Zimbabwe) for the prevention of the levying of death duties under the laws of the two territories in respect of the same assets.⁴⁹ This Act requires updating. South Africa became a Republic in 1961 and, in 1980, the British colony known as “Rhodesia” ceased to exist and Zimbabwe came into being. However, the long title,⁵⁰ the preamble⁵¹ and other provisions⁵² of this Act still refer to the “Union” and “Southern Rhodesia” respectively. The SALRC recommends that the words “Republic of South Africa” be substituted for the word “Union”, and that the word “Zimbabwe” be substituted for the words “Southern Rhodesia”, wherever these words occur in the Act.⁵³

6.12 The heading to section 1 of this Act reads:

⁴⁸ Section 1(1)-(6) and section 2 (short title and commencement provision).

⁴⁹ See the long title.

⁵⁰ The long title of this Act reads:
“To give effect to an agreement entered into between the Government of the Union of South Africa and the Government of Southern Rhodesia for the prevention of the levying of death duties under the laws of the two territories in respect of the same assets.”

⁵¹ The preamble reads:
“WHEREAS an agreement has been entered into between the Government of the Union of South Africa and the Government of Southern Rhodesia with a view to the prevention of the levying under the laws of the two territories of death duties in respect of the same assets, and it is desirable that effect be given to the said agreement, in so far as the laws of the Union of South Africa are concerned”.

⁵² In section 1(1) to (6) (substantive provisions) and section 2, containing the short title.

⁵³ In the long title, preamble, section 1(1), (2),(3), (4), (5)(a).

Interpretation of section 3 of Act 29 of 1922, as amended by sections 1 and 2 of Act 31 of 1925, in its application to assets subject to death duties under the Laws of both the Union and Southern Rhodesia

6.13 In giving effect to the intention of the legislature described in the heading above, section 1(1) of this Act provides that the provisions of section 3(2)(c) of the Death Duties Act 29 of 1922 shall not apply to any movable property physically situated in Southern Rhodesia. Prior to its repeal by the Estate Duty Act 45 of 1955, section 3(2)(c) of Act 29 of 1922 read as follows:

Property in relation to any estate includes any movable property wheresoever physically situated at that date [date of death of the deceased], provided such person was ordinarily resident in the Union.

6.14 As indicated above, the Death Duties Act 29 of 1922 was repealed in 1955 by the Estate Duty Act 45 of 1955. The latter Act, although the wording differs slightly from that used in the Death Duties Act of 1922, also contains a detailed definition of what constitutes an estate for the purposes of the Act. Section 3(2) provides that:

Property means any right in or to property, movable or immovable, corporeal or incorporeal, and includes-

- (a) any fiduciary, usufructuary or other like interest in property (including a right to an annuity charged upon property) held by the deceased immediately prior to his death;
- (b) any right to an annuity (other than a right to an annuity charged upon any property) enjoyed by the deceased immediately prior to his death which accrued to some other person on the death of the deceased.

6.15 In the light of this provision of the Estate Duty Act of 1955, the SALRC recommends that the heading of section 1 and section 1(1) be amended as follows:

“1. Interpretation of Section 3 of Act [29 of 1922] 45 of 1955, [as amended by Sections 1 and 2 of Act 31 of 1925], in its application to assets subject to death duties under the Laws of both the [Union] Republic and [Southern Rhodesia] Zimbabwe

(1) The provisions of **[paragraph (c) of subsection (2) of section three of the Death Duties Act, 1922 (Act 29 of 1922)] paragraphs (a) and (b) of subsection (2) of section 3**

of the Estate Duty Act, 1955 (Act 45 of 1955, as amended (hereinafter referred to as the principal Act), shall not apply to any movable property physically situated in [Southern Rhodesia] Zimbabwe.”

6.16 Section 1(5)(a) of this Act provides that:

The provisions of paragraph (h) of subsection (2) of section *three* of the principal Act notwithstanding, any 'stocks or shares in any company' as defined by section forty of that Act, shall not, for the purposes of the principal Act, be deemed to be portion of the estate of a person who at the date of his death was ordinarily resident in the Union, if any transfer whereby any change of ownership in such stocks or shares is recorded is required to be registered in Southern Rhodesia.

6.17 Section 3(2)(h) of the Death Duties Act 29 of 1922 provided that “property” in relation to any estate included “any stocks or shares in any company and any stocks of the Union Government or of any South African colony forming part of the Union, or of any corporation, municipality or local authority within the Union, whether those stocks or shares are transferable by delivery or by registration and wheresoever such registration may be required to be effected, provided that the deceased person whose estate is chargeable with duty was ordinarily resident in the Union. As stated, the wording used by the legislation in the Estate Duty Act 45 of 1955 is slightly different.

6.18 Section 3(2) of the Estate Duty Act of 1955 provides that property of the deceased means any right in or to property, movable or immovable, corporeal or incorporeal, and includes any fiduciary, usufructuary or other like interest in property (including a right to an annuity charged upon property) held by the deceased immediately prior to his death and any right to an annuity (other than a right to an annuity charged upon any property) enjoyed by the deceased immediately prior to his death which accrued to some other person on the death of the deceased. However, in the case of a deceased who was not ordinarily resident in the Republic at the date of his death, it provides that any stocks or shares held by him in a body corporate which is not a company; and any stocks or shares held by him in a company, provided any transfer whereby any change of ownership in

such stocks or shares is recorded is not required to be registered in the Republic will not form part of his or her property for the purposes of that Act.⁵⁴ Therefore, although section 3(2) of the Estate Duty Act of 1955 is not as detailed as section 3(2) of its predecessor, it is wide enough to include stocks or shares in any company of any person ordinarily resident in the Republic. In addition, the Estate Duty Act of 1955 contains a definition of “stocks and shares” which differs slightly from that contained in section 40 of the Estate Duty Act of 1922.⁵⁵ The SALRC therefore recommends that section 1(5)(a) be amended as follows:

“(5)(a) The provisions of **[paragraph (h) of subsection (2) of section *three*]** section 3 of the principal Act notwithstanding, any 'stocks or shares **[in any company]**' as defined by section **[*forty*]** one of that Act, shall not, for the purposes of the principal Act, be deemed to be portion of the estate of a person who at the date of his or her death was ordinarily resident in the **[Union]** Republic , if any transfer whereby any change of ownership in such stocks or shares is recorded is required to be registered in **[Southern Rhodesia]** Zimbabwe.”

6.19 Paragraph (b) of subsection (5) of section 1 of this Act provides that, in the application of this subsection (subsection 5), and of paragraph (g) of subsection (2) of section *three* of the principal Act, a registered transfer of stocks or shares in any company shall be deemed to be registered in in the territory in which the main register of the company is kept, all branches registers, wheresover kept, being deemed to be kept at the place where the main register is by law required to be kept. As stated, section 3 of the Estate Duty Act of 1955 is not as detailed as section 3 contained in its predecessor, the 1922 Act. The SALRC therefore recommends that the words “and of section 3(2) of the

⁵⁴ Section 3(2)(g) of the Estate Duty Act 45 of 1955.

⁵⁵ Section 40 of the Estate Duty Act of 1922 provided that “stocks and shares in any company” means any part of the share capital of any company and includes also debentures, debenture stock or any other like form of marketable security.” Section 1 of the Estate Duty Act of 1955 provides that “stocks or shares’ in relation to any company means any part of the share capital or members’ interest of that company and includes any debenture, debenture stock or any other like form of marketable security.”

principal Act” be substituted for the words “and of paragraph (g) of subsection (2) of section *three* of the principal Act” in this subsection.

6.20 Lastly, it is recommended that the short title be substituted so that it reads “Republic of South Africa and Zimbabwe Death Duties Act, 1933”.

4 Banking Institutions Act 25 of 1946

6.21 This Act was enacted to make it possible for banking institutions regulated by special laws to be incorporated under the provisions of the Companies Act 46 of 1926. The definition section of this Act provides that “banking institution” has the meaning assigned to it by section one of Banking Act 38 of 1942.

6.22 Section 2 of this Act provides that any banking institution governed by special law can apply to the Registrar of Companies for registration as a company or as an association not for profit under the provisions of the Companies Act 46 of 1926. Section 3 sets out the powers of the Registrar of Companies in this regard. This section stipulates that the Registrar of Companies may, (a) if the memorandum and articles of association proposed by a banking institution conform to the requirements of the Companies Act 46 of 1926 and are approved by the said Registrar and the Registrar of Banks appointed under the Banking Act 38 of 1942, and (b) complies with the requirements set by the said Registrar, register the said memorandum of association under the Companies Act of 1926. Section 4 and 5 of this Act deal with the effect of registration and the legal proceedings by and against banking institution registered as a company in terms of this Act respectively. Section 6, the penultimate provision, repealed all laws which governed banking institutions registered as companies under the Companies Act of 1923, in terms of section 3 of this Act.

6.23 It appears from the submission made by the then Minister of Finance at the second reading of the Banking Institutions Bill on the 23 April 1946 that this Act arose as a result of the requirements contained in the Banking Act 38 of 1942, which required banking institutions to be registered. The Registrar of Banks had a responsibility to ensure that the constitution of an institution that applied for registration was such that public interest would

not be harmed. The Registrar of Banks was thus empowered by the Banking Act of 1942 to require alterations in the constitution of an institution as a condition of registration. Certain difficulties arose in respect of certain old banking institutions⁵⁶ which came into being long before South Africa became a Union, and whose constitutions were governed by old laws and proclamations which were passed before unification. The difficulty was that if the Registrar were to ask those institutions to amend their constitutions with the object of permitting registration under the Banking Act, such amendment could only take place by means of a private Bill, the passing of which would have had huge financial implications and would have required time. This Act was then introduced to enable those institutions to use an alternative procedure to register under the Companies and thus comply in a convenient way with the requirements of the Banking Act of 1942.

6.24 It is important to note that for the purposes of this Act “banking institution” has the meaning assigned to it by the Banking Act 38 of 1942. The Banking Act of 1942 was later repealed by the Banks Act 23 of 1965. The latter Act was also repealed by the Banks Act 94 of 1990. Furthermore, the Companies Act 46 of 1926, in terms of which these banking institutions governed by special laws were allowed to register was later repealed by the Companies Act 61 of 1973. It is doubtful whether institution for which this legislation was created, but failed to seize the opportunity would be able to invoke its provisions and insist that they be registered in terms of the Companies Act of 1973 or the new Companies Act 71 of 2008 when it comes into force. The SALRC is of the view that this Act has become spent and recommends that it be repealed.

5 Customs Amendment Act 36 of 1953

6.25 The Customs Amendment Act 36 of 1953 (this Act) had six sections. Sections 1 to 4 and the First and the Second Schedule to this Act were repealed by section 167 of the Customs Act 55 of 1955. The remaining provision, section 5, amended and ratified the customs agreement between the Union and Northern Rhodesia. A copy of this agreement

⁵⁶ Namely the Cape of Good Hope Savings Bank; the British Kaffrarian Bank; Chamber of Executors of Malmesbury and the Colonial Orphan Chamber and the South African Association.

was set forth in the Second Schedule to the Union and Rhodesia Customs Agreements Act 17 of 1930, as amended by the Union and Rhodesia Agreements (Amendment) Act 29 of 1936, the Customs Amendment Act 38 of 1947, and the Customs Amendment 39 of 1949.

6.26 The Union and Rhodesia Customs Agreements Act 17 of 1930 was repealed by the Customs Amendment Act 53 of 1956, and the three other pieces of legislation were later repealed by the Repeal of Laws Act 94 of 1981. However, this Act was not amended consequentially when these Acts were repealed.

6.27 The repeal of the Union and Northern Rhodesia Customs Agreements Act 17 of 1930, and the subsequent repeal of the three Acts which amended that Act, have rendered the Customs Amendment Act 36 of 1953 redundant. The SALRC recommends that this Act be repealed.

6 Friendly Societies Act 25 of 1956

6.28 Various provisions of the Friendly Societies Act 25 of 1956 (this Act) refer to pieces of legislation that no longer exist and thus require amendment. Section 1(1) of this Act provides that “‘court’ means a provincial or local division of the Supreme Court.” The Constitution makes reference to the High Court, and the Supreme Court is used with reference to the Supreme Court of Appeal. It is recommended that the definition of “court” in section 1(1) of Act 25 of 1956 be amended to read:

“‘court’ means a **[provincial or local]** division of the **[Supreme Court of South Africa]** High Court having jurisdiction.”

6.29 The definition section also provides that “Insurance Act” means Insurance Act 27 of 1943. The Insurance Act 27 of 1943, except section 60(1)(f), was repealed by the Long-term Insurance Act 52 of 1998. Section 60(1)(f) was later repealed by section 1 of the Taxation Laws Amendment Act 30 of 2002. The SALRC recommends that the definition of “Insurance Act” be amended to read “‘Insurance Act’ means the Long-term Insurance Act 52 of 1998.”

6.30 It is stated above that section 21 of the Financial Institutions Amendment Act 103 of 1979 amended section 6(3) of the Friendly Societies Act 25 of 1956 by substituting the expression 'subsections (2), (3) and (4) of section 30 of the Banks Act, 1965 (Act 23 of 1965)' for the expression 'subsections (2), (3) and (4) of section thirty-three of the Banking Act, 1942 (Act 38 of 1942)'. Section 30(2), (3) and (4) of the Banks Act of 1965 regulated the amalgamation and transfer of banking institutions. In the light of the fact that the Banks Act 23 of 1965 was repealed by Act 94 of 1990 and the amalgamation of banking institutions and the consequences thereof are now regulated by section 54 of the 1990 Act, there is a need to update section 6(3) of the Friendly Societies Act. The SALRC proposes the following consequential amendments to section 6(3) of the Friendly Societies Act 25 of 1956:

“(3) The provisions of **[subsections (2), (3) and (4) of section 30 of the Banks Act, 1965 (Act 23 of 1965)]** section 54 of the Banks Act, 1990 (Act 94 of 1990), shall *mutatis mutandis* apply in relation to any change in the name of a society under this section as if the society were a banking institution within the meaning of that Act and as if the change had effected a transfer of the assets and liabilities of the society to another society known by the name under which the registration of the society has been effected.”

6.31 Section 11(1) of this Act requires friendly societies to appoint auditors registered under the Public Accountants' and Auditors' Act 80 of 1991. The auditing profession is now regulated by the Auditing Profession Act 26 of 2005. The latter Act repealed the Public Accountants' and Auditors' Act of 1991. The SALRC recommends that section 11 be amended by the substitution of the words “Auditing Profession Act 26 of 2005” for the words “Public Accountants' and Auditors' Act 80 of 1991.”

6.32 Section 32(1) and (2) also require updating. These provisions provide that the Registrar of Friendly Societies shall have the powers conferred or imposed upon him by the Inspection of Financial Institutions Act 68 of 1962 and that any reference to investigation or inspection in this section should be interpreted as reference to an inspection under the Inspection of Financial Institutions Act of 1962. The Inspection of Financial Institutions Act 68 of 1962 was repealed by the Inspection of Financial Institutions Act 38 of 1984. The latter Act was subsequently repealed by the Inspection of Financial Institutions Act 80 of 1998. The Inspection of Financial Institutions Act of 1998

provides that a registrar for the purposes of that Act means the executive officer defined in section 1 of the Financial Services Board Act, 1990. This definition must be read in conjunction with section 4 of this Act which provides that the executive officer and a deputy executive officer mentioned in section 1 of the Financial Services Board Act, 1990 (Act 97 of 1990), shall also be the Registrar and the Deputy Registrar of Friendly Societies, respectively. The SALRC recommends that section 32(1) and (2) be amended as follows:

“32. Powers of inspection

(1) In addition to the powers and duties conferred or imposed upon him or her by this Act, the registrar shall have all the powers and duties conferred or imposed upon him or her by the **[Inspection of Financial Institutions Act, 1962]** Inspection of Financial Institutions Act, 1998 (Act 80 of 1998).

(2) Any reference in this Act to an inspection or investigation made under this section shall be construed as a reference to an inspection made under the **[Inspection of Financial Institutions Act, 1962]** Inspection of Financial Institution Act, 1998 (Act 80 of 1998).”

6.33 Lastly, section 38A(1) of this Act provides that a registered society intending to apply in terms of section 4 of the Insurance Act 27 of 1943 to carry on a particular class of insurance business within the meaning of that Act may apply to the Registrar of Friendly Societies for his approval for its conversion into a company referred to in section 4(3)*bis* (b)(i) of that Act. In terms of section 4(3)(*bis*)(b)(ii) of Act 27 of 1943 persons wanting to be registered as insurers were also required to be registered or incorporated in terms of the Companies Act of 1973. As stated above, the Insurance Act 27 of 1943 was repealed by the Long-term Insurance Act of 1998. The latter Act, unlike its predecessor, does not require long-term insurance businesses to be registered in terms of the Companies Act of 1973. The SALRC thus recommends that section 38A of this Act be amended as follows:

“38A Application for approval for conversion of society into [company] long-term insurance business

(1) A registered society intending to apply in terms of section **[4 of the Insurance Act, 1943 (Act 27 of 1943)]** 7 of the Long-term Insurance Act, 1998 (Act 52 of 1998), to the

Registrar of Insurance to carry on a **[particular class of]** long-term insurance business within the meaning of that Act, may apply to the Registrar of Friendly Societies for his or her approval for its conversion into a **[company referred to in section 4 (3)bis (b) (i) of that Act]** long-term insurer, so as to be able to make such application to the Registrar of Insurance.”

7 Bills of Exchange Act 34 of 1964

6.34 Section 1 of this Act defines, among other things, “bank”. It provides that:

“‘bank’ means a body of persons, whether incorporated or not, that carries on the business of banking, and includes the South African Reserve Bank contemplated in the South African Reserve Bank Act, 1989 (Act 90 of 1989), a bank as defined in section 1 of the Banks Act, 1990 (Act 94 of 1990), a mutual bank as defined in section 1 of the Mutual Banks Act, 1993 (Act 124 of 1993), and the Post Office Savings Bank as defined in section 1 of the Post Office Act, 1958 (Act 44 of 1958).”

6.35 The definition of “Savings Bank” or “Post Office Savings Bank” in Act 44 of 1958 was deleted by section 81(a) of the Postal Services Act 124 of 1998. The Postal Services Act of 1998 contains a definition of “Postbank”. It provides that ‘Postbank’ means the Postbank referred to in section 51. However, section 51 of the Postal Services Act of 1998 has been repealed by the South African Postbank Limited Act 9 of 2010, an Act that has not yet come into operation. In the light of this new Act, the SALRC recommends that consequential amendment be made to the definition of “bank” in this Act by the substitution of the words “a Postbank contemplated in the South African Postbank Limited Act, 2010 (Act 9 of 2010)” for the words “the Post Office Savings Bank as defined in section 1 of the Post Office Act, 1958 (Act 44 of 1958).”

6.36 Section 72B of this Act reads:

72B Prevention of fraud

Any person who is required by law to have his financial statements audited by a person registered in terms of section 15 of the Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991), or by the Auditor-General, and any person obliged to appoint an accounting officer in terms of section 59 of the Close Corporations Act, 1984 (Act 69 of 1984), shall

exercise reasonable care in the custody of cheque forms and in the reconciliation of its bank statements.

6.37 The Public Accountants' and Auditors' Act 80 of 1991 referred to in this provision was repealed by section 58(1) of the Auditing Profession Act 26 of 2005. It is recommended that this provision be amended so that it refers to the Auditing Profession Act of 2005 instead of the Public Accountants' and Auditors Act of 1991.

8 Tax Reserve Account Act 82 of 1964

6.38 The Tax Reserve Account Act 82 of 1964 (this Act) has a meagre four sections and its purpose was to establish a Tax Reserve Account. Two provisions of this Act require amendment as they make references to functionaries that no longer exist.

6.39 Section 1(2) of this Act provides that the tax reserve account shall be under the control of the "Secretary to the Treasury". The Exchequer Act 66 of 1975 prior to its repeal provided that the expression "Secretary to the Treasury" in any law shall be deemed to be a reference to the Director-General: Finance. The Finance Act 109 of 1990 also replaced, for the purposes of that Act, the words "Secretary to the Treasury" with "Director-General: Finance".⁵⁷ In view of the fact that the Director-General of the National Treasury, which was established by the Public Finance Management Act 1 of 1999, is referred to as the Director-General of the National Treasury, the SALRC recommends that section 1(2) of this Act be amended as follows:

"(2) The account shall, subject to the provisions of section two, be under the control of the **[Secretary to the Treasury]** Director-General of the National Treasury.

⁵⁷ The long title to this Act reads "To provide for certain payments from the surplus in the State Revenue Account and the payment of certain amounts of dividends to the South African Rail Commuter Corporation Limited; to charge the State Revenue Account with certain unauthorized expenditure in respect of the financial year 1987-88; to amend the Exchequer Act, 1975, so as to define a certain expression; to replace the Secretary to the Treasury by the Director-General: Finance; and to extend the powers of the Minister of Finance regarding the raising of loans; and to extend the furnishing of certain guarantees in respect of housing loans to certain members of the police; and to provide for matters connected therewith."

6.40 Section 3(1) of this Act provides that any balance in the account shall be invested with the “Public Debt Commissioners”. The Public Investment Commissioner came into being pursuant to the Public Commissioners Investment Act 45 of 1984.⁵⁸ The Public Investment Corporation Act 23 of 2004 repealed Act 45 of 1984, terminated the office of the commissioners and transferred all the assets, rights and liabilities of the commissioners to the Public Investment Corporation established by section 2(1) of that Act. In the light of these developments and for the sake of legal certainty, the SALRC recommends that reference to “Public Debt Commissioners” in section 3(1) of the Tax Reserve Account Act 82 of 1964 be replaced with “Public Investment Corporation established by section 2(1) of Act 23 of 2004”.

9 State Tender Board Act 86 of 1968

6.41 The State Tender Board Act (this Act) was enacted to provide for the regulation of the supplies and services for, the disposal of movable property of, and the hiring or letting of anything or the acquisition or granting of any right for or on behalf of, the State, and to establish a State Tender Board and to provide for the establishment of regional state tender boards.⁵⁹ A number of provisions contained have been rendered nugatory by the repeal of the legislation to which they refer and thus require amendment. These provisions are discussed fully below.

6.42 Section 1 of this Act states that “employee” means an employee as defined in section 1(1) of the Public Service Act, 1957 (Act 54 of 1957). The Public Service Act 54 of 1957 was repealed by the Public Service Act 111 of 1984. The 1984 Act was subsequently repealed by the Public Service Act, 1994. The Public Service Act, 1994 also contains a definition of employee. It provides that 'employee' means a person contemplated in section 8,⁶⁰ but excludes a person appointed in terms of section 12A.⁶¹

⁵⁸ And prior to that, by virtue of the Public Debt Commissioners Act 2 of 1969.

⁵⁹ See the long title.

⁶⁰ Section 8 of this Act provides as follows:

6.43 The SALRC recommends that the definition of “employee” in this Act be amended as follows:

“‘employee’ means an employee as defined in section [1 (1) of the Public Service Act, 1957 (Act 54 of 1957)] 1 of the Public Service Act, 1994.”

6.44 Furthermore, section 1 of this Act states that “officer” means an officer as defined in section 1(1) of the Public Service Act 54 of 1957. As stated in the preceding discussion, the Public Service Act of 1957 was repealed. The Public Service Act 111 of 1984 contained a definition of “officer”, but that Act was repealed by the Public Service Act of 1994. The latter Act does not define the term “officer”.⁶² However, Act 13 of 1996 removed

“8. Composition of public service

- (1) The public service shall consist of persons who are employed-
 - (a) in posts on the establishment of departments; and
 - (b) additional to the establishment of departments.
- (2) Subject to the prescribed conditions, any person referred to in subsection (1) may be employed permanently or temporarily and in a full-time or part-time capacity.
- (3) For the purpose of this Act, in relation to employment-
 - (a) the word 'permanently' or 'permanent', in respect of an employee, means an employee to whom a retirement age referred to in section 16 applies; and
 - (b) the word 'temporarily' or 'temporary', in respect of an employee, means not permanently employed.”

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Section 12A provides:

“12A Appointment of persons on grounds of policy considerations

- (1) Subject to this section, such executive authorities as the Cabinet may determine may appoint one or more persons under a contract, whether in a full-time or part-time capacity-
 - (a) to advise the executive authority on the exercise or performance of the executive authority's powers and duties;
 - (b) to advise the executive authority on the development of policy that will promote the relevant department's objectives; or
 - (c) to perform such other tasks as may be appropriate in respect of the exercise or performance of the executive authority's powers and duties.
- (2) The maximum number of persons that may be appointed by an executive authority under this section and the upper limits of the remuneration and other conditions of service of such persons shall be determined by the Cabinet in the national sphere of government.
- (3) The special contract contemplated in subsection (1) shall include any term and condition agreed upon between the relevant executive authority and the person concerned, including-
 - (a) the contractual period, which period shall not exceed the term of office of the executive authority;
 - (b) the particular duties for which the person concerned is appointed; and
 - (c) the remuneration and other conditions of service of the person concerned.”

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Although a number of Acts, for example Act 119 of 1990, Act 15 of 1997, Act 40 of 2000 and Act 47 of 1996, erroneously state that “officer” means an officer as defined in section 1(1) of the Public Service Act of 1994.

the differentiation between “officer” and “employee” in the Public Service Act of 1994.⁶³ The SALRC thus recommends that the definition of “officer” in section 1(1) of the State Tender Board Act of 1986 be amended as follows:

“‘officer’ means an **[officer]** an employee as defined in section 1 (1) of the Public Service Act, **[1957] 1994.**”

6.45 Furthermore, section 3A of this Act dealing with the constitution of regional tender board refers to institutions that no longer exist. Section 3A(1)(a) provides that one of the members of the regional tender board “shall be appointed out of the list of names of two persons designated by the Chairman of the Ministers’ Council in the House of Assembly”. Paragraph (b) of the same section provides that one member shall be appointed out of a list of names of two persons appointed by the Chairman of the Ministers’ Council in the House of Representatives. Paragraph (c) of the same section states that one member shall be appointed by the Minister out of a list of names of two persons designated by the Chairman of the Ministers’ Council in the House of Delegates. And lastly, paragraph (d) provides that two shall be appointed out of a list of names of four persons designated by the relevant administrator. The institutions and functionaries mentioned in these provisions no longer exist. Furthermore, it would be inappropriate to apply item 3(6) contained in Schedule 6 of the Constitution when interpreting section 3A(1) of this Act.⁶⁴ The SALRC recommends that paragraphs (a) to (d) of section 3A(1) be deleted.

⁶³ Section 1(1) of the Public Service Amendment Act 13 of 1996 provides that:

“1 Removal of differentiation between officer and employee

(1) From the date of commencement of this Act (hereinafter referred to as the commencement date), unless clearly inappropriate-

- (a) every person who is an ‘employee’ as defined in section 1 (1) of the Public Service Act, 1994 (Proclamation 103 of 1994), immediately before the commencement date, by virtue of his or her relationship with the State as employer, shall be deemed to be an ‘officer’ as so defined, and the provisions of the Public Service Act, 1994, shall for all purposes apply to such person as if he or she were an ‘officer’ as so defined;
 - (b) any post which immediately before the commencement date is included in the B division of the public service in terms of section 8 of the Public Service Act, 1994, shall be deemed to have been so included in the A division of that service; and
 - (c) the provisions of the Public Service Act, 1994, which immediately before the commencement date applied to employees and to posts in the B division, shall cease to apply to such persons or posts,
- and to that extent the Public Service Act, 1994, shall be deemed to have been amended.”

⁶⁴ Item 3(2) of the Constitution provides that:

6.46 Another section which makes reference to a statute that no longer exists is section 4(1), dealing with the powers of the board (the state tender board). It states that:

Subject to the provisions of section 4(1)(a) of the Armaments Act, 1964 (Act 87 of 1964), the board shall have power to procure supplies and services for the State, and subject to the provisions of any other Act of Parliament, to arrange the hiring or letting of anything or the acquisition or granting of any right for or on behalf of the State, and to dispose of movable State property⁶⁵

6.47 The Act referred to in this provision, the Armaments Act 87 of 1964 was repealed by the Armaments Development and Production Act 57 of 1968. The latter Act was also repealed by the Armaments Corporation of South Africa, Limited Act 51 of 2003. The 2003 Act clearly states that the corporation continues to exist despite the repeal of the 1968 Act. Furthermore, the 2003 Act, although economical with the words, requires the corporation to acquire such defence matériel on behalf of the Department of Defence as the

“Unless inconsistent with the context or clearly inappropriate, a reference in any remaining old order legislation-

- (a) to a Parliament, a House of a Parliament or a legislative assembly or body of the Republic or of a homeland, must be construed as a reference to-
 - (i) Parliament under the new Constitution, if the administration of that legislation has been allocated or assigned in terms of the previous Constitution or this Schedule to the national executive; or
 - (ii) the provincial legislature of a province, if the administration of that legislation has been allocated or assigned in terms of the previous Constitution or this Schedule to a provincial executive; or
- (b) to a State President, Chief Minister, Administrator or other chief executive, Cabinet, Ministers' Council or executive council of the Republic or of a homeland, must be construed as a reference to-
 - (i) the President under the new Constitution, if the administration of that legislation has been allocated or assigned in terms of the previous Constitution or this Schedule to the national executive; or
 - (ii) the Premier of a province under the new Constitution, if the administration of that legislation has been allocated or assigned in terms of the previous Constitution or this Schedule to a provincial executive.”

⁶⁵ The Munition Act 87 of 1967 created a Munitions Production Board which had the powers, including the power to exercise control over the manufacture, acquisition or supply of armaments by manufacturing, acquiring, maintaining, testing, inspecting, leasing, disposing of, lending or letting armaments or by entering into contracts for the manufacture, maintenance, testing or inspection of armaments in the Republic or elsewhere: Provided that no contract for the manufacture or acquisition of armaments shall be entered into unless a committee appointed under section 8 has considered and made recommendations in regard to such contract.” The power of the board was transferred to the Armaments Development and Production Corporation of South Africa, Limited which was created by the Armaments Development and Production Act 57 of 1968. The latter Act was repealed in 2003 by the Armaments Corporation of South Africa, Limited Act 51 of 2003.

Department may require. The SALRC recommends that section 4(1) be amended to read as follows:

“4. Powers of the board

(1) Subject to the provisions of section **[4 (1) (a) of the Armaments Act, 1964 (Act 87 of 1964)]** 4 of the Armaments Corporation of South Africa, Limited Act, 2003 (Act 51 of 2003), the board shall have power to procure supplies and services for the State, and, subject to the provisions of any other Act of Parliament, to arrange the hiring or letting of anything or the acquisition or granting of any right for or on behalf of the State, and to dispose of movable State property, and may for that purpose – “

6.48 Although falling outside the scope of this project, section 4(1)(d) of this Act provides that the board may “without giving reasons therefore, accept or reject any offer for the conclusion of an agreement referred to in paragraph (a)”. This provision is inconsistent with the right to a just administrative action which includes the right to be given written reasons when rights have been adversely affected by administrative action⁶⁶ and section 5 of the Promotion of Administrative Justice Act 3 of 2000 which places an obligation on administrators to give reasons when requested to do so. The SALRC recommends that the words “may without giving reasons” be deleted so as to bring this provision in line with the right to a just administrative action entrenched in the Constitution and the Promotion of Administrative Justice Act 3 of 2000.

10 Associated Institutions Provident Fund Act 11 of 1971

(a) *References to repealed legislation*

6.49 According to the definition section of the Associated Institutions Provident Fund Act 11 of 1971 (“this Act”) “department” means a department as defined in section 1 of the Public Service Act 54 of 1957, and it includes the Department of Posts and

⁶⁶ Section 33(1) and (2) of the Constitution of 1996.

Telecommunications referred to in section 1 of the Post Office Service Act 66 of 1974. These Acts (the Public Service Act of 1957 and the Post Office Service Act of 1974) were repealed by the Public Service Act 111 of 1984 and the Department of Communications Rationalisation Act 10 of 1998, respectively. The SALRC recommends that this definition be amended as follows:

“‘department’ means a department as defined in section 1 of the Public Service Act, **[1957 (Act 54 of 1957)] 1994**, and includes the **Department of Posts and Telecommunications referred to in section 1 of the Post Office Service Act, 1974 (Act 66 of 1974)**].”

6.50 Furthermore, this Act states that “Minister” means Minister of Social Welfare and Pensions. This ministerial portfolio no longer exists. The Act also defines “Secretary” as the Secretary for Social Welfare and Pensions. The SALRC recommends that these definitions be amended as follows:

“‘Minister’ means the Minister of **[Social Welfare and Pensions]** Social Development”;
and

“‘Secretary’ means the **[Secretary for Social Welfare and Pensions]** Director-General of the Department of Social Development”.⁶⁷

6.51 Section 6A of this Act makes provision for a member who is transferred to a position in respect of which he becomes liable to contribute to the “Government Service Pension Act 57 of 1973” to remain a member of the fund if he so elects. The Pension Act 57 of 1973 was repealed by Proclamation 21 of 1996. Now that no one can make such an election, this section has become obsolete and serves no useful purpose any more. The SALRC recommends that it be repealed.

⁶⁷ In a number of Acts the expression “Director-General” has been substituted for the expression “Secretary for”. See for example, section 21(1)(c) of the Water Laws Rationalisation and Amendment Act 32 of 1994, prior to its repeal by Act 36 of 1998. See also section 13 of the Imprint Act 43 of 1993.

(b) Constitutionally suspect provision in Act 11 of 1971

6.52 Section 8 of this Act empowers the Minister (Minister of Social Welfare and Pensions) to make regulations. Subsection (3) of this section provides that “Different regulations may be made in respect of persons belonging to different *population groups, sexes, classes, or categories* who become members to the Fund in terms of section 6 of this Act”. A number of Acts enacted in the late 1960s contained a similar provision. However, when these Acts were repealed and replaced with new legislation, the legislature abandoned the notion of differentiation.⁶⁸ In the light of these developments, the SALRC recommends that section 8(3) of this Act be repealed.

**11 State Tender Board and State Procurement Board
Amendment Act 74 of 1971**

6.53 This Act was enacted to effect certain changes to the State Tender Board Act and State Procurement Board Act 86 of 1968. A few amendments introduced by this Act have become obsolete. Paragraph (b) of section 2 of this Act substituted subsection (2)(a) of section 4 of Act 86 of 1968. Section 4(2)(a) of the 1968 Act was later deleted by the Department of Communications Rationalisation Act 10 of 1998. Therefore, section 2(b) of this Act no longer serves any useful purpose. The SALRC recommends that it be repealed.

6.54 Section 4(2) of this Act provides that all rights and duties of the State Procurement Board pass to the State Tender Board or, if the Minister so decides, to the Armaments Board established by section 2 of the Armaments Act 87 of 1964. The problem with this provision is that the Armaments Act of 1964 was repealed by the Armaments Development

⁶⁸ A number of repealed Acts such as Acts 25 of 1968, 26 of 1968 and 27 of 1968, which were subsequently repealed by Act 59 of 1992; and Act 81 of 1976 contained similar provisions. However, in subsequent legislation this provision was omitted. For example, section 19(5)(a) of Act 59 of 1992, prior to repeal by Act 13 of 2004, provided that regulations made under subsection (1) may differentiate between different categories of persons. Therefore the wording is different to that used in its predecessors. In Act 13 of 2004, the legislature has completely abandoned the notion of differentiation. See section 32 of Act 13 of 2004.

and Production Act 57 of 1968. The latter Act has also been repealed by the Armaments Corporation of South Africa, Limited Act 51 of 2003. Section 6(1) of the 2003 Act authorises the Board to manage the affairs of the Armaments Corporation of South Africa Limited. The SALRC recommends that the words “Board contemplated in section 6 of the Armaments Corporation of South Africa, Limited Act, 2003 (Act 51 of 2003)” be substituted for the words “Armaments Board established by section 2 of the Armaments Act, 1964 (Act 87 of 1964).”

12 Financial Relations Act 65 of 1976

6.55 The whole of this Act, except sections 27 and 28, was repealed by section 230(1) of the Constitution of the Republic of South Africa Act 200 of 1993. Section 27 requires amendment. The purpose of that section was to give professors, lecturers and students at universities and college universities access to provincial hospitals or similar institutions for the purpose of practical training in medicine, surgery, midwifery or dentistry.

6.56 University colleges were established by the Extension of University Education Act 45 of 1959 to provide university education to “non-whites students”. This Act was subsequently repealed by Tertiary Education Act 66 of 1988 which made provision for the establishment of colleges. The latter Act was repealed in 1997 by the Higher Education Act 101 of 1997, an Act aimed at, among other, redressing past discrimination and ensure representivity and equal access to higher education institutions. Although the Higher Education Act of 1997 recognises existing universities,⁶⁹ it provides for the establishment, regulation and governance of public higher education institutions and the registration of private higher education institutions. In the light of these changes, the SALRC recommends that section 27(1) and (2) be amended as follows:

“27 Teaching and training of students in medicine, surgery, midwifery and dentistry

⁶⁹ Section 72(2) of Act 101 of 1997.

(1) Notwithstanding anything to the contrary contained in any other law, professors, lecturers and students at a **[university or university college]** public or private higher education institution contemplated in the Higher Education Act, 1997 (Act 101 of 1997) may, subject to arrangement between the provincial administration and the council of the **[university concerned in the case of a university college, between the provincial administration and the Secretary acting in consultation with the council of that university college,]** higher education institution concerned be granted access to any provincial hospital or similar institution for the purpose of and incidental to practical teaching and training in medicine, surgery, midwifery or dentistry.

(2) Notwithstanding anything to the contrary contained in any law, a provincial administration may by agreement with the council of a **[university or, in the case of a university college, with the Secretary acting in consultation with the council of that university college]** higher education institution, make any member of the staff of a provincial hospital available to such **[university or university college]** higher education institution for the purpose of assisting in the teaching and training of students in medicine, surgery, midwifery or dentistry at such **[university or university college]** higher education institution.”

6.57 Section 28(1) and (2) also requires updating.⁷⁰ These provisions make reference to “university” and to the “Minister of National Education”. The President issued a proclamation (Proclamation 48 of 7 July 2009) which established, among others, the

⁷⁰ Section 28(1) and (2) of this Act reads:

“(1) Notwithstanding anything to the contrary contained in any other law, students at any university may, subject to arrangement between a provincial administration and the council of such university as the Minister of National Education may designate from time to time by notice in the Gazette, be granted access to any college, maintained, managed and controlled by such provincial administration, for the purpose of or incidental to the training of such students as teachers in such subjects or courses as the Minister of National Education may from time to time designate by notice in the Gazette.

(2) Notwithstanding anything to the contrary contained in any other law, a provincial administration may by agreement with the council of such university as the Minister of National Education may designate from time to time by notice in the Gazette, make any member of the staff of any educational institution, maintained, managed and controlled by such provincial administration, available to such university for the purpose of assisting in the teaching and training of students at such university as teachers in such subjects or courses as the Minister of National Education may designate from time to time by notice in the Gazette.”

Department of Higher Education and Training. Although in a subsequent proclamation⁷¹ this Act was not included in the list of statutes the administration of which was transferred to the Minister of Higher Education and Training, it regulates matters relating to higher education and therefore the SALRC As stated above, the Higher Education Act recommends that the words “Minister of Higher Education” be substituted for the words “Minister of National Education” wherever these words occur in section 28(1) and (2). Furthermore, as stated above, although the Higher Education Act of 1997 recognises existing universities, the legislature uses the generic term “higher education institution” The SALRC therefore recommends that expression “higher education institution” be substituted for the word “university” wherever it occurs in section 28(1) and (2).

6.58 Subsection (3) of section 27 makes reference to functionaries, department that no longer exist namely the Secretary for Education and Training, Under-Secretary of the Department of Education and Training. It also incorporated by reference the definition of “university college” contained in Extension of University Education Act of 1959. Furthermore, in the light of the recommendation made above in respect of section 27(1) and (2) that certain words be deleted, the SALRC recommends that section 27(3) be repealed in its entirety.⁷²

13 Military Pensions Act 84 of 1976

(a) *References to repealed legislation*

6.59 The purpose of this Act as stated in its long title is to provide for the payment of pensions and gratuities to or in respect of certain persons in respect of disablement

⁷¹ Proclamation 44 of 2009 which was published in Government *Gazette* No. 32367.

⁷² Section 27(3) of this Act reads:
 “In this section-
 (a) 'Secretary' means the Secretary for Education and Training and includes any Under-Secretary of the Department of Education and Training, any Director of Education and Training and any Deputy Director of Education and Training; and
 (b) 'university college' means a university college as defined in the Extension of University Education Act, 1959 (Act 45 of 1959).”

caused or aggravated by military service, for the medical treatment of such persons and for the consolidation of benefits paid in terms of the Special War Pensions Act of 1962, the War Pensions Act of 1967 and section 15 of the Pension Laws Amendment Act of 1968. This Act makes reference to pieces of legislation that have been repealed.

6.60 Section 1(1) of this Act provides that “Defence Act” means the Defence Act 44 of 1957. With the exception of provisions dealing with the military discipline code and ancillary provisions, the Defence Act of 1957 was repealed in 2002 by the Defence Act 42 of 2002. The SALRC thus recommends that the definition of “Defence Act” be amended to refer to the new Defence Act.

6.61 The definition section also provides that “Director-General” means the Director-General: Health and Welfare. We now have two separate departments namely, the Department of Health, and the Department of Social Development. Therefore, this definition does not reflect the current position and is thus misleading. The SALRC cursorily reviewed statutes relating to pensions which made reference to Director-General: Health and Welfare and the amendments effected to these statutes for guidance. The General Pensions Act 29 of 1979, prior to amendment by the Pension Laws Amendment Act 89 of 1988 contained definitions of “Director-General” and “Minister” which were similar to the ones contained in the Act under consideration. In the light of the amendments made by the legislature to the definition of “Director-General”⁷³ and “Minister” in the Pension Laws Amendment Act 29 of 1979, the SALRC recommends that the definition of Director-General” in this Act be amended to read “‘Director-General’ means the Director-General of the National Treasury” and that the definition of “Minister” be amended to read “‘Minister’ means the Minister of Finance”.

6.62 The definition section further states that “member” means any member of the Citizens Force or any Commando or the Reserve mentioned in section 5 or 6 of the Defence Act. The South African Defence Force consisted of a permanent force, citizen

⁷³ This definition was amended to read “‘Director-General’ means the Director-General: Finance” and the definition of “Minister” was amended to read “‘Minister’ means the Minister of Finance.”

force and commandos and the reserves.⁷⁴ Therefore, the Act under consideration did not apply to the permanent force. As stated above, the Defence Act of 1957 was repealed by the Defence Act 42 of 2002. Under the latter Act, the national defence force consists of the regular force and the reserve force.⁷⁵ The SALRC thus recommends that references in this Act to the “citizen force” and “commando” be deleted. This recommendation applies equally to the definition of “period of service” which makes reference to citizen force and commando.⁷⁶

6.63 Section 13(4) of this Act states that for the purposes of this section (section 13) “member” includes a volunteer as defined in section 1 of the War Pensions Act 82 of 1967. The War Pensions Act 82 of 1967 was repealed by Act 84 of 1976. This raises the question whether this provision still serves any useful purpose. The SALRC recommends that section 13(4) be repealed.

6.64 Section 21(1)(a) provides that the provisions of this Act shall not apply to any person who is entitled to compensation under the Workman’s Compensation Act 30 of 1941. The Workman’s Compensation Act 30 of 1941 was repealed by the Compensation

⁷⁴ Sections 5 and 6 of the Defence Act 44 of 1957 provided that:

“5. Composition of the South African Defence Force

The South African Defence Force shall consist of-

- (a) the Permanent Force;
- (b) the Citizen Force; and
- (c) Commandos.

6. Composition of Reserve

The Reserve shall consist of-

- (a) the Controlled Reserve; and
- (b) the National Reserve.”

⁷⁵ Section 11 of the Defence Act 42 of 2002 provides that :

“11. Composition of South African National Defence Force

The South African National Defence Force established by section 224 (1) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), continues to exist and consists of the-

- (a) Regular Force, the members of which serve full-time until-
 - (i) reaching their age of retirement;
 - (ii) expiry of their contracted term of service; or
 - (iii) otherwise discharged from the Defence Force in accordance with the law; and
- (b) Reserve Force, the members of which serve on a part-time basis for such periods as they have been contracted for, unless their service is terminated in accordance with the law.”

⁷⁶ Section 1(1) of this Act defines “period of service” as follows:

‘period of service’ means any period of actual service or training with the Citizen Force, a Commando or the Reserve mentioned in section 5 or 6 of the Defence Act.”

for Occupational Injuries and Diseases Act 130 of 1993. It is recommended that section 21(1)(a) be updated by substituting the words “Compensation for Occupational Injuries and Diseases Act 130 of 1993” for the words “Workman’s Compensation Act 30 of 1941.”

(b) Constitutionally suspect provisions of Act 84 of 1976

6.65 This Act predates the Constitution of 1996, it is therefore not surprising that some of its provisions are inconsistent with section 9 of the Constitution (the equality provision). Section 3(2), dealing with the payment of pensions and gratuities, empowers the Minister to pay “different amounts... in respect of different population groups or categories of persons”. Section 23(2) also provides that “different regulations may be made in respect of different population groups or categories of persons. As stated above, a number of Acts enacted in the late 1960s contained provisions which allowed differentiation on the grounds of race. However, when these Acts were repealed and replaced with new legislation, the legislature abandoned the notion of differentiation.⁷⁷ In the light of these developments, the SALRC recommends that sections 3(2) and 23(2) of this Act be repealed.

14 War Damage Insurance and Compensation Act 85 of 1976

6.66 Compared to other pieces of legislation, the War Damage Insurance and Compensation Act 85 of 1976 (this Act) is shorter. It consists of 14 sections only. The definition section of this Act states that “treasury” means Treasury as defined in section 1(1) of the Exchequer and Audit Act, 1975 (Act 66 of 1975). The Exchequer and Audit Act 66 of 1975 was repealed by the Public Finance Management Act 1 of 1999. The latter Act

⁷⁷ A number of repealed Acts such as the Act 25 of 1968, 26 of 1968 and 27 of 1968, which were subsequently repealed by Act 59 of 1992; and Act 81 of 1976 contained similar provisions. However, in subsequent legislation this provision was omitted. For example, section 19(5)(a) of Act 59 of 1992, prior to repeal by Act 13 of 2004, provided that regulations made under subsection (1) may differentiate between different categories of persons. Therefore the wording is different to that used in its predecessors. In the Act 13 of 2004, the legislature has completely abandoned the notion of differentiation. See section 32 of Act 13 of 2004.

also contains the definition of “treasury”. It is recommended that the definition of “treasury” in this Act be amended to read:

“‘Treasury’ means the Treasury as defined in section 1 of the Public Finance Management Act, 1999 (Act 1 of 1999).”

6.67 Section 9(1) of this Act provides that any money of the fund not required for immediate use shall be invested with the Public Debt Commissioners or with a financial institution approved by the Minister. The rights, duties and liabilities of the Public Debt Commissioners were transferred to the Public Investment Corporation by the Public Investment Corporation Act 23 of 2004. It is recommended that this section be amended so that it reflects the changes brought about by Act 23 of 2004.

15 Finance and Financial Adjustments Acts Consolidation Act 11 of 1977

6.68 Section 1 of the Finance and Financial Adjustment Acts Consolidation Act 11 of 1977 (this Act) Act states that every piece of land in Calitzdorp Irrigation District which before 1 January 1912 was irrigated with water from the Nels River, shall be included in the schedule of rateable areas prepared in terms of section 88 of the Water Act 54 of 1956, and that a differential rate equal to three quarters of the rate assessed in terms of section 90 of the said Act in respect of land brought under irrigation after the said date, shall be assessed in respect thereof. The Water Act referred to in this provision was repealed by the National Water Act 36 of 1998. The latter Act makes no provision for the compilation of a schedule of rateable areas. The SALRC thus recommends that section 1 of this Act be repealed.

6.69 Section 3(1) of this Act makes provision for a reward not exceeding one-third to be paid to informers from the sale accruing to the State in respect of precious stones or metal.⁷⁸ Section 3(2) of this Act provides that such payment shall be made by the

⁷⁸

This section provides that:
“3. Rewards to informers in respect of precious metals and precious stones

“Secretary of Inland Revenue” by way of refund from the revenue in question, and that any refund so made shall be deemed to be a drawback for the purposes of section 3(2)(a) of the Exchequer and Audit Act 66 of 1975.⁷⁹ The Income Tax Act 90 of 1964 substituted, among others, the words “Commissioner” for the word “Secretary” in other laws.⁸⁰ The Exchequer and Audit Act 66 of 1975 was repealed by the Public Finance Management Act of 1999 and the latter Act does not have a provision comparable to section 3(2)(a) of the Exchequer and Audit Act of 1975. The SALRC thus recommends that the word

(1) Notwithstanding anything in any other law contained, any person, other than a person in the service of the State, upon whose information any precious stone or precious metal or any money paid in respect of the illicit purchase of any precious stone or precious metal is seized under any law, may, at the discretion and under the written authority of the Commissioner of the South African Police, be paid out of the revenues accruing to the State from the sale of such precious stone or metal or from the seizure of such money a monetary reward not exceeding one-third of the amount realized by such sale or of such money seized, as the case may be, and, where the said Commissioner is of the opinion that such a reward is inadequate, may in the discretion of the said Commissioner be paid out of moneys appropriated by Parliament for the purpose, such additional amount as together with the said reward does not exceed the sum of one hundred rand.

(2) Every payment under subsection (1) shall to the extent to which it does not exceed one-third of the amount so realized or of the money so seized be made by the Secretary for Inland Revenue by way of refund from the revenue in question, and any refund so made by him shall be deemed to be a drawback for the purposes of section 3 (2) (a) of the Exchequer and Audit Act, 1975 (Act 66 of 1975).”

79

This section of the Exchequer Act reads:

“3. The Exchequer Account

(1) The Treasury shall maintain at the Bank an account, entitled 'the Account of the Exchequer of the Republic of South Africa', into which shall, subject to the provisions of paragraph (a) of subsection (2), be deposited all revenues.

(2) (a) The Commissioner for Customs and Excise and the Commissioner for Inland Revenue shall each cause the revenue of his office received from time to time, less the amount of any drawbacks and other refunds, to be deposited in the Exchequer Account or in any other account which has with the written authority of the Treasury under section 11 been opened at a bank other than the Bank.

(b) Such deposits shall be made on each appropriate working day.

(3) (a) Moneys deposited in terms of subsection (2) (a) at a bank other than the Bank shall for the purposes of sections 10 (1) (a) and 13 (2) be deemed to be moneys in the Exchequer Account.

(b) The Bank shall on each appropriate working day render to the Treasury, in such form as the Treasury may determine, returns of-

(i) revenue deposited in the Exchequer Account in terms of subsection (2) (a); and

(ii) revenue deposited in terms of subsection (2) (a) at another bank.

(4) The Treasury may utilize any moneys in the Exchequer Account for the defrayment of expenditure chargeable to an account mentioned in section 2.

(5) The Treasury shall, subject to the provisions of this Act, ensure that there shall at all times be sufficient moneys in the Exchequer Account for transfer in accordance with section 9 (1).”

80

Section 30 of Act 90 of 1964 reads:

“30. Substitution of 'Secretary' for 'Commissioner' in Act 58 of 1962 and other laws

The principal Act and any other law relating to income tax is hereby amended by the substitution for the words 'Commissioner' and 'Commissioner's' wherever they are used to denote the head of the Department of Inland Revenue of the words 'Secretary' and 'Secretary's' respectively.”

“Commissioner” be substituted for the word “Secretary for Inland Revenue” and that reference to the Exchequer and Audit Act be deleted.

6.70 Section 5 of this Act reads:

5. Provinces and South West Africa to pay part of certain pensions

(1) The pension payable to a person who, in terms of any law governing his pension rights, was not required to contribute towards any fund from which such pension is paid and who, during any period subsequent to 31 May 1910, has rendered pensionable service under a provincial administration, shall be paid partly from the State Revenue Fund and partly from the revenue fund of the administration concerned, on a proportional basis to be determined by the Treasury.

6.71 This section was amended in 1996 by section 1 of the General Law Amendment Act 49 of 1996 which deleted the expression “or the administration of South-West Africa”. However, Act 49 of 1996 did not amend the heading to section 5 by deleting “South West Africa”. It is recommended that the heading be amended by the deletion of the words “South West Africa”.

6.72 Section 17 of this Act provides that no stamp duty and no transfer duty shall be payable in respect of cession and acquisition of any right to minerals, if the Government Engineer has certified that the sole purpose of the legal transaction is to enable the cessionary to obtain for the benefit of himself and the cedent mining lease in accordance with the provisions of the Mining Rights Act 20 of 1967. The Mining Rights Act 20 of 1967 was, with the exception of few definitions and one chapter, repealed by the Minerals Act 50 of 1991. The latter has been repealed by the Precious Metals Act 37 of 2005. It is recommended that reference in section 17 to the Mining Rights Act 20 of 1967 be deleted and replaced with reference to the Mineral and Petroleum Resources Development Act 28 of 2002 which regulates, among others, the issuing of mining permits.

6.73 Section 18(1) provides that no stamp duty and transfer duty shall be payable on the grant or cession and acquisition of a lease of the right to mine for precious metal or base metals (as defined in section 3 of the Precious and Base Metals Act 35 of 1908 of the Transvaal) in the Province of the Transvaal or in the province of the Orange Free State which was entered into under section 52 of the said Act. The Precious and Base Metals

Act of 1908 was repealed by the Mining Rights Act 20 of 1967. This section (together with subsection (2) dealing with refund of any stamp duty or transfer duty) may be repealed because its application is dependent on the existence of the definitions contained in Act 35 of 1908 which no longer exists.

6.74 Section 19 of this Act states that “source material” bears the meaning assigned to it by section 1 of the Atomic Energy Act 90 of 1967. The Atomic Energy Act of 1967 was repealed by the Nuclear Energy Act 92 of 1982. The Nuclear Energy Act 46 of 1999 also contains the definition of “source material”. It is recommended that be amended so that it makes reference to the 1999 Act and not the 1967 Act.

6.75 Section 23 of this Act states that the cancellation of any condition appearing in the title deed of any piece of land registered in the name of any interested owner as defined in section 1 of the Kopjes Irrigation Settlement Amendment Act 19 of 1951; the transfer to the Kopjes Settlement Management Board established under section 2 of the Kopjes Irrigation Settlement Act 38 of 1935; the consolidation of land so transferred with the commonage as defined in section 1 of Act 38 of 1935, for the purpose of giving effect to the provisions of section 2(1) of the Kopjes Irrigation Settlement Amendment Act of 1951. Both Acts (Act 19 of 1951 and Act 38 of 1935) were repealed by the National Water Act 36 of 1998. These provisions may therefore be repealed.

6.76 Section 25 of this Act dealing with guarantees by the Minister of Finance provides that the Minister may, for the purposes of enabling a person who is a contributor to a pension fund referred to in section 3 of the Government Service Pension Act 57 of 1973, guarantee the interest on and the capital of an amount not exceeding thirty percent of the amount of any loan required by any such person. The Government Service Pension Act 57 of 1973 was repealed by the Government Employees Pension Law (Proclamation 21 of 1996). Section 2 of the Proclamation 21 of 1996 provides that despite the repeal of the Government Service Pension Act of 1973, the fund established by section 3 of the Government Service Pension Act, 1973 (Act 57 of 1973), shall continue to exist, subject to the provisions of the Proclamation 21 of 1996 and that it shall be known as the Government Employees Pension Fund. It is therefore not necessary to amend this section.

6.77 Section 25A of this Act, inserted by Proclamation R149 of 21 October 1994, empowers the Minister of Finance to give guarantees pertaining to dwellings for or of persons in the employ of the departments or organisational components under the Public Service Act, 1994 or contributors to certain pension funds listed in paragraphs (a) to (i) of this section. These are contributors referred to in the Government Service Pension Act 57 of 1973; Temporary Employees Pension Fund Act 75 of 1979; Black Authorities' Service Pensions Act 6 of 1971; Bophuthatswana Government Service Pension Fund Act 14 of 1977; Government Employees Pensions Act 15 of 1978 (of the former Republic of Transkei); Government Service Pensions Act 4 of 1970 (of the former Republic of Transkei); Venda Government Service Pensions Act (of the former Republic of Venda); the Government Service Pensions Act 4 of 1989 (of the former Republic of Ciskei); and the Pension Fund for Associated Institutions Act 41 of 1963.

6.78 After the commencement of the 1993 Constitution a task team was appointed to look into the amalgamation of the various government service pension funds, including those of the former TBVC states. The outcome of this process was the promulgation of Proclamation 21 of 1996 merging the separate funds into the Government Employees Pension Fund. Therefore, no contributions are still being made in terms of the Acts listed in paragraphs (a) to (i) of section 25A of this Act, except in terms of the Pension Fund for Associated Institutions (which was not included in the investigation). The SALRC recommends that paragraphs (a) to (i), except paragraph (c), of this section be repealed.

6.79 Section 27(1) of this Act provides that monies expended by the Blacks Resettlement Board established by section 2 of the Blacks Settlement Act 19 of 1954 to achieve the object contemplated in section 12 of that Act shall to the extent that such amount could have been advanced from the National Housing Fund established under section 2 of the Housing Act 10 of 1957 be deemed to have been expended from the funds referred to in section 10(1)(a) of the Blacks Resettlement Act of 1954 and to have been appropriated by Parliament for the purposes of the Housing Act of 1957, and to form part of the said National Housing Fund. Subsection (2) states that the amount referred to in subsection (1) shall be repaid by the said Blacks Resettlement Board to the said National Housing Fund on terms and Conditions determined by the Minister of Health in consultation with the Minister of Plural Relations and Development, and the Minister of Finance. The problem with this section is that the Acts referred to no longer exist and the

ministerial portfolio of “Plural Relations and Development” no longer exists either. The SALRC recommends that the entire section 27 be repealed because severing references to Black Resettlement Act and the Housing Act would leave this section meaningless.

6.80 Section 29 of this Act states that no person in respect of whom any law prescribes a pension at a higher rate than the rate applicable in respect of such person in terms of *paragraph (a) of section 10bis of the South Africa Act 1909, read with subsection (3) of section 15 of the Republic of South Africa Constitution Act 1961*, nor the widow of such person shall be entitled to the pension so prescribed under paragraph (a) or (b) of the first mentioned section. The 1909 and the 1961 Acts mentioned in this section were repealed. This raises the question whether their mention in this section serves any useful purpose. The SALRC recommends that this section be repealed.

6.81 Section 31 of this Act reads:

31 Reduction of capital and remission of interest owing by Blacks Resettlement Board

- (1) The Blacks Resettlement Board established by section 2 of the Blacks Resettlement Act, 1954 (Act 19 of 1954), is hereby discharged-
- (a) with effect from 1 April 1964, from all liability in respect of-
 - (i) an amount of R2 130 385,76 being portion of the amount of the loans granted to it under section 10(1)(a) of that Act and on that date not yet repaid;
 - (ii) an amount of R850 740,14 being the interest accrued prior to that date on the amount of the said loans; and
 - (b) with effect from that date or, in the case of any particular amount, such later date as the Minister of Finance may determine, from all liability in respect of such portions (if any) of the balance of the amount of the said loans as the said Board is unable to repay.
- (2) The provisions of subsection (1)(b) shall not apply in respect of any portion of the said balance unless the Minister of Finance is satisfied, after the submission to him of a report by the said Board and a certificate by the Auditor-General stating the amount of such portion, that the said Board is unable to repay the amount in question.

6.82 The Act which created this Board ceased to exist a long time ago, and the liability, as provided for in this section, ceased to exist on 1 April 1964. The Board has ceased to exist, and as a result this provision has become redundant. The SALRC recommends that section 31 be repealed in its entirety.

6.83 The heading to section 33 reads: “Guarantees by the Minister of Economic Affairs in respect of certain losses, damage or expenses in connection with South African merchant vessels”. Subsections (1) and (2)(b) make reference to the Minister of Economic Affairs. This Ministry no longer exists and its mandate now rests with the Department of Economic Development. The SALRC recommends that this section be amended by replacing the words “Minister of Economic Affairs” with the words “Minister of Economic Development”. The use of gender specific pronoun “he” also needs to be addressed.

6.84 Section 36(1) of this Act provides that all moneys and property acquired by the Custodian of Enemy Property, and any other moneys still in his custody or under his control on 30 June 1968, shall on that date be paid over and transferred to the Treasury, and that all books, records, documents kept by the said Custodian shall on the said date be transferred to the Treasury. This provision became spent after the 30 June 1968. Subsection (2) states that as from that date (30 June 1968) the Custodian shall be relieved of all obligations imposed upon him in respect of moneys and property referred to in that section. These two sections became spent after 30 June 1968 and may be repealed.

6.85 Section 39(1) of this Act provides that the Treasury may receive the allocations by the International Monetary Fund to the Republic of special drawing rights, as *defined in section 1 of the South African Reserve Bank Act, 1944 (Act 29 of 1944)*. The South African Reserve Act 29 of 1944 was repealed by the South African Reserve Bank Act 90 of 1989 which, like its predecessor, contains a definition of “special drawing rights” section 1 (the definitions section). It is recommended that reference in section 39(1) be to the new South African Reserve Bank Act of 1989, and not to Act 29 of 1944.

6.86 Section 39(12) provides that the Minister shall lay on the Table of the Senate and of the National Assembly a statement in which the receipts of and expenditure from the accounts established in terms of this section, are shown in respect of the year ending on the said date. The Senate no longer exist. Parliament comprises of the National Assembly and the National Council of Provinces. It is recommended that section 39(12) be amended by replacing the word “Senate” with the words “National Council of Provinces”.

6.87 Section 40(2) of this Act states that the Bank (the South African Reserve Bank) shall render to the Treasury at such times as the Treasury may direct a statement or

statements in which its transactions in respect of special drawings rights in terms of paragraph (hA) of section 8(1) of the South African Reserve Bank Act 29 of 1944 are reflected. As stated above, the South African Reserve Bank Act of 1944 has been superseded by the South African Reserve Bank Act 90 of 1989. Section 10(1)(m) of the South African Reserve Bank Act of 1989 is similar to section 8(1)(hA) of Act 29 of 1944. The SALRC recommends that reference to Act 29 of 1944 be deleted and that it be replaced with reference to section 10(1)(m) of Act 90 of 1989.

6.88 Section 52 of this Act provides that the provisions of the Payment of Members of Parliament Act 40 of 1974, and any determination of salaries and allowances by the State President under the Act made before 20 November 1974, shall apply also to persons who were office-bearers or members of Parliament on 1 July 1974, but ceased to be such office-bearers or members before 24 September 1974. Act 40 of 1974 was repealed by the Payment of Members of Parliament Act 6 of 1994. This provision may be deleted.

6.89 Section 60(1)(a) of this Act provides that the Minister of Finance may authorise that moneys in the State Revenue Account be utilized for taking up any ordinary shares which may be issued in terms of the provisions of the Iron and Steel Industry Act 11 of 1928, by the Board of Directors of the South African Iron and Steel Industrial Corporation Limited. Act 11 of 1928 was repealed by the South African Iron and Steel Industrial Corporation Limited Act 119 of 1979. Act 119 of 1979 was repealed in its entirety by the Conversion of Iscor, Limited Act 57 of 1989. The latter Act makes no reference to "ordinary shares". The SALRC is therefore of the view that this provision has become obsolete and recommends that it be repealed.

16 Bills of Exchange Amendment Act 58 of 1977

6.90 The Bills of Exchange Amendment Act 58 of 1977 (this Act) has five sections and its purpose was to amend various provisions of the Bills of Exchange Act 34 of 1964. Section 1 of this Act amended section 1 of the Bills of Exchange Act 34 of 1964 by inserting the definition of "foreign bill" and "inland bill" (paragraphs (a) and (b) of section 1). These definitions were deleted by section 1(e) and (f) respectively of the Bills of

Exchange Amendment Act 56 of 2000. The SALRC recommends that section 1 of this Act be repealed as it no longer serves any useful purpose.

6.91 Section 3(a) of this Act substituted subsection (1) of section 49 of the Bills of Exchange Act of 1964. This subsection was also deleted by section 14 of the Bills of Exchange Amendment Act 56 of 2000 mentioned in the previous paragraph. The SALRC recommends that it be repealed.

17 Secret Services Act 56 of 1978

6.92 This Act has a meagre four section and was enacted to provide for the establishment of an account for secret services, the evaluation of and control over secret services. This Act requires updating as it makes reference to certain official designations that longer exist and uses language that is not gender sensitive, including gender specific pronouns.

6.93 Section 1 of this Act contains a definition of “chairman”.⁸¹ In a number of statutes promulgated after 1994 the gender neutral word “chairperson” is used by the legislature. It is recommended that the word “chairperson” be substituted for the word “chairman” wherever it occurs in the Act, namely in the definition section and in section 3A(1), (3)(b) and (5)(b).

6.94 Section 1 of this Act also contains a definition of “responsible Executive Deputy President or Minister”. Unlike its predecessor, the 1993 Constitution which made provision for “executive Deputy Presidents”,⁸² the Constitution of the Republic of South Africa of 1996

⁸¹ Section 1 of this Act provides that 'chairman' means the chairman of the committee designated in terms of section 3A (1) or 5 (b).

⁸² Section 84 of the 1993 Constitution provided:
“84. Executive Deputy Presidents
 (1) Every party holding at least 80 seats in the National Assembly shall be entitled to designate an Executive Deputy President from among the members of the National Assembly.
 (2) Should no party or only one party hold 80 or more seats in the National Assembly, the party holding the largest number of seats and the party holding the second largest number of seats shall

provides that the Cabinet consists of the President, the Deputy President and Ministers; that the President appoints, amongst others, the Deputy President; that the President must elect the Deputy President from among the members of the National Assembly; and that the Deputy President must assist the President in the execution of his duties.⁸³ Therefore, reference to the “responsible Executive Deputy President” is no longer necessary as only one Deputy President can be appointed in terms of the Constitution. Furthermore, the Constitution provides, in the transitional arrangements, that references in legislation to, among others, Executive Deputy President must be interpreted to mean the Deputy President.⁸⁴ The SALRC thus recommends that the words “responsible Executive Deputy President” be deleted in the definition of “responsible Executive Deputy President or Minister” and that reference be made in sections 2(2)(a), 3A(8)(a), and 3B(1) to the Deputy President and not to the Executive Deputy President.

6.95 Sections 2(1)⁸⁵ and 3B(2)⁸⁶ of this Act make reference to the Director-General: State Expenditure. The SALRC recommends that these provisions be amended so that they make reference to the Director-General of the National Treasury.

each be entitled to designate one Executive Deputy President from among the members of the National Assembly.

(3) On being designated as such, an Executive Deputy President may elect to vacate or not to vacate his or her seat in the National Assembly.

(4) Section 81 shall apply mutatis mutandis to an Executive Deputy President.

(5) An Executive Deputy President may exercise the powers and shall perform the functions vested in the office of Executive Deputy President by this Constitution or assigned to him or her by the President.

(6) An Executive Deputy President shall, before formally assuming office, make and subscribe an oath or solemn affirmation in the terms set out in Schedule 3 before the Chief Justice or a judge of the Supreme Court designated by the Chief Justice for this purpose.”

⁸³ See section 91(1),(3), and (5) of the Constitution.

⁸⁴ See item 3(1) of Schedule 6 of the Constitution which reads:

“3. Interpretation of existing legislation

(1) Unless inconsistent with the context or clearly inappropriate, a reference in any legislation that existed when the new Constitution took effect-

(a) ...

(b) ...

(c) to the President, an Executive Deputy President, a Minister, a Deputy Minister or the Cabinet, must be construed as a reference to the President, the Deputy President, a Minister, a Deputy Minister or the Cabinet under the new Constitution, subject to item 9 of this Schedule.”

⁸⁵ Section 2(1) of this Act reads:

6.96 Sections 2(2)(a)⁸⁷ and 2(3)(a)⁸⁸ refer to the Minister of State Expenditure. It is recommended that the expression “Minister of Finance” be substituted for the words “Minister of State Expenditure” in the provisions referred to above.

6.97 There are also references to the “State President” in this Act.⁸⁹ The Constitution provides that references to the “State President” must be construed as references to the President appointed under the new Constitution.⁹⁰ It is recommended for the sake of consistency and legal certainty that the expression “President” be substituted for the expression “State President” wherever it occurs in the Act.

18 General Pensions Act 29 of 1979

(a) *References to repealed legislation*

“(1) The Director-General: State Expenditure shall, subject to the provisions of this Act, be responsible for the administration of the account: Provided that the accounting officer of a Department of State to which any moneys have been made available under subsection (3), shall be accountable for the moneys so made available.”

⁸⁶ Section 3B(2) reads:

“The Director-General: State Expenditure shall, after consultation with the Auditor-General, issue directions regarding the application of financial control over the handling and utilization of moneys made available from the account.”

⁸⁷ Section 2(2)(a) of this Act reads:

“The Minister of State Expenditure may at the request of the President or the responsible Executive Deputy President or Minister transfer so much money as may be agreed upon between them from the account to the Security Services Special Account established by section 1 of the Security Services Special Account Act, 1969 (Act 81 of 1969).”

⁸⁸ Section 2(3)(a) reads:

“The Minister of State Expenditure may, at the request of any other Minister, and in such manner and subject to such conditions as he may after consultation with such other Minister determine, make available to a Department of State for which such other Minister is responsible, moneys in the account for utilization for secret services.”

⁸⁹ In section 3A(1), (2)(a) and (b), (4), (5),(5)(b), (8)(a) and (b) and (9).

⁹⁰ See item 3(2)(b)(i) of Schedule 6 of the Constitution.

6.98 The General Pensions Act 29 of 1979 (this Act) was enacted to consolidate laws relating to pensions generally and to further regulate pension matters generally.

6.99 Section 1 of this Act contains a definition of “non-white employees government pension fund”⁹¹ Six months after the coming into operation of this Act, the Act which regulated the Government Non-White Employees Pension Fund was repealed by the Temporary Employees Pension Fund Act 75 of 1979 and all rights and duties, existing as well as accruing, of government non-whites employees pension fund became the rights and duties of the Fund created by the 1979 Act. After the commencement of Act 75 of 1979 the legislature reviewed this definition by retaining the words “Government Non-White Employees Pension fund” but amended its meaning so that it made reference to the new fund.⁹² It is recommended that the definition of “Government Non-White Employees Pension Fund” in section 1 of this Act be deleted and that consequential amendments be made to other provisions where this expression by substituting the words “temporary employees pension fund” for the words “government non-white employees pension fund.”

6.100 Section 13(1) of this Act provides that “an officer of Parliament as defined in section 1 of the Powers and Privileges of Parliament Act 91 of 1963, and a certificate duly signed by the Speaker, as defined in section 1 of that Act to the effect that any such officer has become entitled to be paid benefits under the relevant provisions of the Scheme, shall constitute the prerequisite authority for the payment of such benefits”.⁹³ The Act referred to here (Act 91 of 1963) has been repealed, by the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004, rendering this provision redundant.

⁹¹ It states: “ ‘Government Non-White Employees’ Pension Fund’ means the Temporary Employees Pension Fund.”

⁹² Before its amendment in 1980 by Act 97 of 1980, this definition read “‘Government Non-White Employees’ Pension Fund’ means the pension fund established for Government non-White employees by the regulations made under section 2 of the Government non-White Employees’ Pensions Act, 1966 (Act 42 of 1966).”

⁹³ Section 1 of Act 91 of 1963 defined the Speaker to mean the person elected in terms of section 58 of the Constitution to be the Speaker of Parliament and an officer to mean the Secretary to Parliament, and any other person who may be appointed to the staff of Parliament.

Act 4 of 2004 also contains the definition of “speaker” and “staff member”.⁹⁴ It is thus recommended that this provision (section 13(1) of this Act) be updated so that it makes reference to the 2004 Act and not the 1963 Act.

6.101 Section 13A(2) provides that “for the purposes of subsection (1) ‘prescribed rate’ means the rate of contributions prescribed under section 17(2)(b) of the Government Service Pension Act, 1973 (Act 57 of 1973).” The Government Service Pension Act of 1973 was repealed by the Government Employees Pension Law, 1996 (Proclamation 21 of 1996). Section 17(3) of the Government Employees Pension Law, 1996 makes provision for the determination of the prescribed rate of contributions.⁹⁵ It is thus recommended that this provision be updated so that it makes reference to section 17(3) of the Government Employees Pension Law of 1996 and not to the repealed Government Service Pension Act of 1973.

6.102 Section 16(2)(c) of this Act states that “law relating to social pensions” means the Aged Persons Act 81 of 1967 (which has been repealed by the Older Persons Act 13 of 2006; the Blind Persons Act 26 of 1968 (which was repealed by the Social Pensions Act 37 of 1973); the Disability Grants Act 27 of 1968 (repealed by the Social Assistance Act 59 of 1992); the Social Pensions Act 37 of 1973 (repealed by the Social Assistance Act 59 of 1992) or the regulations made under any such Act. This provision is now redundant. It is recommended that this provision be amended so that it makes reference to the new Acts which replaced the old law relating to social pensions.

6.103 Section 20A(1) of this Act provides that “if any scheme referred to in section 110(1)(a) of the Water Act, 1956 (Act 54 of 1956), is acquired by a water board...”.⁹⁶ The

⁹⁴ In terms of section 1 'staff member' means the Secretary or any other person employed or contracted by Parliament, whether in a permanent or temporary capacity and “speaker” means the Speaker of the National Assembly or, when applicable, the office-bearer acting as Speaker

⁹⁵ Section 17(3) of the Government Employees Pension Law, 1996 reads:
“(3) The rate of contributions referred to in subsection (2) shall be determined with due regard to the valuations of the Fund, which shall be performed at intervals not exceeding three years, by an actuary appointed by the Board.”

⁹⁶ Section 110(a) of Act 54 of 1956, prior to amendment by Act 108 of 1997 provided that:
“(1) A water board shall have power-

Water Act 54 of 1956 was repealed by the National Water Act 36 of 1998. In the light of the fact that the 1998 Act does not have a similar provision, this reference serves no useful purpose any more, and it is recommended that it be repealed.

6.104 Section 20A(5) contains another definition. It provides that 'local authority' means an institution or a body contemplated in section 84(1)(f) of the Republic of South Africa Constitution Act 32 of 1961. Act 32 of 1961 was repealed by the Constitution of the Republic of South Africa Act 200 of 1993 (the Interim Constitution). The interim Constitution has been superseded by the 1996 Constitution. The 1996 Constitution dedicated a whole chapter to local government. It is therefore recommended that section 20A(5) be amended to read:

"'local authority' means **[an institution or a body]** a municipality contemplated in **[section 84 (1) (f)]** Chapter 7 of the Republic of South Africa Constitution **[Act, 1961 (Act 32 of 1961)]** , 1996;

6.105 Furthermore, this section states that "fixed date" means, inter alia, the date on which any scheme referred to in section 110(1)(a) of the Water Act 54 of 1956 is acquired by a water board. As stated, the Water Act was repealed by the National Water Act of 1998. Therefore, these two definitions contained in section 20A(5) of this Act have become redundant and it is recommended that it be repealed.

6.106 Lastly, section 8(4) makes reference to the Department of Social Welfare and Pensions;⁹⁷ section 16(1)(b), dealt with fully below makes reference to the Secretary for

-
- (a) to establish, construct, purchase or otherwise acquire and to maintain and control any scheme to provide and supply water for use for urban, industrial or agricultural purposes to local authorities, departments of State, including the South African Railways and Harbours Administration and any provincial administration, or other persons within the area for which such water board has been established."

⁹⁷

Section 8(4) reads:

"If the Minister, or an officer in the Department of Social Welfare and Pensions designated by the Minister for the purpose of this section, is satisfied that any allowance which is being paid to any person under subsection (1) (b), should be cancelled, reduced or increased, he may, with due regard to the circumstances of such person and to the rates, scales, circumstances and conditions determined in terms of subsection (1), cancel, reduce or increase such allowance with effect from such date, which may be a date in the past, as he may determine."

Social Welfare and Pensions⁹⁸ and 20A(2)(a) makes reference to the Department for Social Welfare and Pensions; section 20A(4) to the Secretary for Social Welfare and Pensions; and lastly section 20A(5) provides that the “ ‘Minister’ means the Minister of Social Welfare and Pensions”. In 1980, and due to the change in the name of department of Social Welfare and Pensions, the legislatures gave guidance as to how the references to Social Welfare and Pensions in existing laws was to be interpreted.⁹⁹ With the advent of the new constitutional democracy further changes have taken place which necessitates the amendment of these provisions. In the light of the fact that the services offered by the Department of Social Welfare and Pensions are now offered by the Department of Social Development, the SALRC recommends that the words “Department of Social Development” be substituted for the words “Department of Social Welfare and Pensions” and that the expression “Director-General: Department of Social Development” be substituted for the expression “Secretary for Social Welfare and Pensions” in the provisions referred to above.

(b) Constitutionally suspect provisions of Act 29 of 1979

6.107 Section 16 of this Act provides that:

“16 Presumptions and definitions for the purposes of laws relating to social pensions

(1) For the purposes of any law relating to social pensions in the case of a White person or a Coloured person who is a South African citizen or an Indian who immediately before 26 October 1976 complied with all the requirements of such law relating to citizenship or residence in the Republic, and who is resident in any country or area which, immediately before such date, was a part of the Republic and which has been

⁹⁸ This section is dealt with fully in paragraph 2.440.

⁹⁹ Section 23 of Pension Laws Amendment Act 97 of 1980 provides that:
 “A reference in any law to an officer in the Department of Social Welfare and Pensions, the Secretary for Social Welfare and Pensions and the Minister of Social Welfare and Pensions shall be construed as a reference to an officer in the Department of Health, Welfare and Pensions, the Director-General: Health, Welfare and Pensions and the Minister of Health, Welfare and Pensions, respectively.”

designated by the Minister by notice in the Gazette for the purposes of this section –

- (a) such person shall be deemed to be resident in the Republic;
- (b) any application for a pension or grant by such person in terms of any such law, which has been submitted to the Secretary for Social Welfare and Pensions or the Secretary for Coloured, Rehoboth and Nama Relations or the Secretary for Indian Affairs, as the case may be, shall be deemed to have been submitted to a district pension officer;
- (c) 'attesting officer' includes a person who in such country or area occupies a post which has been so designated by the Minister for the purposes of this section;
- (d) 'medical officer' or 'district surgeon' includes any person who practises as a medical officer or who carries on the profession of a medical practitioner in such country or area and who has been so designated by the Minister as a medical officer or a district surgeon, as the case may be, for the purposes of this section.

(2) For the purposes of this section, unless the context otherwise indicates –

- (a) 'Coloured person' means a person classified as a member of the Cape Coloured, Malay or Griqua group or the Other Coloured group in terms of the Population Registration Act, 1950 (Act 30 of 1950);
- (b) 'Indian' means a person classified as a member of the Indian group in terms of the Population Registration Act, 1950;
- (c) 'law relating to social pensions' means the Aged Persons Act, 1967 (Act 81 of 1967), the War Veterans' Pensions Act, 1968 (Act 25 of 1968), the Blind Persons Act, 1968 (Act 26 of 1968), the Disability Grants Act, 1968 (Act 27 of 1968), the Social Pensions Act, 1973 (Act 37 of 1973), or the regulations made under any such Act;
- (d) 'White person' means a White person as defined in section 1 of the Population Registration Act, 1950,

and any word to which any meaning has been assigned in the applicable law with reference to social pensions, shall have that meaning.

6.108 The problem with the definitions contained in the provision referred to above is not just that they are constitutionally suspect and may be inconsistent with section 9 of the Constitution, in that they make distinctions on the ground of race, but also that the Act to which they refer to (the Population Registration Act) was repealed by the Population Registration Act Repeal Act 114 of 1991. These definitions have become redundant as a result of that repeal and may be deleted or repealed.

(c) Other provisions of Act 29 of 1979 that require attention

6.109 Section 8(1) of this Act provides that “Notwithstanding anything to the contrary in any law contained but subject to the provisions of this section, the Minister may from time to time with the concurrence of the Minister of Finance”. The problem with this section is that the term “Minister” for the purpose of section 8 is not defined. To determine what the word “Minister” means one must resort to the definition in section 1 which provides that “Minister” means the Minister of Finance. Perhaps, the legislature meant the Minister of another Department. However, this provision is confusing and the wording needs to be reconsidered.

19 Temporary Employees Pension Fund Act 75 of 1979

6.110 Two definitions contained in section 1 of this Act require amendment, namely the definition of “Minister” and that of the “Secretary”. Section 1 defines “Minister” as the Minister of Social Welfare and Pensions and “Secretary” is defined to mean the Secretary for Social Welfare and Pensions. As indicated in the discussion above relating to the General Pensions Act of 1979, the services offered by the erstwhile Department of Social Welfare and Pensions are now offered by the Department of Social Development. It is therefore recommended that the words “Minister of Social Development” be substituted for the words “Minister of Social Welfare and Pensions” in the definition section. Furthermore, in a number of Acts the designation Secretary was replaced with the designation “Director-General”. It is therefore recommended that the definition of “secretary” be amended and brought into line with this development.

20 Corporation for Public Deposits Act 46 of 1984

6.111 The objects of the Corporation for Public Deposits Act 46 of 1984 was to establish a Corporation for Public Deposits; to make provision for the investment of certain moneys

received or held by, for or on behalf of the Government of the Republic and certain bodies, councils, funds and accounts; to dissolve the National Finance Corporation.¹⁰⁰ This Act is strikingly similar to the Public Investment Corporation Act 23 of 2004.¹⁰¹ The 2004 Act does not apply to deposits invested with the Corporation for Public Deposits. It also contains references to Acts or provisions in Acts that have been repealed.

6.112 Section 1 of this Act provides that “bank” means the South African Reserve Bank mentioned in section 2 of the South African Reserve Bank Act 29 of 1944. The South African Reserve Bank Act of 1944 was repealed by the South African Reserve Bank Act 90 of 1989). The 1989 Act was aimed to consolidating the laws relating to the South African Reserve Bank. It also defined “bank” to mean the South African Reserve Bank established by section 9 of the Currency and Banking Act 31 of 1920. The 1920 Act was repealed by the 1944 Act. The question arises whether an institution can continue to exist despite the repeal of the legislation which established it. For the sake of legal certainty a provision is usually included in later legislation which puts beyond doubt the continued existence of an institution or body created by law that has been repealed.¹⁰² It is recommended that a provision that the South African Reserve Bank established by section 9 of Act 31 of 1920 continues to exist despite the repeal of that Act by the 1944 Act be included in the current South African Reserve Bank Act.

¹⁰⁰ See the long title of the Act.

¹⁰¹ The purpose of the Public Investment Corporation Act of Act 23 of 2004 is to:
 “Provide for the establishment of a juristic person known as the Public Investment Corporation and for the transfer of the rights, obligations and assets of the commissioners to the corporation; to provide for the investment by the corporation of certain money received or held by, for or on behalf of the Government of the Republic and certain bodies, councils, funds and accounts; to regulate certain activities of the corporation relating to the management of investments; to repeal the Public Investment Commissioners Act and to terminate the term of office of all the commissioners; and to provide for matters connected therewith.”

¹⁰² The Land Bank and Agricultural Development Bank Act 15 of 2002 provides, for example, in section 2 that “(1) The Bank established under section 3 of the Land Bank Act, 1912 (Act 18 of 1912), and which continued to exist in terms of section 3 of the Land Bank Act, 1944 (Act 13 of 1944), continues to exist under the name of the Land and Agricultural Development Bank of South Africa despite the repeal of those Acts.”

6.113 Section 1 also provides that “commissioners” mean the Public Investment Commissioners referred to in section 2 of the Public Investment Commissioners Act of 1984. Act 45 of 1984 was repealed by the Public Investment Corporation Act 23 of 2004. The Public Investment Corporation Act of 2004 created the Public Investment Corporation which performs functions that were performed by the Public Investment Commissioners. It is thus recommended that the definition of “commissioners” in section 1 be deleted. It is recommended that a new definition of “Public Investment Corporation”¹⁰³ be inserted in the definition section. Furthermore, it is recommended that consequential amendments be made in the provisions where reference is made to “commissioners by replacing that word with “Public Investment Corporation”.

6.114 A more challenging definition is that of “public deposit” which is quoted in full hereunder:

- “public deposit” means an amount of money other than revenue as defined in section 1 of the Exchequer and Audit Act, 1975 (Act 66 of 1975)-
- (a) which is received or held by, for or on behalf of-
 - (i) the Government of the Republic, including the Department of Posts and Telecommunications and the provincial administrations; or
 - (ii) any body, council, fund or account established by or under any law which may, or is required to, invest, in terms of that law, or that law as construed in terms of section 14 (2) (b) of the Public Investment Commissioners Act, 1984, such amount of money with the corporation; and
 - (b) which is not required for immediate use or as a reasonable working balance; and
 - (c) which is not invested or otherwise utilized, in terms of a provision of any law, otherwise than in terms of this Act,
- and, except for the purposes of section 4, includes an amount of money received or held by, for or on behalf of a person or body referred to in that section.

6.115 Firstly, the Exchequer Act of 1975 was repealed by the Public Finance Management Act of 1999. The latter Act does not contain a definition of “revenue”. However, the Public Finance Management Act of 1999 created the National Revenue

¹⁰³ That “corporation” means the Public Investment Corporation established by section 2(1) of the Public Investment Corporation Act, 2004 (Act 23 of 2004).

Fund into which all monies received on behalf of government and all taxes, levies, duties, fees and other moneys collected by the South African Revenue Services must be paid. Furthermore, the Public Finance Management Act contains stringent requirements relating to the deposits and withdrawals from the National Revenue Fund. The Department of Posts and Telecommunications no longer exists and the reference to it in this definition should be deleted.¹⁰⁴ For the sake of legal certainty, it is recommended that the expression “provincial administration” be replaced with the expression “provinces”, an expression used in the Constitution. As stated above, this Act, as is the case with the Public Investment Corporation Act of 2004, regulates the investment of public money held by the organs of state. It is therefore imperative that the money invested with the Public Investment Corporation be excluded from the purview of this Act. The SALRC thus recommends that paragraph (a) of the definition of public deposits be amended as follows:

“‘public deposit’ means an amount of money other than **[revenue as defined in section 1 of the Exchequer and Audit Act, 1975 (Act 66 of 1975)]** that forming part of the National Revenue Fund as contemplated in the Public Finance Management Act, 1999 (Act 1 of 1999)-

- (a) which is received or held by, for or on behalf of –
 - (i) the Government of the Republic, including **[the Department of Posts and Telecommunications and]** the [provincial administrations] provinces; or
 - (ii) any body, council, fund or account established by or under any law which may, or is required to, invest, in terms of that law, or that law as construed in terms of section 14 (2) (b) of the Public Investment Commissioners Act, 1984, such amount of money with the corporation; and
- (b) which is not required for immediate use or as a reasonable working balance; **[and]**
- (c) which is not invested or otherwise utilized, in terms of a provision of any law, otherwise than in terms of this Act, and
- (d) which is not invested with the Public Investment Corporation established by section 2(1) of the Public Investment Corporation Act, 2004 (Act 23 of 2004),

¹⁰⁴ See chapter 6 of the Constitution.

and, except for the purposes of section 4, includes an amount of money received or held by, for or on behalf of a person or body referred to in that section.”

6.116 Section 3(1)(a)(i) to (vii) provides that the corporation shall have the powers to invest deposits and other moneys in (i) stock, bonds or treasury bills issued in terms of section 19 of the Exchequer and Audit Act 66 of 1975, (ii) bills or promissory notes by the Land and Agricultural Bank of South Africa in terms of section 20 of the Land Bank Act 13 of 1944;¹⁰⁵ (iii) stock bonds issued by the Department of Posts and Telecommunications in terms of section 12 of the Post Office Act 44 of 1958; (iv) stock or bills issued by the Rand Water Board in terms of the Rand Water Board Statutes (Private) Act 17 of 1950; (v) debentures, bills or stock issued by the National Housing Commission in terms of section 3A of the Housing Act 4 of 1966; and (vi) securities issued by- (bb) body, council or institution contemplated in section 84(1)(f) of the Republic of South Africa Act 32 of 1961; or the Electricity Supply Commission in terms of the Electricity Act 40 of 1958. These Acts have all been repealed by some or other Act.¹⁰⁶ Reference to these Acts in this Act is misleading. It is recommended that these references be deleted. It is further recommended that paragraph (a) of section 3(1) be amended to empower the corporation to adopt an investment policy prescribed by the National Treasury in terms of section 7(4) of the Public Finance Management Act of 1999.

6.117 Section 4(2) of this Act also makes reference to the Public Debt Commissioners Act of 1969.¹⁰⁷ The Public Debt Commissioners Act of 1969 was repealed by the Public Investment Commissioners Act 45 of 1984.¹⁰⁸ The latter piece of legislation has been

¹⁰⁵ Section 3(1)(a)(ii)(bb) of the Act.

¹⁰⁶ See The South African Reserve Bank Act 1 of 1999; Act 15 of 2002; Act 124 of 1998; Act 36 of 1998; Act 107 of 1997; Act 200 of 1993; Act 4 of 2006; and Act 28 of 2001.

¹⁰⁷ Section 4(2) of this Act reads:
 “A person in respect of whom the Minister has required, in terms of section 10 of the Public Debt Commissioners Act, 1969 (Act 2 of 1969), the Public Debt Commissioners, as referred to in that Act, to undertake the collection, administration and investment of moneys controlled or disposed of by that person, shall unless that person requests otherwise, be deemed to be authorized in terms of subsection (1) of this section to invest those moneys with the corporation.”

¹⁰⁸ The latter Act has been repealed by the Public Investment Corporation Act 23 of 2004.

repealed by the Public Investment Corporation of 2004. Section 11 of the Public Investment Corporation Act authorises the Minister of Finance to authorise that money be paid to the corporation for investment.¹⁰⁹ The SALRC recommends that section 4(2) of this Act be amended so that it makes reference to the relevant provision of the Public Investment Corporation Act of 2004.

6.118 Various provisions of section 9 of this Act use the expressions “chairman” and “vice-chairman”.¹¹⁰ These terms are not gender-neutral. It is recommended that they be substituted with gender neutral terms such as “chairperson” and “vice-chairperson”.

6.119 Section 19 of this Act provides that no provision of the Banks Act 23 of 1965 shall apply in relation to the corporation. The Banks Act 23 of 1965 was repealed by Act 94 of 1990. It is recommended that this section be amended by the substitution of the expression “Banks Act 94 of 1990” for the words “Banks Act 23 of 1965”. Such an amendment would be consistent with section 2 of the Banks Act of 1990, which expressly excludes the Corporation for Public Deposits from the purview of that Act.

6.120 Section 21 of this Act deals with the disposal of the assets, liabilities, rights and obligations of the National Finance Corporation of South Africa. Subsection (1) of this section provides that the firm of accountants charged in terms of section 16(2) of the National Finance Corporation Act 33 of 1949 shall designate as soon as possible but not later than the date immediately before the commencement of other provisions of this Act a person as a liquidator who shall exercise all the powers and perform the duties imposed in relation to the dissolve corporation upon the liquidator by this section.

¹⁰⁹ Section 11 of Act 23 of 2004 reads:
“11. Amounts of money other than deposits

(1) The Minister may, if it is in the public interest, authorise generally or in respect of a particular case any person or body receiving or holding within or outside the Republic amounts of money other than deposits to pay those amounts of money or portions thereof to the corporation for investment as if those amounts of money were deposits.”

(2) The corporation may receive for investment amounts of money other than deposits and those amounts contemplated in subsection (1).

¹¹⁰ See section 9(3) and (4) of this Act.

6.121 Subsection (2) states that at the commencement of this Act all assets and liabilities, rights and obligations of the dissolved corporation shall vest in the liquidator. Subsection (3) also provides that after the commencement of this Act, but not later than seven days after that commencement, the corporation shall pay to the bank the amount of money referred to in subsection (2)(e)(ii) together with interest thereon.

6.122 Subsection (4) of this section empowers the Minister to exercise the powers conferred on the liquidator or the firm of accountants if they fail to exercise the duties imposed upon them by the Act. The obligations imposed by these provisions had to be performed after the commencement of this Act. This Act came into operation on 31 March 1984, and section 21(1), on the 30 March 1984. The SALRC is of the view that section 21(1) of this Act has expired and that if these powers conferred by the provisions mentioned above were exercised, then these provisions are now spent on that date. The SALRC recommends that the provisions discussed above be repealed.

21 Revenue Accounts Financing Act 120 of 1984

6.123 This Act has a meagre four sections and its purpose of this Act was to provide for the crediting, as a charge against the State Revenue Account, of the other Revenue Accounts of the State Revenue Fund with a certain amount for the financial year ending 31 March 1986.¹¹¹ Section 1 of this Act provides that “principal Act” means the Exchequer and Audit Act 66 of 1975. The Exchequer Act of 1975 was repealed by section 94 of the Public Finance Management Act 1 of 1999.

6.124 Section 2(1) of this Act provides that a Revenue Account referred to in section 2(1)(b) of the *principal Act* shall be credited as a charge against the State Revenue Account in respect of the financial year ending 31 March 1986 with a sum equal to the sum appropriated by an appropriation Act or any other law in respect of the financial year ending 31 March 1985 for the requirements of the State in connection with the

¹¹¹ See the long title.

administration of matters which on 1 April 1985 are matters for which that Revenue Account has been established. Subsection (2) provides that the Minister of Finance shall as soon as possible after the 1 April 1985 calculate the sum of money appropriated as contemplated in subsection (1). This piece of legislation can only be understood if it is read with its principal Act, namely the Exchequer Act of 1975. However, the principal Act was repealed. This Act should have been repealed contemporaneously with the principal Act. The SALRC thus recommends that this Act be repealed because it is spent.

22 State Tender Board Amendment Act 18 of 1987

6.125 The purpose of this Act was to provide for the establishment, constitution and powers of regional tender boards. Section 2 of this Act inserted section 3A in the State Tender Board Act 86 of 1968. This provision reads:

3A Constitution of regional tender boards

(1) A regional tender board shall consist of not fewer than 10 and not more than 4 members appointed by the Minister, of whom-

- (a) one shall be appointed out of a list of names of two persons designated by the Chairman of the Ministers' Council in the House of Assembly;
- (b) one shall be appointed out of a list of names of two persons designated by the Chairman of the Ministers' Council in the House of Representatives;
- (c) one shall be appointed out of a list of names of two persons designated by the Chairman of the Ministers' Council in the House of Delegates;
- (d) two shall be appointed out of a list of names of four persons designated by the relevant Administrator;
- (e) so many who are officers or employees may be appointed as, together with any members appointed under paragraphs (a), (b), (c) and (d) who are officers or employees, do not exceed half the total number of the members.

(2) If for any reason no person is or can be designated in terms of subsection (1) (a), (b), or (c) within 30 days after the Minister has requested the Chairman concerned to do so, the Minister may appoint as a member such person as he may deem fit.

6.126 As discussed above in relation to the principal Act (the State Tender Board Act, 1968), the problem with this provision is that it makes a reference to institutions and

functionaries that no longer exist namely, House of Representatives, House of Delegates, and Administrators. The SALRC has recommended that the principal Act be amended by the deletion of paragraphs (a) to (d) of section 3A. Therefore, no recommendation is made in respect of this amendment Act.

23 Friendly Societies Amendment Act 44 of 1988

6.127 The purpose of this Act was to amend, by substituting or adding subsections to various provisions of the Friendly Societies Act 25 of 1956. Section 1(c) of this Act amended section 3(2) of the Friendly Societies Act by substituting paragraph (b). This paragraph makes reference to the Insurance Act 27 of 1943.¹¹² The SALRC has recommended above, in respect of the Friendly Societies Act of 1956 that “Insurance Act” in the definition section be amended so as to make reference to the Long-term Insurance Act 52 of 1998.

6.128 Section 3 of this Act added section 38A in the Friendly Societies Act which provides:

“38A Application for approval for conversion of society into company

(1) A registered society intending to apply in terms of section 4 of the Insurance Act, 1943 (Act 27 of 1943), to the Registrar of Insurance to carry on a particular class of insurance business within the meaning of that Act, may apply to the Registrar of Friendly Societies for his approval for its conversion into a company referred to in section 4 (3)*bis* (b) (i) of that Act, so as to be able to make such application to the Registrar of Insurance.

(2) An application to the Registrar of Friendly Societies referred to in subsection (1), shall be accompanied by-

(a) a proposed memorandum and articles of association for the public company to be established by the conversion;

¹¹²

This paragraph reads:

“(b) that a friendly society which has applied for registration under this Act, operates exclusively by means of policies of insurance issued by a person lawfully carrying on insurance business within the meaning of the Insurance Act, he may by notice in writing addressed to that society, and on such conditions as may be specified in that notice, exempt that society from the operation of all or any of the provisions of this Act”.

- (b) an exposition of the basis and conditions on which it is contemplated to offer or grant shares in that company to persons who are members of the Society, and other persons;
- (c) an exposition of the manner in which the first directors of that company are to be designated.

6.129 The Insurance Act to which these provisions refer is the Insurance Act 27 of 1943 which was repealed by Act 52 of 1998. This provision has already been considered as part of the review of the Friendly Societies Act 25 of 1956. It has been included in this section for the sake of completeness.

24 Accountants' and Auditors' and Financial Institutions Amendment Act 92 of 1988

6.130 This piece of legislation had a meagre five sections. The purpose of this Act, as it is clear from its long title, was to amend the Public Accountants' and Auditors' Act of 1951 and the Inspection of Financial Institutions Act of 1984. The first two sections, sections 1 and 2 were repealed by section 28 of the Public Accountants' and Auditors' Act 80 of 1991. The remaining two sections, section 3 and 4, amended sections 6 and 8(1) respectively of the Inspection of Financial Institutions Act 38 of 1984. Act 38 of 1984 was repealed by the Inspection of Financial Institutions Act 80 of 1998. However, consequential amendments were made to this Act when the Financial Institutions Act of 1998 was repealed. Clearly this Act has become redundant. It is recommended that the entire Act be repealed.

25 South African Reserve Bank, Banking Institutions, Mutual Building Societies, and Building Societies Amendment Act 96 of 1988

6.131 The purpose of this Act was to effect amendments to various pieces of legislation, namely the South African Reserve Bank Act of 1944; the Banks Act of 1965; the Mutual Building Societies Act of 1965; and the Building Societies Act of 1986. All the provisions of this Act, except the long title and section 52 containing the short title, have been repealed

by some or other Act.¹¹³ This Act does not serve any useful purpose anymore, and it is hereby recommended for repeal in its entirety.

26 Banking Institutions, Mutual Building Societies and Building Societies Amendment Act 13 of 1989

6.132 The purpose of this Act was to effect amendments to the Banks Act of 1965; the Mutual Building Societies Act of 1965; and the Building Societies Act of 1986. All the provisions of this Act, except the long title and section 15 (the short title provision), have been repealed by some or other Act.¹¹⁴ As a result, this Act serves no useful purpose anymore, and it hereby recommended for repeal in its entirety.

27 South African Reserve Bank Act 90 of 1989

6.133 The purpose of the South African Reserve Bank Act 90 of 1989 (this Act) was to consolidate the laws relating to the South African Reserve Bank and the monetary system of the Republic.¹¹⁵ This Act has been amended by the South African Reserve Bank Amendment Act 4 of 2010 which came into operation on 13 September 2010. However, the provisions dealt with below were not amended.

6.134 Section 1 of this Act provides that “bank” means the South African Reserve Bank established by section 9 of the Currency and Banking Act. Furthermore, the Act defines the “Currency and Banking Act” as the Currency and Banking Act 31 of 1920. The

¹¹³ Section 1 was repealed by section 40 of Act 90 of 1989; sections 2 to 16 inclusive were repealed by section 95(1) of Act 94 of 1990; sections 17 to 31 inclusive were repealed by section 95(1) of Act 124 of 1993; and sections 32 to 51 inclusive were repealed by section 95(1) of Act 94 of 1990.

¹¹⁴ Sections 1 to 6 were repealed by section 95(1) of Act 94 of 1990; sections 7 to 10 were repealed by section 95(1) of Act 124 of 1993; and sections 11 to 14 were repealed by section 95(1) of Act 94 of 1990.

¹¹⁵ See the long title.

problem with these definitions is that the Currency and Banking Act 31 of 1920 was repealed by the South African Reserve Bank Act 29 of 1944. As pointed out elsewhere in this report, the question arises whether an institution can continue to exist despite the repeal of the legislation which established it. For the sake of legal certainty a provision is usually in later legislation which puts beyond doubt the continued existence of an institution or body created by law that has been repealed.¹¹⁶ It is recommended that a provision that the South African Reserve Bank established by section 9 of Act 31 of 1920 continues to exist despite the repeal of that Act by the 1944 Act be included in the current South African Reserve Bank Act.

6.135 The definition of “financial instrument” also makes reference to laws that do no longer exist.¹¹⁷ Paragraph (a) of the definition of “financial instrument” states that “financial instrument” means “any security as referred to in the definition of “securities” in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985). The Stock Exchanges Control Act referred to in this paragraph was repealed by the Securities Services Act 36 of 2004. The latter Act also contains a definition of “securities”. It is thus recommended that this paragraph be updated so that it makes reference to Act 36 of 2004.

6.136 Paragraph (b) of the same definition states that it means “any financial instrument as defined in section 1 of the Financial Markets Control Act, 1989 (Act 55 of 1989), irrespective, in the case of such instrument that is an creating or acknowledging

¹¹⁶ The Land Bank and Agricultural Development Bank Act 15 of 2002 provides, for example, in section 2 that “(1) The Bank established under section 3 of the Land Bank Act, 1912 (Act 18 of 1912), and which continued to exist in terms of section 3 of the Land Bank Act, 1944 (Act 13 of 1944), continues to exist under the name of the Land and Agricultural Development Bank of South Africa despite the repeal of those Acts.”

¹¹⁷ Section 1 of this Act defines “financial instruments as follows:
 “financial instrument” means-

- (a) any security as referred to in the definition of 'securities' in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985);
- (b) any financial instrument as defined in section 1 of the Financial Markets Control Act, 1989 (Act 55 of 1989), irrespective, in the case of such instrument that is an instrument creating or acknowledging indebtedness, of the term for which it has been issued;
- (c) any right or other benefit in respect of or accruing to a security referred to in paragraph (a) or a financial instrument referred to in paragraph (b); and
- (d) any other instrument, right or benefit declared by the Minister by notice in the Gazette to be a financial instrument for the purposes of section 10 (1) (h).”

indebtedness, of the term for which it has been issued”. Act 55 of 1989 was also repealed by the Securities Services Act 36 of 2004. However, the latter Act makes no reference to “financial instrument”. It is therefore recommended that this definition be deleted. It is also recommended that consequential amendment be made to paragraph (c) of this definition by deleting the words “or a financial instrument referred to in paragraph (b)”.

6.137 Section 11(2) of this Act dealing with the appointment of inspectors provides that the provisions of the Inspection of Financial Institutions Act 38 of 1984, except section 2 and 7, shall apply *mutatis mutandis* in respect of an inspection carried out in terms of subsection (1). Section 2 and 11 of Act 38 of 1984 regulated the appointment of inspectors and the expenses of the inspection respectively.¹¹⁸ Section 12(2), dealing with the inspection of the affairs of person, partnership, close corporation, company or other juristic person not registered as a bank or mutual bank, provides that the provisions of section 4, 5, 8 and 9 of the Inspection of Financial Institutions Act 38 of 1984 shall apply *mutatis mutandis* in respect of an inspection carried out in terms of subsection (1).¹¹⁹

6.138 The Inspection of Financial Institutions Act of 1984 was repealed by the Inspection of Financial Institutions Act 80 of 1998. The SALRC recommends that these provisions be amended so that they refer to the Inspection of Financial Institutions Act of 1998. It is recommended that section 11(2) be amended by deleting reference to the Inspection of Financial Institution Act of 1984 with a reference to the 1998 Act and that section 12(2) be amended by replacing reference to section 4, 5, 8 and 9 of the Inspection of Financial Institutions Act 38 of 1984 with reference to sections 3, 3A, 4, 5, 8 and 12 of the Inspection of Financial Institutions Act of 1998.¹²⁰

¹¹⁸ In the Inspection of Financial Institutions Act 80 of 1998 these matters are regulated by section 2 and 11 respectively.

¹¹⁹ These provisions of the Inspection of Financial Institutions Act 38 of 1984 regulated the powers of the registrar and the inspectors; reporting by inspectors; the observance of secrecy and created offences and provided penalties.

¹²⁰ Section 12 of the Inspection of Financial Institutions Act of 1998 provides that:
“12. Offences and penalties
 A person who-
 (a) when requested by an inspector to take an oath or to make an affirmation, refuses to do so;

6.139 Section 15(1) states that the monetary unit of the Republic shall be the rand and the cent. Section 15(2) provides a table of the respective values, in rand and cent, of coins manufactured and issued under designations than rand and cent which by virtue of the provisions of section 14(1) remain in circulation. In terms of this table the value of a pound is two rand; half-pound is one rand; a crown is fifty cents; a half-crown is twenty-five cents; a florin is twenty cents; a shilling is ten cents; sixpence is five cents; three pence is two-and-half cents; a penny is ten-twelfths of a cent; a half-penny is five-twelfths of a cent; and a farthing is five twenty-fourths of a cent. None of these coins are still in circulation. It is therefore recommended that section 15(2) of this Act be repealed on the grounds that it has become redundant.

6.140 Section 27(1)(c) of this Act states that “any agreement entered into by the Minister of Economic Affairs and Technology under section 2 of the Export Credit and Foreign Investments Insurance Act, 1957 (Act 78 of 1957), with the Credit Guarantee Insurance Corporation of Africa Limited...shall accrue to the Government”. Section 2 of the Export Credit and Foreign Investments Insurance Act of 1957 provides that:

The Minister, in consultation with the Minister of Finance, shall enter into an agreement with the Corporation with the object of insuring on behalf of the Government in terms of policies of insurance any contracts entered into by persons carrying on business in the Republic, being contracts subject to risk of monetary loss or monetary detriment attributable to circumstances beyond the control of the person suffering the loss or detriment and arising out of or in connection with ...

6.141 First the title of Act 78 of 1957 was amended by the substitution of the word “Insurance” for the word “Re-insurance”. Therefore, there is inconsistency between section 27(1)(c) of this Act (Act 90 of 1989) and the Export Credit and Foreign Investments Re-

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- (b) without lawful excuse refuses or fails to answer a question put by an inspector and relating to the affairs of an institution being inspected;
 - (c) wilfully gives any false information to an inspector;
 - (d) without lawful excuse refuses or fails to comply with any reasonable request by an inspector in the exercise of his or her powers or the performance of his or her duties;
 - (e) wilfully hinders an inspector in the exercise of his or her powers or the performance of his or her duties;
 - (f) contravenes section 8,
- is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.”

insurance Act. Furthermore, the definition of “Minister” in the Export Credit and Foreign Investments Insurance Act of 1957 has been amended recently to mean the Minister of Trade and Industry. The SALRC recommends that section 27(1)(c) be aligned with the provisions of Act 78 of 1957 by deleting “Minister of Economic Affairs and Technology” and replace them with the words “Minister of Trade and Industry”.

6.142 Section 34(1)(k) of this Act creating offences states that any person who without the written approval of the Department of Finance, intentionally destroys, melts down, dissolves in any dissolvent, breaks up or damages a coin that has been issued under section 11 of the South African Mint and Coinage Act 78 of 1964 or under section 14 of this Act shall be guilty of an offence. Act 78 of 1964 was repealed by the South African Reserve Bank Act Amendment Act 49 of 1989. The latter Act was repealed by the Act under consideration. It is believed that reference to section 11 of Act 78 of 1964 was included to make assurance double sure and therefore may be deleted. Section 14 of this Act regulates the issuing of bank notes and coins.

28 Banks Act 94 of 1990

(a) *References to repealed legislation*

6.143 Section 2 of this Act contains a list of institutions and functionaries to whom the provisions of this Act do not apply. Section 2(b)(v) provides that the provisions of this Act shall not apply to the Public Investment Commissioners referred to in section 2 of the Public Investment Commissioners Act 45 of 1984. Act 45 of 1984 was repealed by the Public Investment Corporation Act 23 of 2004 and all the functions of the Public Investment Commissioners were transferred to the Public Investment Corporation.¹²¹ It is thus recommended that section 2(b)(v) be amended to read:

¹²¹ Section 12(2) of the Public Investment Corporation Act 23 of 2004 provides that:
“12. Transitional provisions

(1) (a) With effect from a date to be determined by the Minister by notice in the Gazette, the commissioners cease to exist as such and the term of office of each commissioner terminates.

“(v) the **[Public Investment Commissioners]** Public Investment Corporation referred to in section 2 of the **[Public Investment Commissioners Act, 1984 (Act 45 of 1984)]** Public Investment Corporation Act, 2004 (Act 23 of 2004).”

6.144 Section 38 of this Act dealing with the registration of shares in the names of nominees provides in subsection (2) that:

- (2) Subsection (1) shall not affect the allotment or issue, or the registration of the transfer, of shares in a bank or controlling company-
- (a) in the name of a trustee of a unit trust scheme as defined in section 1 of the Unit Trusts Control Act, 1981 (Act 54 of 1981), or of a nominated company of the trustee approved by the Registrar of Unit Trust Companies;
 - (b) in the name of any executor, administrator, trustee, curator, guardian or liquidator in the circumstances mentioned in section 103 (3) of the Companies Act;
 - (c) for a period of not more than six months, in the name of a stock-broker or of a company established by such stock-broker for a purpose mentioned in section 12 (3) of the Stock Exchanges Control Act, 1985 (Act 1 of 1985), or of a company controlled by the bank or of an employee of the bank, if it is necessary that the shares be so allotted, issued or registered in order to facilitate delivery to the purchaser or to protect the rights of the beneficiary in respect of those shares or where the beneficiary is not known;
 - (d) in the name of a person in other special circumstances determined by the Minister by notice in the Gazette; or
 - (e) in the name of a central securities depository as defined in section 1 of the Safe Deposit of Securities Act, 1992.

6.145 Paragraphs (a), (c) and (e) of this subsection require updating as the Acts referred to in these provisions namely the Unit Trusts Control Act of 1981; the Stock Exchanges Control Act of 1985; and the Safe Deposit of Securities Act of 1992 were repealed by the Collective Investment Scheme Control Act 45 of 2002; Securities Services Act 36 of 2004 respectively. The SALRC thus recommends that these three paragraphs mentioned above be amended. To enable it to propose possible amendment to paragraph (a) the SALRC reviewed Acts which contained a provision similar to paragraph (a) of section 38(2) for

(b) With effect from the date contemplated in paragraph (a), all of the assets, liabilities, rights and obligations of the commissioners are transferred to the corporation.”

guidance. Section 25(2)(a) of the Long-term Insurance Act 52 of 1998, prior to amendment by the Insurance Laws Amendment Act 27 of 2008, also made reference to “a trustee of a unit trust scheme as defined in section 1 of the Unit Trusts Control Act 54 of 1981.”¹²² With regard to paragraph (c), it is first worth mentioning that section 12(3) of Act 1 of 1985¹²³ was repealed by section 12(b) of Act 54 of 1995. However, the new Securities Services Act of 2004 contains a definition of “stock broker” and therefore the provision could be updated by retaining that which is catered for or regulated by the new Act and by deleting that which is not. With regard to paragraph (e), the Securities Services Act of 2004 also contains the definition of “central securities depository”. Therefore the defect this provision can be cured by updating this provision. The SALRC thus proposes the following amendment to paragraph (a), (c) and (e) of section 38(2) of this Act:

“(2) Subsection (1) shall not affect the allotment or issue, or the registration of the transfer, of shares in a bank or controlling company –

- (a) in the name of a trustee **[of a unit trust scheme as defined in section 1 of the Unit Trusts Control Act, 1981 (Act 54 of 1981)]** or custodian of a collective investment scheme as defined in section 1 of the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002), or [of a nominated company of the trustee approved by the Registrar of Unit Trust Companies] a nominated representative of such trustee or custodian appointed in terms of section 68(6)(a) of the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002);”
- (b) ...

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This section now reads:

“(2) Subsection (1) shall not apply to the allotment, issue or registration of the shares of a long-term insurer –

- (a) to or in the name of a trustee or custodian of a collective investment scheme as defined in section 1 of the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002), or a representative of such trustee or custodian appointed in terms of section 68 (6) (a) of the Collective Investment Schemes Control Act, 2002;”

¹²³

This section reads:

“The rules of a stock exchange shall prescribe the conditions subject to which a member who is a stock-broker may establish a company the main object of which is to hold shares on his behalf or on behalf of his clients, and the objects and powers of such a company.”

- (c) for a period of not more than six months, in the name of a stock-broker **[or of a company established by such stock-broker for a purpose mentioned in section 12 (3) of the Stock Exchanges Control Act, 1985 (Act 1 of 1985)]** as defined in section 1 of the Securities Services Act, 2004 (Act 36 of 2004) , or of a company controlled by the bank or of an employee of the bank, if it is necessary that the shares be so allotted, issued or registered in order to facilitate delivery to the purchaser or to protect the rights of the beneficiary in respect of those shares or where the beneficiary is not known;
- (d) ...
- (e) in the name of a central securities depository as defined in section 1 of the **[Safe Deposit of Securities Act, 1992]** Securities Services Act, 2004 (Act 36 of 2004).

6.146 Section 63(1)(a) of this Act provides that:

“(1) Notwithstanding anything to the contrary contained in the Auditing Profession Act, 2005 (Act 26 of 2005), or the Companies Act, but subject to the provisions of subsections (2) and (3) of this section, the auditor referred to in section 61 or 62 –

- (a) shall, whenever such auditor furnishes, in terms of section 20(5)(b) of the first-mentioned Act, the Public Accountants' and Auditors' Board with copies of the report, acknowledgement of receipt and reply and with the other particulars referred to in that section, relating to an irregularity or suspected irregularity in the conduct of the affairs of the bank for which such auditor has been appointed as auditor, also furnish the Registrar with such copies and particulars...”

6.147 Section 63(1) was amended in 2007 by the Banks Amendment Act of 2007.¹²⁴ However, paragraph (a) of section 63(1) was not amended consequentially. It relates to section 20(5)(b) of the Public Accountants' and Auditors' Act of 1991. This Act as discussed above in respect of mutual banks, section 20(5)(a) of the Public Accountants'

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Prior to its amendment by the Banks Amendment Act 20 of 2007, section 63(1) provided that:

“Notwithstanding anything to the contrary contained in the Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991), or the Companies Act, but subject to the provisions of subsections (2) and (3) of this section, the auditor referred to in section 61 or 62.”

and Auditors' Act of 1991 empowered the auditor to any undertaking to bring any material irregularity in the conduct of the affairs which has caused or is likely to cause financial loss to the attention of the undertaking by means of a report. Section 20(5)(b) of the 1991 gave the entity concerned 30 days to satisfy the auditor that no such irregularity has taken place or that necessary steps have been taken to recover any loss caused or to prevent any such loss. If the institution failed to comply with these conditions, the auditor had to furnish the Public Accountants' and Auditors' Board with copies of the report.¹²⁵

6.148 As stated above, the Public Accountants' and Auditors' Act of 1991 was repealed by the Auditing Profession Act of 2005 and therefore the powers given to the auditor by section 20(5)(b) have ceased to exist. Section 45 of the Auditing Profession Act of 2005 imposes a duty on a registered auditor to report irregularities. In contrast to section 20(5)(b) of the 1991 Act, section 45 does not afford the entity whose affairs are under scrutiny the opportunity to convince the auditor that no irregularity has taken place or that measures have been taken to recover the money lost or to prevent such loss. Section 45 of the 2005 Act makes it obligatory for the auditor to report any irregularity to the Regulatory Board without delay. It further requires the auditor to notify the members of the institution concerned within three days of sending the report that a report has been submitted to the Regulatory Board.¹²⁶ It is recommended that reference to section 20(5)(b)

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Section 20(5)(b) of the Public Accountants' and Auditors' Act of 1991 provided that:

"(5) (a) If any person acting in the capacity of auditor to any undertaking is satisfied or has reason to believe that in the conduct of the affairs of such undertaking a material irregularity has taken place or is taking place which has caused or is likely to cause financial loss to the undertaking or to any of its members or creditors, he shall forthwith despatch a report in writing to the person in charge of that undertaking giving particulars of the irregularity, at the same time drawing the attention of such person in charge to the provisions of paragraphs (b) and (c) and requesting him to acknowledge receipt of such report in writing.

(b) Unless within 30 days after an auditor has despatched such a report, he has been satisfied that no such irregularity has taken place or is taking place or that adequate steps have been taken for the recovery of any such loss so caused or for the prevention of any such loss likely to be so caused, he shall forthwith furnish the board with copies of the report and of any acknowledgement of receipt thereof and reply thereto and such other particulars as he may deem fit."

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The relevant provisions of section 45 of the Auditing Profession Act of 2005 provide that:

"45 Duty to report on irregularities

(1) (a) An individual registered auditor referred to in section 44 (1) (a) of an entity that is satisfied or has reason to believe that a reportable irregularity has taken place or is taking place in respect of that entity must, without delay, send a written report to the Regulatory Board.

of the Public Accountants' and Auditors' Act of 1991 be replaced with reference to section 45 of the Auditing Profession Act of 2005 and that reference to the Public Accountants' and Auditors' Board be replaced with reference to the Regulatory Board, the successor to the Public Accountants' and Auditors' Board.¹²⁷

(b) Constitutionally suspect provision of Act 94 of 1990

6.149 Section 87(1) and (2) of this Act reads:

(1) Notwithstanding anything to the contrary contained in any law or the common law, and unless otherwise provided in the memorandum of association or articles of association of a bank, a minor over the age of 16 years or a married woman, whether or not under marital power, may be a depositor with a bank and may without the consent or assistance of his guardian or her husband, as the case may be, execute all necessary documents, give all necessary acquittances and cede, pledge, borrow against, and generally deal with, his or her deposit as he or she thinks fit, and shall enjoy all the privileges and be liable to all the obligations and conditions applicable to depositors.

(2) The husband of a woman who is a depositor with a bank shall, save with her written consent, not be entitled to demand or receive from the bank any particulars concerning the deposits she holds with that bank.

6.150 The only problem with section 87(1) is that, when interpreted at face value, it creates the impression that it should be possible for a bank in its memorandum of association or articles of association to prevent a woman who wishes to become a depositor without her husband's consent from doing so. This would be inconsistent with the Constitution. The SALRC recommends that reference in this section to married women be deleted as it is contrary to the ethos of the Constitution in general, and section 9 in particular. Subsection (2) protects married women by ensuring that they are consulted

(b) The report must give particulars of the reportable irregularity referred to in subsection (1) (a) and must include such other information and particulars as the registered auditor considers appropriate.

(2) (a) The registered auditor must within three days of sending the report to the Regulatory Board notify the members of the management board of the entity in writing of the sending of the report referred to in subsection (1) and the provisions of this section.

(b) A copy of the report to the Regulatory Board must accompany the notice.

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Section 59(1)(a) of the Auditing Profession Act 26 of 2005.

whenever their husbands require access to their banking information and thus ensures that the right of married women to privacy is protected. The SALRC thus recommends that it be retained.

29 Extension of the Powers of the South African Reserve Bank Act 95 of 1990

6.151 This Act contains a meagre three sections. Its purpose, as set out in the long title, is to authorize the South African Reserve Bank and the Registrar of Banks to perform certain functions within or in relation to certain other countries or in respect of certain persons carrying on or intending to carry on business within such countries.

6.152 Section 1 of this Act refers to statutory enactments that have been repealed, namely the Currency and Banking Act 31 of 1920 and the Banks Acts 23 of 1965.¹²⁸ As pointed out elsewhere in this report, the South African Reserve Bank Act of 1944 was repealed by the South African Reserve Bank Act 90 of 1989). The 1989 Act was aimed to consolidating the laws relating to the South African Reserve Bank. It also defined “bank” to mean the South African Reserve Bank established by section 9 of the Currency and Banking Act 31 of 1920. The 1920 Act was repealed by the 1944 Act. The question arises whether an institution can continue to exist despite the repeal of the legislation which established it. For the sake of legal certainty a provision is usually inserted in later

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Section 1 of this Act reads:

“1. Performance of functions within or in relation to countries other than Republic of South Africa

The South African Reserve Bank established by section 9 of the Currency and Banking Act, 1920 (Act 31 of 1920), and the Registrar of Banks referred to in section 3 (1) of the Banks Act, 1965 (Act 23 of 1965), may, subject to the provisions of section 2 –

(a) within or in relation to any country other than the Republic of South Africa and which other country has been designated by the State President by proclamation in the Gazette; or
 (b) in respect of any person carrying on business or intending to carry on business as a banking institution or bank controlling company in any other country referred to in paragraph (a), perform any function which the said Reserve Bank or the said Registrar, as the case may be, would be capable of performing within or in relation to the Republic or in respect of a person carrying on business or intending to carry on business as a banking institution or bank controlling company within the Republic.”

legislation which puts beyond doubt the continued existence of an institution or body created by law that has been repealed.¹²⁹

6.153 It is recommended that a provision that the South African Reserve Bank established by section 9 of Act 31 of 1920 continues to exist despite the repeal of that Act by the 1944 Act be included in the current South African Reserve Bank Act. The Banks Act of 1965 was superseded by the Banks Act 94 of 1990. The latter Act, like its predecessor, makes provision for the appointment of and assigns certain functions and powers to the Registrar of Banks.¹³⁰ Lastly, this section makes reference to the “State President”. The current Constitution only uses “the President”. The SALRC thus recommends that section 1 be amended as follows:

“1. Performance of functions within or in relation to countries other than Republic of South Africa

The South African Reserve Bank established by section 9 of the Currency and Banking Act, 1920 (Act 31 of 1920), and the Registrar of Banks referred to in section **[3 (1) of the Banks Act, 1965 (Act 23 of 1965)]** 4(1) of the Banks Act, 1990 (Act 94 of 1990), may, subject to the provisions of section 2 –

- (a) within or in relation to any country other than the Republic of South Africa and which other country has been designated by the **[State]** President by proclamation in the Gazette; or

¹²⁹ The Land Bank and Agricultural Development Bank Act 15 of 2002 provides, for example, in section 2 that:

“(1) The Bank established under section 3 of the Land Bank Act, 1912 (Act 18 of 1912), and which continued to exist in terms of section 3 of the Land Bank Act, 1944 (Act 13 of 1944), continues to exist under the name of the Land and Agricultural Development Bank of South Africa despite the repeal of those Acts.”

¹³⁰ Section 4(1) of the Banks Act provides that:

“The Reserve Bank shall, subject to the approval of the Minister, designate an officer or employee in its service as Registrar of Banks, who shall perform, under the control of the said Bank and in accordance with the directions issued by that Bank from time to time, the functions assigned to the Registrar by or under this Act.”

(b) in respect of any person carrying on business or intending to carry on business as a banking institution or bank controlling company in any other country referred to in paragraph (a),

perform any function which the said Reserve Bank or the said Registrar, as the case may be, would be capable of performing within or in relation to the Republic or in respect of a person carrying on business or intending to carry on business as a banking institution or bank controlling company within the Republic.”

6.154 Section 2 provides that notwithstanding the provisions of section 1, any function which in terms of the provisions of the Banks Act 23 of 1965 vests in the Minister of Finance shall, in so far as the said Act is, in terms of the law of any other country referred to in section 1(a), in force in that other country, and for the purposes of the performance of such function within or in relation to that other country or in respect of the person carrying on business or intending to carry on business as a banking institution or bank controlling company within that other country, be deemed to vest in the person who in that country holds the office which corresponds to the office of the Minister of Finance. This provision also requires amendment by replacing reference to the Banks Act of 1965 with reference to the current Banks Act.

30 Financial Services Board Act 97 of 1990

6.155 The proposals contained in the SALRC’s discussion paper relating to items (iv) and (vii) of the definition of “financial institution” have been addressed by the Financial Services Laws General Amendment Act 22 of 2008.¹³¹ However, the definition of “trust property” was left intact. Section 1 of this Act provides that “trust property” means ‘trust property’ as defined in Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of

¹³¹ Prior to amendment by Act 22 of 2008, section 1(a) of this Act provided that: ‘financial institution’, means (iv) any ‘scheme’ as defined in section 1 of the Participation Bonds Act, 1981 (Act 55 of 1981), or any manager or nominee company in relation to such a scheme; and (vii) any ‘registered insurer’ as defined in section 1 (1) of the Insurance Act, 1943 (Act 27 of 1943).” Act 22 of 2008 deleted item (iv) and amended item (vii) to read: “(vii) any ‘long-term insurer’ as defined in section 1 (1) of the Long-term Insurance Act, 1998 (Act 52 of 1998), and any ‘short-term insurer’ as defined in section 1 (1) of the Short-term Insurance Act 1998 (Act 53 of 1998).”

1984). Act 39 of 1984 was repealed by the Financial Institutions (Protection of Funds) Act 28 of 2001. The latter Act, like its predecessor, contains the definition of “trust property”. The SALRC thus recommends that this definition be amended by replacing the reference to Act 39 of 1984 with reference to Act 28 of 2001.

6.156 Section 4(3) dealing with the constitution of the board provides that the Minister shall appoint a member of the board as chairperson and deputy chairperson. In the discussion paper the SALRC recommended that the words “chairman” and “deputy chairman” in sections 8(2) and (4), 10(3) and 26(8) be replaced with the word “chairperson” or “deputy chairperson”, as the case may be. Act 22 of 2008 referred to above, addresses the concerns in respect of section 10(3) and 26(8). The use of the word “chairman” in section 8(2) and (4) was left intact by the legislature.¹³² The SALRC recommends that these provisions be amended using the word “chairperson” and “deputy chairperson” as the case may be. Furthermore, the SALRC initially recommended that section 8(1) in so far as it regulates the first meeting of the board be repealed. The SALRC has decided to abandon this recommendation as this provision empowers each new chairperson to decide when and where the meeting of the board should be held.

31 Exemption from Certain Payments at the Transfer of the Sorghum Beer Industry Act 72 of 1991

6.157 This Act has three sections only. The provision that is relevant for the purpose of this investigation is section 1(2). This subsection provides that no stamp duties shall be payable in terms of the Stamp Duties Act 77 of 1968 in respect of the issue of shares of

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The relevant provisions of section 8 read:

“8. Meetings and decisions of board

(1) The first meeting of the board shall be held at a time and place determined by the chairman, and thereafter the board shall meet at such times and places as the board may from time to time determine.

(2) The chairman may at any time convene an extraordinary meeting of the board to be held at a time and place determined by him.

(3)...

(4) If both the chairman and the deputy chairman are absent from any meeting of the board, the members present shall from among themselves elect a person to preside at such meeting.”

the company in connection with the increase of or restructuring of the share capital of the company referred to in subsection (1). The Stamp Duties Act of 1968 was repealed by the Revenue Laws Amendment Act 60 of 2008. This Act was, however, not amended consequentially. The SALRC recommends that section 1(2) be repealed as it no longer serves any useful purpose. Subsection (3) provides that the exemptions granted by subsections (1) and (2) shall be applicable *once only* to an increase of share capital and issue, respectively, referred to in those subsections. It is recommended, in the light of the SALRC's recommendation in respect of subsection (2), that subsection (3) be amended by deleting references to subsection (2).

32 Financial Services Board Amendment Act 41 of 1992

6.158 The schedule to this Act also amended the Unit Trusts Control Act 54 of 1981; the Stock Exchanges Control Act 1 of 1985; and the Financial Markets Control Act 55 of 1989. The Unit Trusts Control Act was repealed by the Collective Investment Schemes Control Act 45 of 2002, and the last two Acts were repealed by the Securities Services Act 36 of 2004. The SALRC recommends that references to these laws be deleted.

33 Deposit Taking Institutions Amendment Act 42 of 1992

6.159 Section 3 of this Act amended section 36(10) of the Banks Act 94 of 1990. The whole of section 36 was repealed by section 29 of the Banks Amendment Act 26 of 1994. However, consequential amendments were not made to this Act. The SALRC recommends that section 3 be repealed.

34 Public Investment Commissioners Amendment Act 76 of 1992

6.160 The purpose of this Act was to effect amendments to various provisions of the Public Investment Commissioners Act 45 of 1984. The Public Investment Commissioners Act of 1984 was repealed, recently, by section 17 of the Public Investment Corporation Act

23 of 2004 which came into operation on 1 April 2005. However, this Act was not repealed contemporaneously with its principal Act. It has therefore become redundant. It is recommended that this Act be repealed.

35 Secret Services Account Amendment Act 142 of 1992

6.161 The purpose of this Act was to amend various provisions of the Secret Services Account Act 56 of 1978. The shortcomings of the principal Act have already been discussed above and it is not necessary to repeat them.

36 Financial Supervision of the Road Accident Fund Act 8 of 1993

6.162 The purpose of this Act was to regulate the affairs of the Road Accident Fund. To that end, it has a meagre six sections. Section 2 (1) and (3) of this Act refer to the Insurance Act 27 of 1943, which was repealed in 1998, and thus require amendment. The relevant provisions read:

“2. Insurance Act, 1943, to apply

(1) Subject to any directions of the executive officer, the provisions of the Insurance Act, 1943 (Act 27 of 1943), in relation to an insurer registered in terms of that Act to carry on short-term insurance business, shall apply to the Fund.

(2)...

(3) The Fund shall obtain the opinion of an actuary as defined in section 1 of the Insurance Act, 1943, or of a registered accountant and auditor, whenever required, by virtue of the provisions of subsection (1), by the executive officer in respect of such aspects of the business of the Fund as the executive officer may determine.

6.163 The Insurance Act of 1943 was repealed by the Long-term Insurance Act 52 of 1998. On the same day that Act 52 came into operation, the Short-Term Insurance Act 53 of 1998 was also promulgated to regulate the registration of short-term insurers and their activities. To determine which of the two Acts is relevant to the provisions under consideration, section 2 must be read in its entire context to ascertain its purpose.

Subsection (1) of this section clearly indicates that the legislature intended only those provisions which regulated the short-term insurance to apply to the Road Accident Fund. It is worth noting that the Short-term Insurance Act of 1998 does not contain the definition of “actuary”. However, it does contain the definition of “statutory actuary”. Furthermore, the auditing profession is regulated by the Auditing Profession Act 26 of 2005. It is therefore recommended that section 2(1) and (2) of this Act, including the heading, be amended as follows:

“2. [Insurance Act, 1943] Short-term Insurance Act, 1998, to apply

(1) Subject to any directions of the executive officer, the provisions of the **[Insurance Act, 1943 (Act 27 of 1943)] Short-term Insurance Act, 1998 (Act 53 of 1998)**, in relation to an insurer registered in terms of that Act to carry on short-term insurance business, shall apply to the Fund.

(2)...

(3) The Fund shall obtain the opinion of **[an actuary as defined in section 1 of the Insurance Act, 1943,]** or of a statutory actuary as defined in section 1 of the Short-term Insurance Act, 1998 a registered accountant and auditor as contemplated in the Auditing Profession Act, 2005 (Act 26 of 2005), whenever required, by virtue of the provisions of subsection (1), by the executive officer in respect of such aspects of the business of the Fund as the executive officer may determine.”

37 Deposit Taking Institutions Amendment Act 9 of 1993

6.164 With the exception of section 18 discussed below, all the concerns the SALRC had in respect of certain provisions of this Act have been addressed by the Banks Amendment Act 20 of 2007 which, among others, amended outdated provisions in the Banks Act of 1990.

6.165 Section 18(b), (c) and (d) of this Act amended section 70 of the Deposit-taking Institutions Act by substituting subsections (3)(a); (5)(a)(vi)(bb); and subsection (6). The first two subsections were deleted by the Banks Amendment Act 36 of 2000, and the last one, by section 45(h) of the Banks Amendment Act 26 of 1994. The SALRC recommends

that section 18(b), (c) and (d) of this Act be repealed because the sections they sought to amend have been repealed.

38 South African Reserve Bank Amendment Act 10 of 1993

6.166 The only provision of this Act which may be repealed is paragraph (a) of section 2 which amended section 4 of the South African Reserve Bank Act 90 of 1989 by substituting subsection (2)(b). This subsection (subsection (2)(b)) was deleted by section 3(b) of the South African Reserve Bank Amendment Act 2 of 1996. The SALRC recommends that paragraph (a) of section 2 of this Act be repealed.

39 Mutual Banks Act 124 of 1993

(a) References to repealed legislation

6.167 This Act was enacted to regulate the activities of mutual banks. Section 4(1) and (2) of this Act provide that in addition to the duties conferred upon him by this Act, the Registrar shall have powers and duties in all respects corresponding to the powers and duties corresponding to the powers and duties conferred or imposed by the Inspection of Financial Institutions Act 38 of 1984 upon a registrar contemplated in that Act, and that any reference in this Act to an inspection or investigation made under this section (section 4(2)) shall be construed as reference to an inspection made in accordance with the provisions of the Inspection of Financial Institutions Act of 1984. The Inspection of Financial Institutions Act 38 of 1984 was repealed by the Inspection of Financial Institutions Act 80 of 1998. The latter piece of legislation does indeed confer certain powers on the registrar. The SALRC recommends that this section be amended as follows:

“4. Powers of inspection of, and guidelines by, Registrar

(1) In addition to the powers and duties conferred or imposed upon him by this Act, the Registrar shall, for the purposes of the performance of his functions under this Act, have powers and duties in all respects corresponding to the powers and duties conferred

or imposed by the Inspection of Financial Institutions Act, **[1984 (Act 38 of 1984)] 1998 (Act 80 of 1998)**, upon a registrar contemplated in the last-mentioned Act.

(2) Any reference in this Act to an inspection or investigation made under this section shall be construed as a reference to an inspection made in accordance with the provisions of the Inspection of Financial Institutions Act, **[1984] 1998.**”

6.168 Section 5(1)(b) of this Act empowers the Registrar to direct a mutual bank or the holder of interest in a mutual bank to furnish the registrar “with a report by a public accountant as defined in section 1 of the Public Accountants’ and Auditors’ Act, 1991 (Act 80 of 1991)...” The Public Accountants’ and Auditors’ Act of 1991 has been repealed by the Auditing Profession Act 26 of 2005. The Auditing Profession Act of 2005, like its predecessor the 1991 Act, contains a definition of “public accountant”. It is recommended that section 5(1)(b) of this Act be amended by replacing reference to the 1991 with the 2005 Act. This recommendation applies also to section 10(3)(b) of this Act which empowers the Registrar to require the applicant to furnish him “with a report by a public accountant as defined in section 1 of the Public Accountants’ and Auditors’ Act, 1991 (Act 80 of 1991)”.

6.169 Section 45 requires mutual banks to have one or more auditors. Section 45(1)(b) provides that such an auditor shall be an accountant or an auditor registered in terms of the Public Accountants’ and Auditors’ Act 80 of 1991. As stated above, the Public Accountants’ and Auditors’ Act of 1991 has been repealed by the Auditing Profession Act of 2005. The latter Act, as the name indicates, regulates the auditing profession. It is recommended that reference to the 1991 Act be deleted and replaced with reference to the 2005 Act.

6.170 Section 46(1)(a) provides that notwithstanding anything to the contrary contained in the Public Accountants’ and Auditors’ Act 80 of 1991, the auditor referred to in section 45 shall “whenever he furnishes, in terms of section 20(5)(b) of the said Act, the Public Accountants and Auditors Board, with copies of the report, acknowledgement of receipt and reply and with the other particulars referred to in that section, relating to an irregularity or suspected irregularity in the conduct of the affairs of the mutual bank for which he has been appointed as auditor, also furnish the Registrar with such copies and particulars”.

6.171 Section 20(5)(a) of the Public Accountants' and Auditors' Act of 1991 empowered the auditor to any undertaking to bring any material irregularity in the conduct of the affairs which has caused or is likely to cause financial loss to the attention of the undertaking by means of a report. Section 20(5)(b) of the 1991 Act gave the entity concerned 30 days to satisfy the auditor that no such irregularity has taken place or that necessary steps have been taken to recover any loss caused or to prevent any such loss. If the institution failed to comply with these conditions, the auditor had to furnish the Public Accountants' and Auditors' Board with copies of the report.¹³³

6.172 As stated above, the Public Accountants' and Auditors' Act of 1991 was repealed by the Auditing Profession Act of 2005 and therefore the powers given to the auditor by section 20(5)(b) have ceased to exist. Section 45 of the Auditing Profession Act of 2005 imposes a duty on a registered auditor to report irregularities. In contrast to section 20(5)(b) of the 1991 Act, section 45 does not afford the entity whose affairs are under scrutiny the opportunity to convince the auditor that no irregularity has taken place or that measures have been taken to recover the money lost or to prevent such loss. Section 45 of the 2005 Act makes it obligatory for the auditor to report any irregularity to the Regulatory Board without delay. It further requires the auditor to notify the members of the institution concerned within three days of sending the report that a report has been submitted to the Regulatory Board.¹³⁴ It is recommended that reference to section 20(5)(b)

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Section 20(5)(b) of the Public Accountants' and Auditors' Act of 1991 provided that:

"(5) (a) If any person acting in the capacity of auditor to any undertaking is satisfied or has reason to believe that in the conduct of the affairs of such undertaking a material irregularity has taken place or is taking place which has caused or is likely to cause financial loss to the undertaking or to any of its members or creditors, he shall forthwith despatch a report in writing to the person in charge of that undertaking giving particulars of the irregularity, at the same time drawing the attention of such person in charge to the provisions of paragraphs (b) and (c) and requesting him to acknowledge receipt of such report in writing.

(b) Unless within 30 days after an auditor has despatched such a report, he has been satisfied that no such irregularity has taken place or is taking place or that adequate steps have been taken for the recovery of any such loss so caused or for the prevention of any such loss likely to be so caused, he shall forthwith furnish the board with copies of the report and of any acknowledgement of receipt thereof and reply thereto and such other particulars as he may deem fit."

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The relevant provisions of section 45 of the Auditing Profession Act of 2005 provide that:

"45. Duty to report on irregularities

(1)(a) An individual registered auditor referred to in section 44 (1) (a) of an entity that is satisfied or has reason to believe that a reportable irregularity has taken place or is taking place in respect of that entity must, without delay, send a written report to the Regulatory Board.

of the Public Accountants' and Auditors' Act of 1991 be replaced with reference to section 45 of the Auditing Profession Act of 2005.

6.173 Section 50(4) of this Act provides that:

- (4) For the purposes of this section securities shall be valued at their prices as quoted in a list of quotations of prices-
- (a) of securities, as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985), issued for publication on the authority of a licensed stock exchange, as so defined; or
 - (b) of financial instruments, as defined in section 1 of the Financial Markets Control Act, 1989 (Act 55 of 1989), issued for publication on the authority of the executive committee of a financial exchange, as so defined, ...

6.174 The problem with this provision is that both Acts that are referred to have been repealed by the Securities Services Act 36 of 2004. The Securities Services Act of 2004 contains a definition of "securities" but not that of "financial instruments". Furthermore, this Act regulates "exchanges" and not "stock exchanges". The SALRC recommends that paragraph (b) of section 50(4) of this Act be repealed and that paragraph (a) be amended so that it makes reference to the "securities" and "exchanges" as defined in Act 36 of 2004.

6.175 Section 54(1)(b) of this Act states that a mutual bank may, with the written approval of the Registrar accept deposits and grant loans, advances or other credit in any state the territory of which formerly formed part of the Republic. It is not clear whether this provision still serves any purpose. The states contemplated in this provision are the TBVC states, and they have ceased to exist. It is recommended that section 54(1)(b) be repealed.

6.176 Section 60 of this Act provides that no mutual bank and no associate of a mutual bank shall, either jointly or individually, hold shares in any registered insurer as defined in section 1 of the Insurance Act 27 of 1943. The Insurance Act was repealed by the Long-term Insurance Act 52 of 1998. On the same day that the Long-Term Insurance Act of

(b) The report must give particulars of the reportable irregularity referred to in subsection (1)(a) and must include such other information and particulars as the registered auditor considers appropriate.

(2) (a) The registered auditor must within three days of sending the report to the Regulatory Board notify the members of the management board of the entity in writing of the sending of the report referred to in subsection (1) and the provisions of this section.

(b) A copy of the report to the Regulatory Board must accompany the notice."

1998 came into operation, another piece of legislation dealing with insurance namely the Short-Term Insurance Act 53 of 1998 was also put into operation. The SALRC recommends that this provision be amended so as to make reference to both Acts promulgated in 1998.

(b) Constitutionally suspect provisions of Act 124 of 1993

6.177 Section 71(12) provides that in the case of a transfer of assets and liabilities of a mutual bank to a bank, provision may, subject to subsection (14), be made that in the relevant transfer agreement for compensation to members of the mutual bank by way of either a cash payment or a right to take up shares in the transferee institution or its controlling company, and provision may be made for compensation to officers of mutual bank in accordance with subsection (3)(b). Subsection (14) referred to in this provision reads:

A resolution to offer compensation referred to in subsection (12) to members, must be approved by both parties to the agreement for the transfer of assets and liabilities, by separate special resolution, and shall provide that –

- (a) only a member who on the day immediately prior to the date determined for the transfer of assets and liabilities held shares in the transferor mutual bank and which shares had been issued to such a member at least 12 months prior to that date, or which had been paid for out of the proceeds of shares redeemed by that mutual bank during the said 12 months, shall qualify for such compensation;
- (b) such a member shall nevertheless not be entitled to the compensation if he –
 - (i) is not resident in the Republic; or
 - (ii) is a body corporate that is not incorporated in the Republic, and
- (c) such a member who is the holder of subscription shares in the transferor mutual bank shall qualify for such compensation only to the extent to which such shares are paid up on the day referred to in paragraph (a).

6.178 The problem with this subsection is that it discriminates against members who are not resident in the Republic, and against bodies or institutions not incorporated in the Republic. This may be inconsistent with section 9 of the Constitution. It is not clear what policy consideration influenced the enactment of this provision. The SALRC thus makes no recommendation in respect of paragraph (b) of section 71(12).

6.179 Section 88(1) and (2) of this Act provides that:

(1) Notwithstanding anything to the contrary contained in any law or the common law, and unless otherwise provided by the articles of a mutual bank, a minor over the age of 16 years or a married woman, whether or not subject to the marital power, may without the consent or assistance of his guardian or her husband, as the case may be, execute all necessary documents, give all necessary acquittances and cede, pledge, borrow against and generally deal with his or her share in or deposit with the mutual bank as he or she thinks fit, and shall enjoy all the privileges (except that a minor shall not hold office) and be liable to all the obligations attaching to members or depositors.

(2) Save with her written consent, the husband of a married woman who has become a member of or depositor with a mutual bank in terms of subsection (1), shall not be entitled to demand or receive from the mutual bank particulars concerning the shares she holds in or deposits she has with that mutual bank.

6.180 The only problem with this provision is that, when interpreted at face value, it creates the impression that it should be possible for a mutual bank in its articles to prevent a woman from performing any or all the acts referred to in that section. This would be inconsistent with the Constitution. The SALRC recommends that reference in this section to married women be deleted as it is contrary to the ethos of the Constitution in general, and section 9 in particular. Subsection (2) protects married women by ensuring that they are consulted whenever their husbands require access to their banking information and thus ensures that the right of married women to privacy is protected. The SALRC thus recommends that it be retained.

40 Policy Board for Financial Services and Regulation Act 141 of 1993

6.181 The only problem with this Act is that one comes across the use of the word “chairman” in a number of provisions. Section 6 of the Interpretation Act 33 of 1957 provides that in every law, unless the contrary intention appears (a) words importing the masculine gender include females; and (b) words in the singular number include the plural, and words in the plural number include the singular. In the light of section 6 of the Interpretation Act of 1957, no recommendation is made in respect of this Act.

41 Closed Pension Fund Act 197 of 1993

6.182 The purpose of this Act was to terminate the pension scheme established by the Members of Parliament and Political Office Bearers Pension Scheme Act of 1984 and to establish a Closed Pension Fund. A few provisions of this Act make references to legislation that has been superseded by more recent legislation and thus require amendments. These provisions are discussed fully below.

6.183 Section 9(1)(a) of this Act provides that money required for meeting the funds obligation with regard to the payment of any pension, gratuity or benefit in terms of the Act shall be paid over to the fund either from the State Revenue Fund or in the form of public stock issued in terms of section 19 of the Exchequer Act 66 of 1975.¹³⁵ Section 9(1)(b) provides that money paid over from the fund shall be deemed to have been appropriated by the Parliament. This Act further stipulates how the money referred to in section 9(1)(a) is to be paid. Subsection (2) of section nine provides that in respect of the fund's immediate obligations relating to the payment of pensions, gratuities and benefits, an amount of R440 million in the form of *public stock* before or on 1 February 1994 and that in respect of remaining obligations of the fund, in regular instalments over a period not exceeding nine years from 31 January 1994 or by means of a full and final settlement in the form of *public stock* before or on January 2003. If the obligations alluded to in this section have been met, then section 9 has become spent and may be repealed. However, if the obligations have not been met or have been partially met, it is recommended that section 9 be retained in the statute but that it be amended for the reasons discussed below.

¹³⁵

Prior to its repeal by the Public Finance Management Act 1 of 1999, the relevant provisions of section 19 of the Exchequer Act 66 of 1975 read:

“19 Method of raising loans

(1) The Minister of Finance may borrow moneys in terms of section 16 in the Republic or any other country but in terms of section 17 in the Republic only and may do so by –

- (a) entering into agreements with governments, banks or financial institutions, including an international bank or foreign institution;
 - (b) making issues of public stock and bonds and by issuing treasury bills;
 - (c) entering into agreements by means of financial instruments,
- on such terms and conditions as he may deem fit and may furnish any security required to be lodged therefor or which is considered to be necessary: Provided that the currency of any treasury bill shall not exceed twelve months.”

6.184 The Exchequer Act of 1975 referred to in this provision was repealed by the Public Finance Management Act 1 of 1999 with the result that after the commencement of the Public Finance Management Act of 1999 money could no longer be paid in the in the form of public stock issued in terms of section 19 of the Exchequer Act of 1975. Furthermore, the Public Finance Management Act of 1999, in contrast to its predecessor the Exchequer Act of 1975, stipulates the purposes for which the Minister may borrow money but not how he or she may do so. The 1996 Constitution also recognizes the continued existence of the National Revenue Fund which was established by the 1993 Constitution.¹³⁶ In the light of these developments, the SALRC recommends that section 9(1)(a) be amended as follows:

“9. Payment of certain moneys to fund

(1)(a) Money required for meeting the fund's obligation with regard to the payment of any pension, gratuity or benefit in terms of this Act shall be paid over to the fund either from the **[State Revenue Fund]** National Revenue Fund as provided in subsection (2) [or in the form of public stock issued in terms of section 19 of the Exchequer Act, 1975 (Act 66 of 1975)].

(b) Money which is to be paid over from the **[State Revenue Fund]** National Revenue Fund in terms of paragraph (a), shall be deemed to have been appropriated by Parliament for the purpose mentioned in that paragraph.

(4) No amounts other than those referred to in subsection (2) shall form a charge against the **[State Revenue Fund]** National Revenue Fund in respect of the fund.

6.185 Section 12 of this Act requires the financial statements of the fund to be audited by an auditor registered in terms of section 15 of the Public Accountants' and Auditors Act 80 of 1991. The Public Accountants' and Auditors' Act was repealed by the Auditing Profession Act 26 of 2005. The SALRC recommends that this section be amended by substituting the expression “Auditing Professions Act 26 of 2005” for the expression “Public Accountants' and Auditors' Act 80 of 1991”.

¹³⁶ Section 213 provides that there is a National Revenue Fund. This Fund was established by section 185(1) of the 1993 Constitution.

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CHAPTER 7

ACTS PASSED AFTER 1994

A Period 1994 to 1998

1 Reconstruction and Development Programme Fund Act 7 of 1994

7.1 Section 6(1) of this Act states that the Accountant-General in the Department of State Expenditure shall be the accounting officer responsible for the administration of the fund. The Office of the Accountant-General forms part of the National Treasury and is tasked with the promotion and enforcing transparency and effective management in respect of revenue expenditure, assets and liabilities of institutions in all three spheres of Government. This includes the administration of the National Revenue Fund (NRF) and the Reconstruction and Development Programme Fund (RDPF).¹³⁷ However, section 5(1) of the Public Finance Management Act of 1999 establishes the National Treasury as required by the 1996 Constitution.¹³⁸ It is recommended that the expression “National Treasury” be substituted for the expression “Department of State Expenditure” in section 6(1).

7.2 Section 8(1) of this Act provides that moneys not required for the immediate use shall be invested with the Public Investment Commissioners. The rights, duties and liabilities of the Public Commissioners were transferred to the Public Investment Corporation by the Public Investment Corporation Act 23 of 2004. It is recommended that

¹³⁷ See < <http://oag.treasury.gov.za/Pages/default.aspx> > Web 26 July 2011.

¹³⁸ Section 216(1) of the 1996 Constitution. Section 5(1) of the Public Finance Management Act 1 of 1999 established the National Treasury consisting of the Minister, who is the head of the Treasury; and the national department or departments responsible for financial and fiscal matters.

this section be amended so that it reflects the changes brought about by the enactment of the Public Investment Corporation Act 23 of 2004.

2 Banks Amendment Act 26 of 1994

7.3 Section 40 of this Act amended section 63(1) of the Banks Act 94 of 1990 by substituting paragraph (a) and by substituting paragraph (b)(ii). The SALRC's recommendation in respect of this provision has been discussed above.

7.4 Section 45(a) and (b) substituted in section 70(1) of the Banks Act 94 of 1990 the definitions of "secondary share capital" and "secondary unimpaired reserve funds" respectively. Section 70(1) of the Banks Act of 1990 was deleted by section 20(a) of the Banks Act 20 of 2007. The SALRC is of the view that the amendments introduced by section 45(a) and (b) are no longer necessary and may be repealed. Furthermore, section 45(d) of this Act substituted subsection (3) of section 70 of the Banks Act of 1990. This subsection was later deleted by section 12(d) of the Banks Amendment Act 36 of 2000. Therefore, section 45(d) no longer serves any useful purpose and may be repealed. Lastly, section 45(g) substituted subsection (5)(a)(vi)(aa) of section 70 of the Banks Act of 1990. The whole of subsection (5) was also deleted by section 12 of Act 36 of 2000 referred to above. Thus section 45(g) of this Act is now redundant and the SALRC recommends that it be repealed as well.

3 Public Investment Commissioners Amendment Act 22 of 1995

7.5 The purpose of this Act was to amend various provisions of the Public Investment Commissioners Act 45 of 1984. The Public Investment Commissioners Act of 1984 was repealed by the Public Investment Corporation Act 23 of 2004. However, this Act was not repealed contemporaneously with its principal Act. It has become redundant and the SALRC recommends that it be repealed.

4 Audit Matters Rationalisation and Amendment Act 53 of 1995

7.6 This Act provided for the rationalization of the Office of the Auditor-General, the abolition of the audit offices in the former Republics of Transkei, Bophuthatswana, Venda and Ciskei, and to amend the Audit Arrangements Act 122 of 1992. This Act is recommended for repeal for two reasons. First, it is possible that the statutory obligations it created, such as, the determination of the effective dates for the abolition of audit offices,¹³⁹ the transfer of assets used by the audit office to the office of the Auditor-General,¹⁴⁰ rationalization of the Office by the Staff Management Board established by section 3 of Act 122 of 1992,¹⁴¹ have been fulfilled. Secondly, this Act also amended the Audit Arrangements Act of 1992. The Audit Arrangements Act 122 of 1992 was repealed by the Public Audit Act 25 of 2004. For these reasons, this Act is recommended for repeal in its entirety.

5 The Stock Exchanges Control Amendment Act 54 of 1995

7.7 The purpose of this Act was to amend the Stock Exchanges Control Act 1 of 1985. The Stock Exchanges Control Act of 1985 was repealed by the Securities Services Act 36 of 2004. However, this amending Act was not included in the list of Acts repealed by Act 36 of 2004. The SALRC recommends that it be repealed.

¹³⁹ In terms of section 1 of this Act “audit office” means the office of an auditor-general or a department of an auditor-general or any other institution or body by which any functions with regard to the auditor-general are performed in terms of the Transkei Public Service Act 43 of 1978; the Bophuthatswana Public Service Act 4 of 1972; the Venda Public Service Act 8 of 1986; and the Ciskei Public Service Act 2 of 1981.

¹⁴⁰ Section 3 of the Act.

¹⁴¹ Section 5 read with definition of “board” in section 1 of the Act.

6 Financial Markets Control Amendment Act 55 of 1995

7.8 As the name indicates, the purpose of this Act was to amend various provisions of the Financial Markets Control 55 of 1989; and to extend the application of that Act throughout the Republic.¹⁴² The Financial Markets Control Act of 1989, like the Stock Exchanges Control Act of 1985, was repealed by the Securities Services Act 36 of 2004. However, this amending Act was not included in the Schedule to Act 36 of 2004 listing the Acts it repealed. Therefore, the Financial Markets Control Amendment Act 55 of 1995 serves no useful purpose anymore, and it is hereby recommended for repeal.

7 South African Reserve Bank Amendment Act 2 of 1996

7.9 This Act amended various provisions of the South African Reserve Bank Act 90 of 1989 (the South African Reserve Bank Act). Section 1(b) of this Act amended section 1 of the South African Reserve Bank Act by, inter alia, inserting the definition of “financial instrument”.¹⁴³ The first two paragraphs of this definition refer to the Stock Exchanges Control Act of 1985 and the Financial Markets Control Acts of 1989 respectively. The SALRC’s recommendations in respect have discussed above in relation to the principal Act.

7.10 Section 7 of this Act substituted section 12 of the South African Reserve Bank Act. The problem is subsection (2) of section 12 which reads: “The provisions of sections 4, 5, 8 and 9 of the Inspection of Financial Institutions Act, 1984 (Act 38 of 1984), shall apply

¹⁴² See section 30 of Act 55 of 1995.

¹⁴³ This Act states that “ ‘financial instrument’ means-

- (a) any security as referred to in the definition of ‘securities’ in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985);
- (b) any financial instrument as defined in section 1 of the Financial Markets Control Act, 1989 (Act 55 of 1989), irrespective, in the case of such instrument that is an instrument creating or acknowledging indebtedness, of the term for which it has been issued;
- (c) any right or other benefit in respect of or accruing to a security referred to in paragraph (a) or a financial instrument referred to in paragraph (b); and (d) any other instrument, right or benefit declared by the Minister by notice in the Gazette to be a financial instrument for the purposes of section 10 (1) (h).”

mutatis mutandis in respect of an inspection carried out in terms of subsection (1)". The Inspection of Financial Institutions Act 38 of 1984 was repealed by the Inspection Financial Institutions Act 80 of 1998. The SALRC has recommended above that amendments be made section 12(2) of the principal Act.

8 Supervision of Financial Institutions Rationalisation Act 32 of 1996

7.11 This Act repealed certain laws relating to financial institutions in the territories of the former Transkei, Bophuthatswana, Venda and Ciskei; applied the laws of the Republic relating to the regulation and control of financial institutions to institutions registered in terms of law so repealed; and extended the laws so applied to the whole of the national territory of the Republic.

7.12 Section 2(5)(a) of this Act provides that:

(a) The President may, after consultation with the Minister, by proclamation in the Gazette, repeal or amend, with retrospective effect, any law not mentioned in Schedule 1, which applies in any of the former territories of the Transkei, Bophuthatswana, Venda and Ciskei, and which relates to the financial or investment services industry, the existence of which had come to light at any time subsequent to the date of the passing of this Act, and the repeal or amendment of which is necessary for the effective application of this Act and the achievement of its objects: Provided that such repeal or amendment shall not adversely affect any permission or authority granted in terms of the law so repealed or amended.

7.13 The problem with section 2(5)(a) is that it gives legislative function to the President. The 1996 Constitution provides that the legislative authority in the national sphere of government is vested in Parliament consisting of the National Assembly and the National Council of Provinces.¹⁴⁴ The executive, in all three spheres of government, does have subordinate legislative powers, for example to issues regulations and proclamations.

¹⁴⁴ Section 43(a) of the Constitution.

However, the power conferred on the President by this provision is a primary legislative function. Interpreted at face value this provision violates separation of powers implied in the Constitution and the SALRC recommends that it be repealed.

7.14 Section 2(5)(b) of this Act is ancillary to section 2(5)(a) discussed above and it states that section 235(7) of the Constitution shall apply to any proclamation contemplated in paragraph (a) of subsection (5). The constitutional provision referred to in this provision is found in the interim Constitution.¹⁴⁵ This provision would be meaningless without section 2(5)(a) which, it is submitted, violates the constitutional doctrine of separation of powers. The SALRC recommends that section 2(5)(b) be repealed contemporaneously with section 2(5)(a).

9 Special Pensions Act 69 of 1996

7.15 As the long title of this Act states, its purpose was to provide special pensions to persons who made sacrifices or served the public interest in the cause of establishing a democratic constitutional order; to prescribe rules for determining the persons who would be entitled to receive those pensions, to establish Special Pensions Board and a Special Pensions Review Board.

7.16 Section 14(1) of this Act provides that in addition to any benefits granted in terms of this Act, a beneficiary who qualifies, may apply and also receive benefits in terms of either or both the Social Assistance Act of 1992 and/or the Military Pensions Act 1976. The Military Pensions Act of 1976 is still in force. However, the Social Assistance Act of 1992,

¹⁴⁵

Section 235(7) of the 1993 Constitution provided that:

“(7) (a) The President may, after consultation with the Premier of a province, by proclamation in the Gazette take such measures, including legislative measures, as he or she considers necessary for the better achievement of this section.

(b) A copy of a proclamation under paragraph (a), shall be submitted to Parliament within 14 days after the publication thereof.

(c) If Parliament disapproves of any such proclamation or any provision thereof, such proclamation or provision shall thereafter cease to be of force and effect to the extent to which it is so disapproved, but without prejudice to the validity of anything done in terms of such proclamation up to the date upon which it so ceased to be of force and effect, or to any right, privilege, obligation or liability acquired, accrued or incurred as at the said date under and by virtue of such proclamation.”

in so far as it has not been assigned to another sphere of government, was repealed by the Social Assistance Act 13 of 2004.¹⁴⁶ The SALRC recommends that section 14(1)(a) of this Act, which makes reference to the Social Assistance Act of 1992, be amended so that it refers to the Social Assistance Act of 2004.

7.17 The preliminary recommendations made by the SALRC in respect of certain provisions of this Act have been addressed by the Special Pensions Amendment Act 13 of 2008 which repealed the provision found by the SALRC to be redundant or spent.¹⁴⁷

10 Safe Deposit of Securities Amendment Act 70 of 1996

7.18 The purpose of this Act was to amend various provisions of the Safe Deposit of Securities Act 85 of 1992. The Safe Deposit of Securities Act of 1992 was repealed by the Securities Services Act 36 of 2004, rendering this amending Act redundant. It is recommended that it be repealed.

¹⁴⁶ See section 33(1) of the Social Assistance Act 13 of 2004.

¹⁴⁷ In the discussion paper, the SALRC submitted the following in respect of this Act: "Part 2 of this Act established the Special Pensions Board. Section 27 of this Act provides that the Minister must dissolve the Board not later than 60 days after 31 December 2006. Furthermore, the Act transfers all the functions of the Board to the Head of Pensions Administration in the National Treasury. The 60 days referred to in section 27 has expired, and since this is a peremptory provision, the duties and functions of the Board are now performed by the Head of Pensions Administration. Therefore, the provisions of this Act dealing with the establishment of the Board (s 15); board business (s 20(1) to (4)); staff and contractors (s 21(1)(a) and (b) and 21(2)(a) and (b)); the appointment of Chief Executive Officer (s 22(1) to (3)); board finances (the whole of s 23 (except s23(2)(a)); and section 27 dealing with legal proceedings against the Board have been rendered redundant and obsolete by section 27. It is recommended that these provisions be repealed." It further recommended that the following provisions be retained: "The provisions contained in this Chapter, not affected by this recommendation, are sections dealing with the appointment of members (s 16(1),(3) and (4)); remuneration of members (s 17(1) and (2)); conduct of members (s 18(1) to (4)); that the Board to be unfettered; and (s 19(1) and (2))23(2)(a) dealing with Board finances, because these provisions also affect the Review Board; and sections 24 listing the powers and duties of the Board; and section 25 empowering the Board to conduct investigations because these are now the functions of the Head Of Pensions Administration."

11 Stock Exchanges Control Amendment Act 71 of 1996

7.19 The purpose of this Act, which contained 19 sections, was to amend various provisions of the Stock Exchanges Control Act 1 of 1985. The Stock Exchanges Control Act of 1985 was repealed by the Securities Services Act 36 of 2004. As a result of this repeal, the amendments introduced by this Act became redundant. It is recommended that this Act be repealed.

12 Financial Markets Control Amendment Act 73 of 1996

7.20 The purpose of this Act was to amend the Financial Markets Control Act 55 of 1989. The Financial Markets Control Act of 1989 was repealed by the Securities Services Act 36 of 200, rendering the Financial Markets Control Amendment Act of 1996 redundant. It is recommended that this Act be repealed.

13 Exchequer Amendment Act 3 of 1997

7.21 This Act amended the Exchequer Act 66 of 1975 by inserting section 52C. This section reads:

(1) Notwithstanding anything to the contrary contained in any law the Minister of Finance may redeem any obligation which arises from the assumption by the Republic of South Africa of liability for the payment of the debts incurred by the Republic of Namibia in terms of the loans mentioned in Annexure A to the Loan Facility Agreement concluded between the South African Reserve Bank and the Bank of Namibia, and signed on behalf of the said Banks on 25 March 1992 and 8 May 1992, respectively, and may increase the State Debt accordingly.

(2) The Minister of Finance shall cause the date with effect from which liability is assumed by the Republic of South Africa, as contemplated in subsection (1), to be published by notice in the Gazette.

7.22 However, the Exchequer Act of 1975 was repealed by the Public Finance Management Act 1 of 1999, rendering Exchequer Amendment Act 3 of 1997 redundant. It is recommended that this Act be repealed.

14 Development Bank of Southern Africa Act 13 of 1997

7.23 This Act was enacted to provide for the continued existence and the reconstitution of the Development Bank of Southern Africa. Section 16(3) of this Act provides that the books of account of the Bank shall be audited by a person registered in terms of section 15 of the Public Accountants' and Auditors' Act 80 of 1991.¹⁴⁸ The Public Accountants' and Auditors' Act of 1991 was repealed by section 58(1) of the Auditing Profession Act 26 of 2005. The Auditing Profession Act of 2005 makes provision for the registration of individuals and firms as registered auditors.¹⁴⁹ The SALRC recommends that section 16(3) be amended as follows:

“(3) The books of account of the Bank shall be audited by a person or firm registered in **[terms of section 15 of the Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991)]** in accordance with the provisions of the Auditing Profession Act, 2005 (Act 26 of 2005).”

15 Reporting by Public Entities Amendment Act 30 of 1997

7.24 This Act was enacted to amend various provisions of the Reporting by Public Entities Act 93 of 1992. The Reporting by Public Entities Act of 1992 was repealed by the Public Finance Management Act 1 of 1999. However, this Act was not repealed contemporaneously with its principal Act. The repeal of this principal Act has rendered this Act redundant. It is hereby recommended for repeal.

¹⁴⁸ Prior to its repeal by the Auditing Profession Act, section 15(1) of the Public Accountants' and Auditors' Act of 1991 provided that:

“15. Registration of accountants and auditors

(1) Any person who desires to be registered as an accountant and auditor shall in writing lodge with the board an application for such registration accompanied by the prescribed fee and such information as the board may require.”

¹⁴⁹ See Chapter 2 of that Act.

16 South African Revenue Service Act 34 of 1997

7.25 Schedule 1 to this Act lists legislation administered by the Commissioner.¹⁵⁰ This Act lists the Marketable Securities Tax Act 32 of 1948 as one of the Acts administered by the Commissioner. Act 32 of 1948 was repealed by the Revenue Laws Amendment Act 45 of 2003. It is recommended that reference to Act 32 of 1948 be deleted.

17 Revenue Funds Interim Arrangements Act 95 of 1997

7.26 Section 7(2) of this Act provides that unless repealed earlier, it remains in force until 31 December 1998. This Act has therefore expired. The SALRC recommends that it be repealed.

18 Financial and Fiscal Commission 1993 Constitutional Provisions Repeal Act 96 of 1997

7.27 Item 20(3) of Schedule 6 to the 1996 Constitution provides that sections 199(1), 200(1), (3), and (5) to (11) and 201 to 206 of the previous Constitution continue in force until repealed by an Act of Parliament passed in terms of section 75 of the new Constitution. In accordance with this provision, the legislature enacted the Financial and Fiscal Commission 1993 Constitutional Provisions Repeal Act 96 of 1997 and repealed these provisions contained in the 1993 Constitution. The constitutional obligation created by item 20(3) has been complied with, and this repealing Act may be repealed, and its repeal would not revive this item contained in the 1996 Constitution.¹⁵¹

¹⁵⁰ Section 33 of this Act gives the President the power to amend this Schedule by means of a proclamation in the Gazette.

¹⁵¹ Section 12(2)(a) of the Interpretation Act 33 of 1957 states that "Where a law repeals any other law, then unless the contrary intention appears, the repeal shall not revive anything not in force or existing at the time at which the repeal takes effect."

19 Interim Appropriation Act 11 of 1998

7.28 The purpose of this Act was to appropriate money for the interim requirements of the state in respect of the financial year ending 31 March 1999, until such time as the main Appropriation Act is promulgated. The main Appropriation Act 29 of 1998 was promulgated for the financial year ending 31 March 1999, rendering this Act redundant. For that reason it is hereby recommended for repeal.

20 Financial Markets Control Amendment Act 13 of 1998

7.29 The purpose of this Act was to amend various provisions of the Financial Markets Control Act 55 of 1989. As stated above, The Financial Markets Control Act 55 of 1989 was repealed by the Securities Services Act 36 of 2004, but this Act was not included in the Schedule to this Act which repealed certain statutes. It is submitted that the repeal of the principal Act (Act 55 of 1989) has rendered this Act redundant, and it is hereby recommended for repeal.

21 Stock Exchanges Control Amendment Act 14 of 1998

7.30 This Act amended various provisions of the Stock Exchanges Control Act 1 of 1985. Act 1 of 1985, was repealed by the Securities Services Act 36 of 2004. This repeal of the principal Act has rendered this amending Act redundant. For this reason, it is hereby recommended for repeal.

22 Safe Deposit of Securities Amendment Act 38 of 1998

7.31 The purpose of this piece of legislation was to amend various provisions of the Safe Deposit of Securities Act 85 of 1992. The Safe Deposit of Securities Act 85 of 1992 was repealed by the Securities Services Act 36 of 2004. As a result of this repeal, this Act (Act 38 of 1998) has become redundant, and it is recommended for repeal.

23 Demutualisation Levy Act 50 of 1998

7.32 This Act was enacted to provide for the imposition of a levy on the value of the free reserves of any mutual insurer on demutualisation of the insurer. It provides that there must be levied and paid to the Commissioner for the benefit of the *Umsobomvu* Fund, a levy to be known as the demutualisation levy at the rate of 2,5 per cent of the value of a portion of the free reserves of any mutual insurer which enters into a demutualisation scheme. The definition of “mutual insurer” draws no distinction between a long-term insurer and a short-term insurer. Instead it provides that “mutual insurer” means any insurer registered in terms of the Insurance Act, which is not a company with a share capital.

7.33 Section 1 also states that “Insurance Act” means the Insurance Act, 1943 (Act 27 of 1943). The Insurance Act of 1943 was repealed in 1998 by the Long-term Insurance Act 52 of 1998. On the same day that the Long-term Insurance Act of 1998 came into operation, another Act regulating short-term insurance was also promulgated, namely the Short-term Insurance Act 53 of 1998. In the light of the fact that definition of “mutual insurer” does not draw a distinction between the two types of insurance, the SALRC recommends that the definition of “Insurance Act” be amended to refer to both the Long-term Insurance Act of 1998 and the Short-term Insurance Act of 1998. It is also recommended that consequential amendments be made to the definition of “mutual insurer”.

7.34 Section 4(1)(a) dealing with the determination of free reserves provides that subject to subsection (2), the value of the free reserves is the free reserves as determined at a specific date and recorded in the demutualization scheme confirmed by the Registrar of Insurance, as contemplated in section 25 of the Insurance Act. Section 37 of the Long-term Insurance Act of 1998 requires court approval for compromise, arrangement, amalgamation, demutualisation or transfer of business of a long-term insurer. In contrast, the Short-term Insurance Act 53 of 1993 gives the Registrar Short-term Insurance referred to in section 2 of that Act the power to approve a compromise, arrangement, amalgamation or transfer of a business of a short-term insurer. In the light of the provisions of the Long-term Insurance Act and the Short-term Insurance Act referred to above, the SALRC recommends that section 4(1)(a) be amended as follows:

- “(1) Subject to subsection (2), the value of the free reserves is the free reserves –
- (a) as determined at a specific date and recorded in the demutualisation scheme confirmed by the **[Registrar of Insurance] court**, as contemplated in section **[25 of the Insurance Act] 37 of the Long-term Insurance Act, 1998 (Act 52 of 1998, or by the Registrar of Short-term Insurance as contemplated in section 36 of the Short-term Insurance Act, 1998 (Act 53 of 1998), as the case may be.”**

7.35 Section 6(4) provides that the latter shares contemplated in subsection (3) may only be held by an affected company subject to section 19A of the Insurance Act.¹⁵² It is recommended that this provision be repealed because the Insurance Act no longer exists.

24 Insurance Second Amendment Act 51 of 1998

7.36 The purpose of this Act was to amend the Insurance Act 27 of 1943 by inserting section 19A and by substituting section 25. The Insurance Act of 1943 was repealed by the Long Term Insurance Act 52 of 1998.¹⁵³ However, this Act was not repealed contemporaneously with Act 27 of 1943. Therefore, this Act is no longer necessary, and it is recommended for repeal.

¹⁵² Section 19A of the Insurance Act 27 of 1943 provided that:

“19A Circumstances under which domestic insurer may hold shares in its holding company

- (1) If the assets which a domestic insurer holds in respect of its long-term insurance business in any of its policyholder funds include shares in its holding company –
- (a) such shares shall, for the purposes of section 39 (2) of the Companies Act, 1973(Act 61 of 1973), be deemed to be held by the said insurer in a representative capacity or as a trustee for the sole benefit of the owners of the policies for which the relevant policyholder fund exists;
- (b) such shares shall only be held by the said insurer with the prior approval of the registrar and subject to such conditions as the registrar may impose; and
- (c) the said insurer shall not have the right to vote at meetings of the relevant holding company or at meetings of any class of members thereof.
- (2) For the purposes of subsection (1) –
- (a) holding company' means a holding company as defined in section 1 of the Companies Act, 1973; and
- (b) policyholder fund' means a fund referred to in paragraph (a), (b) or (c) of section 29 (4) of the Income Tax Act, 1962 (Act 58 of 1962).”

¹⁵³ This Act came into operation in January 1999.

25 Long-term Insurance Act 52 of 1998

7.37 All the sections, with the exception of section 7(2)(e), identified by the SALRC in the discussion paper as provisions requiring amendment have been amended by the Insurance Laws Amendment Act 27 of 2008.

7.38 This Act prohibits persons from carrying on a business as long-term insurers unless they comply with the requirements contained in this Act. However, in terms of section 7(2)(e), this prohibition does not apply to “the Land and Agricultural Bank of South Africa referred to in section 3 of the Land Bank Act, 1944 (Act 13 of 1944), if and in so far as it acts in accordance with that Act”. The Land Bank Act 13 of 1944 referred to in this provision was repealed by the Land and Agricultural Development Bank Act 15 of 2002. The 2002 Act defines a “bank” for the purposes of that Act as the “the Land and Agricultural Development Bank of South Africa trading as the Land Bank”. It is recommended that section 7(2)(e) of this Act be amended so that it refers to the Land and Agricultural Development Bank Act of 2002.

26 Short-term Insurance Act 53 of 1998

7.39 Like the Long-term Insurance Act referred to above, this Act was amended by the Insurance Laws Amendment Act 27 of 2008. These amendments addressed the deficiencies identified by the SALRC in respect of this Act. However, section 7(2)(h) was left intact. Section 7(1)(a) prohibits person from carrying on a business as short-term insurers unless they comply with the requirement of this Act. Section 7(2)(h) excludes from this prohibition “the Land and Agricultural Bank of South Africa referred to in section 3 of the Land Bank Act, 1944 (Act 13 of 1944), if and in so far as it acts in accordance with that Act.” The Land Bank Act 13 of 1944 referred to in this provision was repealed by the Land and Agricultural Development Bank Act 15 of 2002. The 2002 Act defines a “bank” for the purposes of that Act as the “the Land and Agricultural Development Bank of South Africa trading as the Land Bank”. It is recommended that section 7(2)(h) of this Act be amended so that it refers to the Land and Agricultural Development Bank Act of 2002.

27 Special Pensions Amendment Act 75 of 1998

7.40 Section 6 of this Act amended section 27 of the Special Pensions Act 69 of 1996 by substituting subsection (1). This subsection reads: "(1) The Minister must dissolve the Board not later than 60 days after 31 December 2006". Besides the fact that this provision expired on 31 December 2006, section 27 of the Special Pensions Act of 1996 was repealed by section 19 of the Special Pensions Amendment Act 13 of 2008. The SALRC recommends that section 6 of this Act be repealed.

28 Conversion of SASRIA Act 134 of 1998 and Reinsurance of Damage and Losses Act 56 of 1998

7.41 The South African Special Risks Insurance Association (SASRIA) is an insurance association which was incorporated in 1979 to provide insurance against damage to property caused by political acts. During the time of its creation, there were specific types of risk that insurance companies were not prepared to underwrite, especially risks of a political nature, such as political riots, strikes and civil commotion. It has monopoly to be the sole supplier of insurance cover for special risks in the Republic.

7.42 It derives all its rights, powers and duties from the Reinsurance of Damage and Losses Act 56 of 1989¹⁵⁴, as amended by the Reinsurance of Material Damage and Losses Amendment Act 65 of 1990, read together with the Conversion of SASRIA Act 134 of 1998, which converted SASRIA was converted into a public company having a share capital. Although the Conversion of SASRIA Act of 1998 repealed both the 1989 and the 1990 Acts,¹⁵⁵ the repeal has not yet come into operation. Therefore, the two principal Acts

¹⁵⁴ As amended by the Reinsurance of Material Damage and Losses Amendment Act 65 of 1990.

¹⁵⁵ Section 10 of this Act reads:
"10. Repeal of Act 56 of 1989
 The Reinsurance of Damage and Losses Act, 1989 (Act 56 of 1989), and the Reinsurance of Material Damage and Losses Amendment Act, 1990 (Act 65 of 1990), are repealed with effect from a date determined by the Minister by notice in the *Gazette*."

regulating the affairs complement each other. Both pieces of legislation contain provisions that require updating.

7.43 Section 1 of the Reinsurance of Damage and Losses Act of 1989 incorporates by reference the definition of “borrower” and “moneylender” that were found in the Usury Act 73 of 1968.¹⁵⁶ The Usury Act referred to in this section was repealed by the National Credit Act of 34 of 2005. In the National Credit Act the legislature uses the terms “consumer”¹⁵⁷ and credit provider.¹⁵⁸ This Act therefore requires amendment to align it with the new terminology used in the National Credit Act. It is recommended that the definition of “borrower” and “moneylender” in section 1 of this Act be deleted and replaced with the

¹⁵⁶ Prior to its repeal by the National Credit Act of 2005, that Act stated that 'borrower' means any person to whom a moneylender has granted a loan of a sum of money in terms of a money lending transaction, or any person to whom, whether by delegation, cession or otherwise, the rights and obligations of a borrower in respect of a money lending transaction have passed” and that “‘moneylender’ means (a) any person who is granting or has granted a loan of a sum of money to a prospective borrower or to a borrower in terms of a moneylending transaction; (b) any person to whom, whether by delegation, cession or otherwise, the rights or the rights and obligations of a money lender in respect of a money lending transaction have passed; (c) the holder of an instrument of debt executed in respect of a money lending transaction; (d) any manager.”

¹⁵⁷ Section 1 provides that:
 ‘consumer’, in respect of a credit agreement to which this Act applies, means-
 (a) the party to whom goods or services are sold under a discount transaction, incidental credit agreement or instalment agreement;
 (b) the party to whom money is paid, or credit granted, under a pawn transaction;
 (c) the party to whom credit is granted under a credit facility;
 (d) the mortgagor under a mortgage agreement;
 (e) the borrower under a secured loan;
 (f) the lessee under a lease;
 (g) the guarantor under a credit guarantee; or
 (h) the party to whom or at whose direction money is advanced or credit granted under any other credit agreement;

¹⁵⁸ ‘Credit provider’, in respect of a credit agreement to which this Act applies, means-
 (a) the party who supplies goods or services under a discount transaction, incidental credit agreement or instalment agreement;
 (b) the party who advances money or credit under a pawn transaction;
 (c) the party who extends credit under a credit facility;
 (d) the mortgagee under a mortgage agreement;
 (e) the lender under a secured loan;
 (f) the lessor under a lease;
 (g) the party to whom an assurance or promise is made under a credit guarantee;
 (h) the party who advances money or credit to another under any other credit agreement; or
 (i) any other person who acquires the rights of a credit provider under a credit agreement after it has been entered into;

terminology used in the National Credit Act of 2005, and that provisions of this Act where these words are used be amended consequentially.

7.44 Section 2 of this Act empowers the Minister to enter into an agreement with a registered insurer as defined in section 1 of the Insurance Act 27 of 1943 in terms of which he or she binds the Government to pay such insurer an amount equal to the amount of the loss sustained by the insurer under policies of insurance for loss or damage to property or for loss in respect of mortgage loan as defined in this Act. As stated above, SASRIA was granted monopoly status to be the sole supplier of insurance cover for special risks due to the short-term insurance industry not being prepared to underwrite the risks in question.¹⁵⁹ However, the Insurance Act of 1947 referred to in this provision was repealed by the Long-term Insurance Act 52 of 1998. The legislature also enacted the Short-term Insurance Act 53 of 1998 to regulate the short-term industry. The SALRC thus proposes that the words preceding paragraph (a) of section 2 be amended to read as follows:

“The Minister may enter into an agreement with a **[registered insurer]** short-term insurer as defined in section 1(1) of the **[Insurance Act, 1943 (Act 27 of 1943)]** Short-term Insurance Act, 1998 (Act 53 of 1998), in terms of which he...”

7.45 Section 1 of the Conversion of SASRIA Act of 1998 Act also requires updating. This section provides that “short-term insurance industry” means, among others, every registered insurer as defined in section 1(1) of the Insurance Act, 1943 (Act 27 of 1943), that participates in short-term insurance business for special risks.¹⁶⁰ As stated above, the Short-term Insurance Act of 1998 superseded the 1943 Insurance Act in so far as it regulated the short-term insurance business. Section 1 of the Short-term Insurance Act of 1998 provides that a short-term insurer means a person registered or deemed to be registered as a short-term insurer under this Act. It is proposed that this part of the definition of short-term insurance industry be amended by substituting the words “short-term insurer as defined in section 1(1) of the Short-term Insurance Act, 1998 (Act 53 of

¹⁵⁹ See the preamble of the 1998 Act.

¹⁶⁰ Paragraph (a) of the definition of “short-term insurance industry”.

1998” for the words “registered insurer as defined in section 1(1) of the Insurance Act, 1943 (Act 27 of 1943).” Section 4(2) makes reference to the Stamp Duties Act 77 of 1968 which has been repealed by the Revenue Laws Amendment Act 60 of 2008. The SALRC recommends that section 4(2) of this Act be repealed.

B Period 1999 to date

1 Public Finance Management Act 1 of 1999

7.46 The only provision in this Act recommended for repeal is subsection (4) of section 93 which provides that “The provisions of the Revenue Funds Interim Arrangements Act, 1997 (Act 95 of 1997), despite the fact that they have lapsed, must be regarded as forming part of this Act until 1 April 2000”. This provision expired and became redundant on 1 April 2000, and it is hereby recommended for repeal.

2 Public Investment Commissioners Amendment Act 7 of 1999

7.47 This Act sought to amend section 6 of the Public Investment Commissioners Act 45 of 1984. The Public Investment Commissioners Act 45 of 1984 was repealed by the Public Investment Corporation Act 23 of 2004, which came into operation on 1 April 2005. This amending Act therefore, serves no useful purpose anymore and may be repealed in its entirety.

3 Public Finance Management Amendment Act 29 of 1999

7.48 Section 33 of this Act amended section 62 of the Public Finance Management Act 1 of 1999 by substituting subsection (3). The whole of section 62 of the Public Finance Management Act of 1999 was repealed by section 53 of the Public Audit Act 25 of 2004. However, this Act was not consequentially amended by repealing section 33. Section 33 of this Act has therefore ceased to have any useful purpose. The SALRC recommends that section 33 of this Act be repealed.

4 Financial Markets Control Amendment Act 40 of 1999

7.49 The purpose of this Act was to amend section 37(1) of the Financial Markets Control Act 55 of 1989 by substituting paragraph (e). The Financial Markets Control Act 55 of 1989 was repealed by the Securities Services Act 36 of 2004. As a result, the Financial Markets Control Amendment Act is no longer useful, and may be repealed.

5 Closed Pension Fund Amendment Act 41 of 1999

7.50 This Act contains one substantive provision, that which amended section 9(2) of the Closed Pension Fund Amendment Act 197 of 1993 by substituting paragraph (b). Subsection (2) of section nine, which has already been discussed above in relation to the Closed Pension Fund Act 197 of 1993, provides that in respect of the fund's immediate obligations relating to the payment of pensions, gratuities and benefits, an amount of R440 million in the form of *public stock* before or on 1 February 1994 and that in respect of remaining obligations of the fund, in regular instalments over a period not exceeding nine years from 31 January 1994 or by means of a full and final settlement in the form of *public stock* before or on January 2003. It is recommended above that if the obligations alluded to in this section have been met, then section 9 has become spent and may be repealed. However, if the obligations have not been met or have been partially met, it is recommended that section 9 be retained in the statute but that it be amended. If indeed section 9 is spent, this Act will become redundant. In the event section 9 is found to be spent, the SALRC recommends that this Act be repealed.

6 Bills of Exchange Amendment Act 56 of 2000

7.51 Section 29 of this Act inserted, inter alia, section 72B in the Bills of Exchange Act 34 of 1964. This provision reads as follows:

Any person who is required by law to have his financial statements audited by a person registered in terms of section 15 of the Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991), or by the Auditor-General, and any person obliged to appoint an accounting officer in terms of section 59 of the Close Corporations Act, 1984 (Act 69 of 1984), shall exercise reasonable

care in the custody of cheque forms and in the reconciliation of its bank statements.

7.52 The Public Accountants' and Auditors' Act 80 of 1991 referred to in this provision was repealed by section 58(1) of the Auditing Profession Act 26 of 2005. It is recommended that the provision in the principal Act inserted by section 29 of this Act be amended so that it refers to the Auditing Profession Act of 2005 instead of the Public Accountants' and Auditors Act of 1991.

7 Financial Intelligence Centre Act 38 of 2001

7.53 This Act was amended in 2008 by the Financial Intelligence Centre Amendment Act 11 of 2008 which came into operation on 1 December 2010. The Financial Intelligence Centre Amendment Act addressed most of the deficiencies identified by the SALRC in the discussion paper in respect of this Act. However, there are still a few provisions which require amendment. Section 1(1) of this Act provides that "intelligence service" means the National Intelligence Agency or the South African Secret Service established by section 3 of the Intelligence Services Act, 1994 (Act 38 of 1994). Section 12(1)(a) provides that no person other than a Director may be appointed or seconded to perform any of the functions of the Centre unless information with respect to that person has been gathered in a security screening investigation by the National Intelligence Agency established by section 3 of the Intelligence Services Act, 1994 (Act 38 of 1994).

7.54 Furthermore, section 13(1)(a) provides that no person may be appointed as the Director of the Centre unless information with respect to that person has been gathered in a security screening investigation by the National Intelligence Agency established by section 3 of the Intelligence Services Act of 1994. The Intelligence Services Act referred to in these provisions was repealed by the Intelligence Services Act 65 of 2002. The Intelligence Services Act of 2002 recognises the continued existence of the National Intelligence Service and the South African Secret Service established by section 3 of the

Intelligence Service Act of 1994.¹⁶¹The SALRC recommends that these provisions be amended to reflect the change in the law regulating the establishment, composition and organisation of the National Intelligence Agency and the South African Secret Service.

8 Stock Exchanges Control Amendment Act 40 of 2001

7.55 The purpose of this Act was to amend the Stock Exchanges Control Act 1 of 1985 by substituting section 40 of that Act. Act 1 of 1985 was repealed by Act 36 of 2004. This Act, therefore, no longer serves any useful purpose, and it is hereby recommended for repeal.

9 Social Grants Appropriation Act 2 of 2002

7.56 This Act appropriated additional amount of R2 billion rand for the requirements of the Department of Social Development in respect of the 2001/2002 financial year to fund arrear payments to social grant beneficiaries. This Act is now spent and it is recommended that it be repealed.

10 Burundi Protection Support Appropriation Act 3 of 2002

7.57 This Act appropriated an additional amount, not exceeding R130 million, in respect of the 2001/2002 financial year for the requirements of the Department of Defence to defray expenditure incurred in the provision of protection support services to returning

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Section 3 of the Intelligence Service Act 65 of 2002 provides that:

“3. Continued existence of Agency and Service

(1) The National Intelligence Agency and the South African Secret Service continue to exist and consist of the persons-

- (a) who became members in terms of the Intelligence Services Act, 1994 (Act 38 of 1994), whose names appear on the personnel list;
- (b) appointed as members in terms of the Intelligence Services Act, 1994, after its commencement;
- (c) appointed as members in terms of this Act after its commencement.”

opposition leaders participating in the Transitional Government of the Republic of Burundi. Furthermore, this Act provided that all funds that may be received from the international community to cover all or part of the expenditure contemplated in paragraph (a) of section 1 must be deposited into the National Revenue Fund. This Act became spent when the financial year referred to passed. The SALRC recommends that it be repealed.

11 Financial Advisory and Intermediary Services Act 37 of 2002

7.58 Section 1(1) of this Act provides that “financial product” means, inter alia, any ‘securities’ as defined in section 1 of the Securities Services Act, 2002. The Securities Services Act was not promulgated in 2002, but in 2004 as the Securities Services Act 36 of 2004. The SALRC recommends that this definition be amended.

7.59 Section 45(1)(a)(i) of this Act dealing with the exemptions, and amendment or repeal of laws provides that the provisions of this Act do not apply to the rendering of financial services by, inter alia, any authorised user, clearing house, central securities depository or participants as defined in section 1 of the Securities Services Act, 2002 or exchange licensed under section 10 of that Act. As stated, reference in this Act should be “Securities Services Act, 2004”. The SALRC recommends that this provision be amended so that it refers to the Securities Services Act of 2004 and not “Services Act of 2002”.

7.60 Section 45(4)(a) of this Act provides that until such time as the Securities Services Act, 2002, referred to in section 1(1) and 45(1)(a)(i) of this Act comes into operation, any reference in this Act to an authorised user, exchange, a clearing house, central securities depository and participants, must be construed as references to a member, stock exchange, clearing house, financial exchange, recognised clearing house, central securities deposit and depository institution referred to in the Stock Exchanges Control Act, 1985 (Act 1 of 1985), Financial Markets Control Act, 1989 (Act 55 of 1989), and Custody and Administration of Securities Act, 1992 (Act 85 of 1992). Section 45(4)(b) adds that any word or expression defined in the Stock Exchanges Control Act, 1985, Financial Markets Control Act, 1989, and Custody and Administration of Securities Act, 1992, unless clearly inappropriate or inconsistent with this Act, has the meaning so defined. The Securities Services Act of 2004 came into operation on 1 February 2005.

This raises the question whether there is still a need for this provision. In addition, all the Acts referred to in the paragraphs above have been repealed. The SALRC recommends that section 45(4)(a) and (b) be repealed.

7.61 The Schedule to this Act also amended the Stock Exchanges Control Act of 1985 and the Financial Markets Control Act of 1989. These amendments do not serve any useful purpose anymore as both Acts have been repealed. The SALRC recommends that the schedule of this Act be amended by deleting references to these Acts.

12 Gold and Foreign Exchange Contingency Reserve Account Defrayal Act 4 of 2003

7.62 This Act makes provision for the defrayal of a loss on the Gold and Foreign Exchange Contingency Reserve Account. Section 1 provides that payments to defray a loss on the Gold and Foreign Exchange Contingency Reserve Account are a direct charge against the National Revenue Account. Section 2 provides that the payments to be made in terms of the mechanism contemplated in section 1, in respect of the 2002/03, 2003/04, 2004/05 and 2005/06 financial year are (a) an amount of R7 000 million rand for the 2002/03 financial year; and (b) an amount not exceeding R21 024 million rand for the 2003/04, 2004/05 and 2005/06 financial years, subject to an agreement between the National Treasury and the South African Reserve Bank on the outstanding amount to be settled and the exact figure to be paid in each of those financial years. The financial years in respect of which this Act was promulgated have long passed. It is therefore probable that the obligations created by this Act have been fulfilled and this Act is spent. The SALRC recommends that it be repealed.

13 Food Relief Adjustments Appropriation Act 5 of 2003

7.63 This Act appropriated additional amount of R230 million for the requirements of the Department of Social Development in respect of the 2002/03 financial year to fund the implementation of domestic food relief interventions; and R170 million in respect of the 2002/03 financial year to give effect to the Republic of South Africa's commitment to assist

in the provision of food relief to countries in the SADC region most seriously affected by the food crisis. The financial year referred to has passed, and this Act has become spent. It is recommended that it be repealed.

Annexure A

National Treasury Laws Amendment and Repeal Bill

To repeal certain laws of the Republic

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

1 Repeal and amendment of laws

(1) The laws specified in Schedule 1 are hereby repealed.

(2) The laws specified in Schedule 2 are hereby repealed or amended to the extent set out in the third column of that Schedule.

2 Short title and commencement

This Act shall be called the National Treasury Laws Amendment and Repeal Act, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

Schedule 1

Number and year of law	Title or subject of law
Act 36 of 1913	Pensions (Supplementary) Act, 1913
Act 37 of 1914	Pensions (Supplementary) Act, 1914
Act 25 of 1915	Pensions (Supplementary) Act, 1915
Act 45 of 1916	Pensions (Supplementary) Act, 1916

Number and year of law	Title or subject of law
Act 27 of 1918	Pensions (Supplementary) Act, 1918
Act 44 of 1919	Pensions (Supplementary) Act, 1919
Act 39 of 1920	Pensions (Supplementary) Act, 1920
Act 37 of 1921	Pensions (Supplementary) Act, 1921
Act 23 of 1922	Income Tax Act, 1922
Act 39 of 1922	Pensions (Supplementary) Act, 1922
Act 33 of 1923	Pensions (Supplementary) Act, 1923
Act 37 of 1924	Pensions (Supplementary) Act, 1924
Act 44 of 1925	Pensions (Supplementary) Act, 1924
Act 41 of 1926	Pensions (Supplementary) Act, 1926
Act 42 of 1926	Pensions (Second Supplementary) Act, 1926
Act 6 of 1927	Appropriation (Part) Act, 1927
Act 32 of 1927	Pensions (Supplementary) Act, 1927
Act 20 of 1928	Pensions (Supplementary) Act, 1928
Act 28 of 1929	Pensions (Supplementary) Act, 1929
Act 33 of 1930	Pensions (Supplementary) Act, 1930
Act 33 of 1931	Pensions (Supplementary) Act, 1931
Act 30 of 1932	Pensions (Supplementary) Act, 1932
Act 24 of 1933	Pensions (Supplementary) Act, 1933
Act 65 of 1934	Pensions (Supplementary) Act, 1934
Act 54 of 1935	Pensions (Supplementary) Act, 1935
Act 26 of 1936	Pensions (Supplementary) Act, 1936
Act 8 of 1937	Part Appropriation Act, 1937
Act 49 of 1937	Pensions (Supplementary) Act, 1937
Act 7 of 1938	Pensions (Supplementary) Act, 1938
Act 21 of 1938	Second Pensions (Supplementary) Act, 1938
Act 40 of 1939	Pensions (Supplementary) Act, 1939
Act 28 of 1940	Pensions (Supplementary) Act, 1940
Act 32 of 1941	Pensions (Supplementary) Act, 1941
Act 43 of 1942	Pensions (Supplementary) Act, 1942
Act 32 of 1943	Pensions (Supplementary) Act, 1943

Number and year of law	Title or subject of law
Act 43 of 1944	Pensions (Supplementary) Act, 1944
Act 42 of 1945	Pensions (Supplementary) Act, 1945
Act 25 of 1946	Banking Institutions Act, 1946
Act 54 of 1946	Special Taxation Amendment Act, 1946
Act 56 of 1946	Pensions (Supplementary) Act, 1946
Act 29 of 1947	Special Taxation Amendment Act, 1947
Act 47 of 1947	Pensions (Supplementary) Act, 1947
Act 24 of 1948	Pensions (Supplementary) Act, 1948
Act 38 of 1948	Special Taxation Amendment Act, 1948
Act 46 of 1948	Second Pensions (Supplementary) Act, 1948
Act 46 of 1949	Pensions (Supplementary) Act, 1949
Act 32 of 1950	Pensions (Supplementary) Act, 1950
Act 48 of 1951	Pensions (Supplementary) Act, 1951
Act 57 of 1952	Pensions (Supplementary) Act, 1952
Act 36 of 1953	Customs Amendment Act, 1953
Act 46 of 1953	Pensions (Supplementary) Act, 1953
Act 53 of 1954	Pensions (Supplementary) Act, 1954
Act 66 of 1955	Pensions (Supplementary) Act, 1955
Act 67 of 1956	Pensions (Supplementary) Act, 1956
Act 80 of 1957	Pensions (Supplementary) Act, 1957
Act 15 of 1958	Pensions (Supplementary) Act, 1958
Act 47 of 1958	Second Pensions (Supplementary) Act, 1958
Act 68 of 1959	Pensions (Supplementary) Act, 1959
Act 67 of 1960	Pensions (Supplementary) Act, 1960
Act 65 of 1961	Pensions (Supplementary) Act, 1961
Act 82 of 1962	Pensions (Supplementary) Act, 1962
Act 94 of 1963	Pensions (Supplementary) Act, 1963
Act 83 of 1964	Pensions (Supplementary) Act, 1964
Act 100 of 1965	Pensions (Supplementary) Act, 1965
Act 60 of 1966	Pensions (Supplementary) Act, 1966
Act 93 of 1967	Pensions (Supplementary) Act, 1967

Number and year of law	Title or subject of law
Act 94 of 1967	Revenue Laws Amendment Act, 1967
Act 99 of 1967	Financial Institutions Amendment Act, 1967
Act 84 of 1968	Pensions (Supplementary) Act, 1968
Act 80 of 1969	Financial Institutions Amendment Act, 1969
Act 100 of 1969	Pensions (Supplementary) Act, 1969
Act 23 of 1970	Financial Institutions Amendment Act, 1970
Act 75 of 1970	Second Financial Institutions Amendment Act, 1970
Act 95 of 1970	Pensions (Supplementary) Act, 1970
Act 94 of 1971	Pensions (Supplementary) Act, 1971
Act 98 of 1972	Pensions (Supplementary) Act, 1972
Act 67 of 1973	Financial Institutions Amendment Act, 1973
Act 75 of 1973	Pensions (Supplementary) Act, 1973
Act 78 of 1974	Pensions (Supplementary) Act, 1974
Act 68 of 1975	Pensions (Supplementary) Act, 1975
Act 116 of 1977	Pensions (Supplementary) Act, 1977
Act 106 of 1978	Pensions (Supplementary) Act, 1978
Act 4 of 1979	Railways and Harbours Additional Appropriation Act, 1979
Act 15 of 1979	Additional Appropriation Act, 1979
Act 22 of 1979	Post Office Additional Appropriation Act, 1979
Act 27 of 1979	Railways and Harbours Appropriation Act, 1979
Act 28 of 1979	Part Appropriation Act, 1979
Act 33 of 1979	Post Office Appropriation Act, 1979
Act 106 of 1979	Pensions (Supplementary) Act, 1979
Act 120 of 1979	Appropriation Act, 1979
Act 1 of 1980	Additional Appropriation Act, 1980
Act 10 of 1980	Part Appropriation Act, 1980
Act 14 of 1980	Railways and Harbours Additional Appropriation Act, 1980
Act 17 of 1980	Railways and Harbours Appropriation Act, 1980
Act 18 of 1980	Post Office Appropriation Act, 1980
Act 93 of 1980	Pensions (Supplementary) Act, 1980
Act 103 of 1980	Appropriation Act, 1980

Number and year of law	Title or subject of law
Act 34 of 1981	Railways and Harbours Additional Appropriation Act, 1981
Act 36 of 1981	Financial Institutions Amendment Act, 1981
Act 37 of 1981	Additional Appropriation Act, 1981
Act 39 of 1981	Part Appropriation Act, 1981
Act 49 of 1981	Railways and Harbours Part Appropriation Act, 1981
Act 50 of 1981	Post Office Part Appropriation Act, 1981
Act 74 of 1981	Post Office Appropriation Act, 1981
Act 80 of 1981	Railways and Harbours Appropriation Act, 1981
Act 109 of 1981	Appropriation Act, 1981
Act 115 of 1981	Pensions (Supplementary) Act, 1981
Act 24 of 1982	Transport Services Additional Appropriation Act, 1982
Act 41 of 1982	Part Appropriation Act, 1982
Act 46 of 1982	Additional Appropriation Act, 1982
Act 54 of 1982	Transport Services Appropriation Act, 1982
Act 57 of 1982	Post Office Appropriation Act, 1982
Act 82 of 1982	Financial Institutions Amendment Act, 1982
Act 95 of 1982	Appropriation Act, 1982
Act 106 of 1982	Pensions (Supplementary) Act, 1982
Act 7 of 1983	Transport Services Additional Appropriation Act, 1983
Act 11 of 1983	Additional Post Office Appropriation Act, 1983
Act 14 of 1983	Part Appropriation Act, 1983
Act 15 of 1983	Additional Appropriation Act, 1983
Act 22 of 1983	Transport Services Appropriation Act, 1983
Act 26 of 1983	Post Office Appropriation Act, 1983
Act 97 of 1983	Pensions (Supplementary) Act, 1983
Act 98 of 1983	Appropriation Act, 1983
Act 111 of 1983	Second Pensions (Supplementary) Act, 1983
Act 22 of 1984	Additional Post Office Appropriation Act, 1984
Act 24 of 1984	Part Appropriation Act, 1984
Act 28 of 1984	Additional Appropriation Act, 1984
Act 34 of 1984	Transport Services Appropriation Act, 1984

Number and year of law	Title or subject of law
Act 41 of 1984	Post Office Appropriation Act, 1984
Act 98 of 1984	Appropriation Act, 1984
Act 120 of 1984	Revenue Accounts Financing Act, 1984
Act 124 of 1984	Pensions (Supplementary) Act, 1984
Act 22 of 1985	Part Appropriation Act of the Administration: House of Assembly (HA), 1985
Act 23 of 1985	Part Appropriation Act of the Administration: House of Representatives (HR), 1985
Act 24 of 1985	Part Appropriation Act of the Administration: House of Delegates (HD), 1985
Act 32 of 1985	Additional Appropriation Act, 1985
Act 33 of 1985	Additional Appropriation Act of the Administration: House of Assembly (HA), 1985
Act 34 of 1985	Additional Appropriation Act of the Administration: House of Representatives (HR), 1985
Act 35 of 1985	Additional Appropriation Act of the Administration: House of Delegates (HD), 1985
Act 38 of 1985	Transport Services Appropriation Act, 1985
Act 37 of 1985	Part Appropriation Act, 1985
Act 40 of 1985	Post Office Appropriation Act, 1985
Act 62 of 1985	Appropriation Act of the Administration: House of Delegates (HD), 1985
Act 63 of 1985	Appropriation Act of the Administration: House of Assembly (HA), 1985
Act 66 of 1985	Appropriation Act of the Administration: House of Representatives (HR)
Act 73 of 1985	Appropriation Act, 1985
Act 100 of 1985	Pensions (Supplementary) Act, 1985
Act 106 of 1985	Financial Institutions Amendment Act, 1985
Act 6 of 1986	Part Appropriation Act, 1986
Act 13 of 1986	Part Appropriation Act (House of Assembly), 1986
Act 14 of 1986	Part Appropriation Act (House of Representatives), 1986
Act 15 of 1986	Part Appropriation Act (House of Delegates), 1986
Act 16 of 1986	Additional Post Office Appropriation Act, 1986
Act 17 of 1986	Additional Appropriation Act, 1986
Act 19 of 1986	Additional Appropriation Act (House of Representatives), 1986
Act 20 of 1986	Additional Appropriation Act (House of Delegates), 1986

Number and year of law	Title or subject of law
Act 21 of 1986	Additional Appropriation Act (House of Assembly), 1986
Act 26 of 1986	Transport Services Appropriation Act, 1986
Act 28 of 1986	Post Office Appropriation Act, 1986
Act 51 of 1986	Appropriation Act (House of Assembly), 1986
Act 55 of 1986	Appropriation Act (House of Delegates), 1986
Act 61 of 1986	Appropriation Act (House of Representatives), 1986
Act 63 of 1986	Appropriation Act, 1986
Act 102 of 1986	Pensions (Supplementary) Act (House of Assembly), 1986
Act 109 of 1986	Pensions (Supplementary) Act, 1986
Act 5 of 1987	Part Appropriation Act, 1987
Act 6 of 1987	Financial Institutions Amendment Act, 1987
Act 7 of 1987	Transport Services Part Appropriation Act, 1987
Act 10 of 1987	Part Appropriation Act (House of Assembly), 1987
Act 11 of 1987	Part Appropriation Act (House of Representatives), 1987
Act 12 of 1987	Part Appropriation Act (House of Delegates), 1987
Act 13 of 1987	Additional Appropriation Act (House of Delegates), 1987
Act 14 of 1987	Additional Appropriation Act, 1987
Act 15 of 1987	Post Office Part Appropriation Act, 1987
Act 19 of 1987	Additional Appropriation Act (House of Representatives), 1987
Act 22 of 1987	Additional Appropriation Act (House of Assembly), 1987
Act 28 of 1987	Post Office Appropriation Act, 1987
Act 30 of 1987	Transport Services Appropriation Act, 1987
Act 39 of 1987	Appropriation Act (House of Representatives), 1987
Act 49 of 1987	Appropriation Act (House of Assembly), 1987
Act 77 of 1987	Appropriation Act (House of Delegates), 1987
Act 83 of 1987	Appropriation Act, 1987
Act 89 of 1987	Pensions (Supplementary) Act, 1987
Act 4 of 1988	Part Appropriation Act, 1988
Act 6 of 1988	Part Appropriation Act (House of Representatives), 1988
Act 7 of 1988	Part Appropriation Act (House of Delegates), 1988
Act 10 of 1988	Part Appropriation Act (House of Assembly), 1988

Number and year of law	Title or subject of law
Act 15 of 1988	Additional Appropriation Act, 1988
Act 16 of 1988	Additional Appropriation Act (House of Representatives), 1988
Act 17 of 1988	Additional Appropriation Act (House of Delegates), 1988
Act 18 of 1988	Additional Appropriation Act (House of Assembly), 1988
Act 23 of 1988	Transport Services Appropriation Act, 1988
Act 34 of 1988	Post Office Appropriation Act, 1988
Act 58 of 1988	Appropriation Act (House of Representatives), 1988
Act 61 of 1988	Appropriation Act (House of Delegates), 1988
Act 62 of 1988	Appropriation Act (House of Assembly), 1988
Act 79 of 1988	Appropriation Act, 1988
Act 92 of 1988	Accountants' and Auditors' and Financial Institutions Amendment Act, 1988
Act 96 of 1988	South African Reserve Bank, Banking Institutions, Mutual Building Societies, and Building Societies Amendment Act, 1988
Act 1 of 1989	Part Appropriation Act, 1989
Act 2 of 1989	Additional Post Office Appropriation Act, 1989
Act 4 of 1989	Transport Services Additional Appropriation Act, 1989
Act 5 of 1989	Appropriation Act, Additional 1989
Act 10 of 1989	Part Appropriation Act (House of Assembly), 1989
Act 11 of 1989	Part Appropriation Act (House of Representatives), 1989
Act 12 of 1989	Part Appropriation Act (House of Delegates), 1989
Act 13 of 1989	Banking Institutions, Mutual Building Societies and Building Societies Amendment Act, 1989
Act 15 of 1989	Additional Appropriation Act (House of Representatives), 1989
Act 16 of 1989	Additional Appropriation Act (House of Delegates), 1989
Act 17 of 1989	Additional Appropriation Act (House of Assembly), 1989
Act 28 of 1989	Transport Services Appropriation Act, 1989
Act 32 of 1989	Pensions (Supplementary) Act, 1989
Act 38 of 1989	Post Office Appropriation Act, 1989
Act 67 of 1989	Appropriation Act, 1989
Act 81 of 1989	Appropriation Act (House of Assembly), 1989
Act 82 of 1989	Appropriation Act (House of Representatives), 1989

Number and year of law	Title or subject of law
Act 83 of 1989	Appropriation Act (House of Delegates), 1989
Act 86 of 1989	Pensions Second (Supplementary) Act, 1989
Act 1 of 1990	Part Appropriation Act, 1990
Act 2 of 1990	Additional Post Office Appropriation Act, 1990
Act 4 of 1990	Transport Services Additional Appropriation Act, 1990
Act 6 of 1990	Additional Appropriation Act, 1990
Act 7 of 1990	Part Appropriation Act (House of Representatives), 1990
Act 8 of 1990	Part Appropriation Act (House of Assembly), 1990
Act 11 of 1990	Part Appropriation Act (House of Delegates), 1990
Act 19 of 1990	Additional Appropriation Act (House of Assembly), 1990
Act 20 of 1990	Additional Appropriation Act (House of Representatives), 1990
Act 21 of 1990	Additional Appropriation Act (House of Delegates), 1990
Act 22 of 1990	Post Office Appropriation Act, 1990
Act 57 of 1990	Appropriation Act (House of Assembly), 1990
Act 58 of 1990	Appropriation Act (House of Delegates), 1990
Act 93 of 1990	Appropriation Act, 1990
Act 103 of 1990	Appropriation Act (House of Representatives), 1990
Act 118 of 1990	Pensions (Supplementary) Act, 1990
Act 26 of 1991	Additional Appropriation Act, 1991
Act 27 of 1991	Part Appropriation Act, 1991
Act 28 of 1991	Part Appropriation Act (House of Assembly), 1991
Act 29 of 1991	Part Appropriation Act (House of Representatives), 1991
Act 30 of 1991	Part Appropriation Act (House of Delegates), 1991
Act 31 of 1991	Additional Appropriation Act (House of Assembly), 1991
Act 32 of 1991	Additional Appropriation Act (House of Representatives), 1991
Act 33 of 1991	Additional Appropriation Act (House of Delegates), 1991
Act 35 of 1991	Post Office Appropriation Act, 1991
Act 91 of 1991	Appropriation Act (House of Assembly), 1991
Act 92 of 1991	Appropriation Act (House of Representatives), 1991
Act 93 of 1991	Appropriation Act (House of Delegates), 1991
Act 132 of 1991	Appropriation Act, 1991

Number and year of law	Title or subject of law
Act 133 of 1991	Pensions (Supplementary) Act, 1991
Act 24 of 1992	Additional Appropriation Act (House of Assembly), 1992
Act 25 of 1992	Additional Appropriation Act (House of Representatives), 1992
Act 26 of 1992	Additional Appropriation Act (House of Delegates), 1992
Act 27 of 1992	Part Appropriation Act, 1992
Act 28 of 1992	Additional Appropriation Act, 1992
Act 30 of 1992	Part Appropriation Act (House of Assembly), 1992
Act 31 of 1992	Part Appropriation Act (House of Representatives), 1992
Act 32 of 1992	Part Appropriation Act (House of Delegates), 1992
Act 72 of 1992	Appropriation Act (House of Assembly), 1992
Act 73 of 1992	Appropriation Act (House of Representatives), 1992
Act 74 of 1992	Appropriation Act (House of Delegates), 1992
Act 76 of 1992	Public Investment Commissioners Amendment Act, 1992
Act 95 of 1992	Appropriation Act, 1992
Act 138 of 1992	Pensions (Supplementary) Act, 1992
Act 1 of 1993	Additional Appropriation Act, 1993
Act 24 of 1993	Additional Appropriation Act (House of Assembly), 1993
Act 25 of 1993	Additional Appropriation Act (House of Representatives), 1993
Act 26 of 1993	Additional Appropriation Act (House of Delegates), 1993
Act 35 of 1993	Post Office Appropriation Act, 1993
Act 70 of 1993	Public Accountants' and Auditors' Amendment Act, 1993
Act 74 of 1993	Appropriation Act (House of Representatives), 1993
Act 75 of 1993	Appropriation Act (House of Delegates) ,1993
Act 77 of 1993	Appropriation Act (House of Assembly), 1993
Act 79 of 1993	Finance Act (House of Assembly), 1993
Act 96 of 1993	Appropriation Act, 1993
Act 128 of 1993	Pensions (Supplementary) Act, 1993
Act 160 of 1993	Adjustments Appropriation Act (House of Assembly), 1993
Act 164 of 1993	Adjustments Appropriation (House of Assembly), 1993
Act 165 of 1993	Adjustments Estimate Act (House of Delegates), 1993

Number and year of law	Title or subject of law
Act 167 of 1993	Adjustments Appropriation Act, 1993
Act 11 of 1994	Post Office Appropriation Act, 1994
Act 16 of 1994	Appropriation Act, 1994
Act 1 of 1995	Adjustments Appropriation Act, 1995
Act 4 of 1995	Additional Post Office Appropriation Act, 1995
Act 17 of 1995	Post Office Appropriation Act, 1995
Act 22 of 1995	Public Investment Commissioners Amendment Act, 1995
Act 23 of 1995	Public Accountants' and Auditors' Amendment Act, 1995
Act 42 of 1995	Appropriation Act, 1995
Act 53 of 1995	Audit Matters Rationalisation and Amendment Act, 1995
Act 54 of 1995	Stock Exchanges Control Amendment Act, 1995
Act 55 of 1995	Financial Markets Control Amendment Act, 1995
Act 1 of 1996	Adjustments Appropriation Act, 1996
Act 30 of 1996	Post Office Appropriation Act, 1996
Act 41 of 1996	Appropriation Act, 1996
Act 70 of 1996	Safe Deposit of Securities Amendment Act, 1996
Act 71 of 1996	Stock Exchanges Control Amendment Act, 1996
Act 73 of 1996	Financial Markets Control Amendment Act ,1996
Act 3 of 1997	Exchequer Amendment Act, 1997
Act 5 of 1997	Public Accountants' and Auditors' Amendment Act, 1997
Act 29 of 1997	Appropriation Act, 1997
Act 30 of 1997	Reporting by Public Entities Amendment Act, 1997
Act 95 of 1997	Revenue Funds Interim Arrangements Act, 1997
Act 96 of 1997	Financial and Fiscal Commission 1993 Constitutional Provisions Repeal Act, 1997
Act 3 of 1998	Adjustments Appropriation Act, 1998
Act 11 of 1998	Interim Appropriation Act, 1998
Act 13 of 1998	Financial Markets Control Amendment Act, 1998
Act 14 of 1998	Stock Exchanges Control Amendment Act, 1998
Act 29 of 1998	Appropriation Act, 1998
Act 38 of 1998	Safe Deposit of Securities Amendment Act, 1998
Act 51 of 1998	Insurance Second Amendment Act, 1998

Number and year of law	Title or subject of law
Act 129 of 1998	Second Adjustments Appropriation Act, 1998
Act 7 of 1999	Public Investment Commissioners Amendment Act, 1999
Act 31 of 1999	Appropriation Act, 1999
Act 40 of 1999	Financial Markets Control Amendment Act, 1999
Act 41 of 1999	Closed Pension Fund Amendment Act, 1999
Act 51 of 1999	Adjustments Appropriation Act, 1999
Act 52 of 1999	Second Adjustments Appropriation Act, 1999
Act 23 of 2000	Appropriation Act, 2000
Act 34 of 2000	Adjustments Appropriation Act, 2000
Act 55 of 2000	Second Adjustments Appropriation Act, 2000
Act 18 of 2001	Appropriation Act, 2001
Act 40 of 2001	Stock Exchanges Control Amendment Act, 2001
Act 59 of 2001	Adjustments Appropriation Act, 2001
Act 2 of 2002	Social Grants Appropriation Act, 2002
Act 3 of 2002	Burundi Protection Support Appropriation Act, 2002
Act 29 of 2002	Appropriation Act, 2002
Act 73 of 2002	Adjustments Appropriation Act, 2002
Act 4 of 2003	Gold and Foreign Exchange Contingency Reserve Account Defrayal Act, 2003
Act 5 of 2003	Food Relief Adjustments Appropriation Act, 2003
Act 18 of 2003	Appropriation Act, 2003
Act 37 of 2003	Adjustments Appropriation Act, 2003

Schedule 2

'Number and year of law	Title or subject of law	Extent of repeal or amendment
Act 9 of 1933	Currency and Exchanges Act, 1933	<p>(a) Repeal of section 1.</p> <p>(b) Amendment of section 2-</p> <p>(i) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1) Whenever in terms of any contract of loan of money the debtor is under an obligation to repay the money lent or any portion thereof or to pay any interest thereon in coins or notes or other instruments which are, or at any time were, legal tender in the [Union] Republic, whether such obligation arose before or after or partly before and partly after the commencement of this Act, he may at his <u>or her</u> option fulfil such obligation by the payment of the amount which he <u>or she</u> is bound to pay in notes of the Bank or in coins which are legal tender in the [Union] Republic at the time when the payment takes place (to the amount to which they are legal tender).”;</p> <p>(ii) by the repeal of subsection (2).</p> <p>(c) Amendment of section 9 –</p> <p>(i) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1) The [Governor-General] President may make regulations in regard to any matter directly or indirectly relating to or affecting or having any bearing upon currency, banking or exchanges.”;</p> <p>(ii) by the substitution for paragraph (a) of subsection (2) of the following paragraph:</p>

		<p>“(a) Such regulations may provide that the [Governor-General] <u>President</u> may apply any sanctions therein set forth which he <u>or she</u> thinks fit to impose, whether civil or criminal.”; and</p> <p>(iii) by the deletion of subsection (3).</p> <p>(d) The following section is hereby substituted for section 11:</p> <p>“Short title and commencement</p> <p>11. This Act shall be known as the Currency and Exchanges Act 1933 and [, subject to the provisions of subsection (5) of section eight,] shall be deemed to have come into operation on the twenty-eighth day of December, 1932.”</p>
Act 22 of 1933	Union and Southern Rhodesia Death Duties Act, 1933	<p>(a) The substitution for the expression “Republic of South Africa” of the expression “Union of South Africa” or “Union”, as the case may be, wherever it occurs in the long title, the preamble, sections 1(1), (2), (3), (4), and (5)(a).</p> <p>(b) The substitution for the expression “Zimbabwe” of the expression “Southern Rhodesia” wherever it occurs in the long title, preamble, section 1(1), (2), (3), (4), and (5)(a).</p> <p>(c) The amendment of section 1 –</p> <p>(i) by the substitution for the heading of the following heading:</p> <p>“Interpretation of Section 3 of Act [29 of 1922] <u>45 of 1955</u>, [as amended by Sections 1 and 2 of Act 31 of 1925], in its application to assets subject to death duties under the Laws of both the [Union] <u>Republic of South Africa</u> and [Southern</p>

		<p>Rhodesia] Zimbabwe".</p> <p>(ii) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1) The provisions of [paragraph (c) of subsection (2) of section three of the Death Duties Act, 1922 (Act 29 of 1922)] <u>paragraphs (a) and (b) of subsection (2) of section 3 of the Estate Duty Act, 1955 (Act 45 of 1955,</u> as amended (hereinafter referred to as the principal Act), shall not apply to any movable property physically situated in [Southern Rhodesia] Zimbabwe.”; and</p> <p>(iii) by the substitution for paragraphs (a) and (b) of subsection (5) of the following paragraphs, respectively:</p> <p style="padding-left: 40px;">“(a) The provisions of [paragraph (h) of subsection (2) of section three] <u>section 3</u> of the principal Act notwithstanding, any 'stocks or shares [in any company]' as defined by section [forty one] <u>of that Act,</u> shall not, for the purposes of the principal Act, be deemed to be portion of the estate of a person who at the date of his <u>or her</u> death was ordinarily resident in the [Union] Republic, if any transfer whereby any change of ownership in such stocks or shares is recorded is required to be registered in [Southern Rhodesia] Zimbabwe.</p> <p style="padding-left: 40px;">(b) In the application of this subsection, and of [paragraph (g) of subsection (2) of] section [three] 3(2) of the principal Act, a registered transfer of stocks or shares in any company shall be deemed to be registered in the territory in which the main register of the company</p>
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		<p>is kept, all branch registers, wheresoever kept, being deemed to be kept at the place where the main register is by law required to be kept.”.</p> <p>3. The following section is hereby substituted for section 2:</p> <p>“Short title and commencement</p> <p>2. This Act shall be known as the [Union and Southern Rhodesia] Republic of South Africa and Zimbabwe Death Duties Act, 1933, and shall come into operation in respect of the estate of every person who dies on or after a date to be fixed by the Governor-General by proclamation in the Gazette, which proclamation shall be issued by him upon proof being produced to his satisfaction that like legislation passed by the Parliament of Southern Rhodesia has received the assent of His Majesty the King.”.</p>
Act 25 of 1956	Friendly Societies Act, 1956	<p>(a) Amendment of section 1 –</p> <p>(i) by the substitution for the definition of “court” of the following definition:</p> <p>“‘court’ means a [provincial or local] division of the [Supreme Court of South Africa] High Court having jurisdiction;” and</p> <p>(ii) by the substitution for the definition of “Insurance Act” of the following definition:</p> <p>“‘Insurance Act’ means the Long-term Insurance Act 52 of 1998.”.</p> <p>(b) Amendment of section 6 by the substitution for subsection (3) of the following subsection:</p> <p>“(3) The provisions of [subsections (2), (3) and (4) of section 30 of the Banks Act, 1965</p>

		<p>(Act 23 of 1965) <u>section 54 of the Banks Act, 1990 (Act 94 of 1990)</u>, shall <i>mutatis mutandis</i> apply in relation to any change in the name of a society under this section as if the society were a banking institution within the meaning of that Act and as if the change had effected a transfer of the assets and liabilities of the society to another society known by the name under which the registration of the society has been effected.”.</p> <p>(c) Amendment of section 11 by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Except where the accounts of a society are to be audited by the Auditor-General under the provisions of one or other law, every registered society shall in the manner prescribed by its rules appoint an auditor registered under the [Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991)] <u>Auditing Profession Act, 2005 (Act 26 of 2005)</u>, who shall not be an officer of the society: Provided that if an auditor so registered is not readily available the registrar may at the request of the society approve of the appointment of a person nominated by the society, to act as auditor of the society, or if the registrar is not satisfied that the nominated person is suitable to act as auditor of the society, he <u>or she</u> may appoint as auditor any other person whom he <u>or she</u> considers suitable.”</p> <p>(d) The following section is hereby substituted for section 32:</p> <p>“Powers of inspection</p> <p>32. (1) In addition to the powers and duties</p>
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		<p>conferred or imposed upon him <u>or her</u> by this Act, the registrar shall have all the powers and duties conferred or imposed upon him <u>or her</u> by the [Inspection of Financial Institutions Act, 1962] <u>Inspection of Financial Institutions Act, 1998 (Act 80 of 1998)</u>.</p> <p>(2) Any reference in this Act to an inspection or investigation made under this section shall be construed as a reference to an inspection made under the [Inspection of Financial Institutions Act, 1962] <u>Inspection of Financial Institutions Act, 1998 (Act 80 of 1998)</u>.”.</p> <p>(e) Amendment of section 38A –</p> <p>(i) by the substitution for the heading of the following heading: “Application for approval for conversion of society into [company] <u>long-term insurance business</u>”; and</p> <p>(ii) by the substitution for subsection (1) of the following subsection: “(1) A registered society intending to apply in terms of section [4 of the Insurance Act, 1943 (Act 27 of 1943)] <u>7 of the Long-term Insurance Act, 1998 (Act 52 of 1998)</u>, to the Registrar of Insurance to carry on a [particular class of] <u>long-term</u> insurance business within the meaning of that Act, may apply to the Registrar of Friendly Societies for his <u>or her</u> approval for its conversion into a [company referred to in section 4(3)bis (b) (i) of that Act] <u>long-term insurer</u>, so as to be able to make such application to the Registrar of Insurance.”.</p>
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Act 70 of 1963	Revenue Laws Amendment Act, 1963	<p>The following section is hereby substituted for section 1:</p> <p>“A reference in any law or document to Commissioner for Inland Revenue to be construed as a reference to the [head of the Department of Inland Revenue] <u>Commissioner for the South African Revenue Service</u></p> <p>1. A reference in any law or document to the Commissioner for Inland Revenue shall be construed as a reference to the [person who, in terms of the Public Service Act, 1957 (Act 54 of 1957), is for the time being the head of the Department of Inland Revenue] <u>Commissioner for the South African Revenue Service as contemplated in the South African Revenue Service Act, 1997 (Act 34 of 1997).</u>”.</p>
Act 34 of 1964	Bills of Exchange Act, 1964	<p>(a) The amendment of section 1 by the substitution for the definition of “bank” of the following definition:</p> <p>“bank’ means a body of persons, whether incorporated or not, that carries on the business of banking, and includes the South African Reserve Bank contemplated in the South African Reserve Bank Act, 1989 (Act 90 of 1989), a bank as defined in section 1 of the Banks Act, 1990 (Act 94 of 1990), a mutual bank as defined in section 1 of the Mutual Banks Act, 1993 (Act 124 of 1993), and the [Post Office Savings Bank as defined in section 1 of the Post Office Act, 1958 (Act 44 of 1958)] <u>Postbank contemplated in the South African Postbank Limited Act, 2010 (Act 9 of 2010).</u>”.</p> <p>(b) The following section is hereby substituted for</p>

		<p>section 72B:</p> <p>“Prevention of fraud</p> <p>72B Any person who is required by law to have his <u>or her</u> financial statements audited by a person registered [in terms of section 15 of the Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991)] <u>under the provisions of the Auditing Profession Act, 2005 (Act 26 of 2005)</u>, or by the Auditor-General, and any person obliged to appoint an accounting officer in terms of section 59 of the Close Corporations Act, 1984 (Act 69 of 1984), shall exercise reasonable care in the custody of cheque forms and in the reconciliation of its bank statements.”.</p>
Act 77 of 1964	Revenue Laws Amendment Act, 1964	<p>(a) Repeal of section 1.</p> <p>(b) Amendment of section 3 by the deletion of paragraph (b).</p> <p>(c) Amendment of section 8 by the deletion of paragraphs (a), (b) and (c).</p> <p>(d) Amendment of section 9 –</p> <p>(i) by the deletion of paragraph (a) of subsection (1); and</p> <p>(ii) by the deletion of subsection (2).</p> <p>(e) Repeal of sections 11, 16, 17 and 18.</p>
Act 82 of 1964	Tax Reserve Account Act, 1964	<p>(a) Amendment of section 1 by the substitution for subsection (2) of the following subsection:</p> <p>“(2) The account shall, subject to the provisions of section two, be under the control of the [Secretary to the Treasury] <u>Director-General</u></p>

		<p><u>of the National Treasury.</u>”.</p> <p>(b) Amendment of section 3 by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Any balance in the account shall be invested with the [Public Debt Commissioners] <u>Public Investment Corporation contemplated in the Public Investment Corporation Act, 2004 (Act 23 of 2004).</u>”.</p>
Act 91 of 1964	Customs and Excise Act, 1964	<p>(a) Amendment of section 4 by the substitution for subsection (3E) of the following subsection:</p> <p>“(3E) Notwithstanding anything to the contrary contained in subsection (3), the Auditor-General shall in the performance of the Auditor-General's duties in terms of [section 3 of the Auditor-General Act, 1995 (Act 12 of 1995)] <u>the Public Audit Act, 2004 (Act 25 of 2004)</u> have access to the documents in the possession or custody of the Commissioner or a Controller.”.</p> <p>(b) Amendment of section 30 by the substitution for subsection (2) of the following subsection:</p> <p>“(2) The [blending of brandy in terms of section 9(1)(b) of the Wine and Spirits Control Act, 1970 (Act 47 of 1970)] <u>manufacturing of spirit which complies with the Liquor Products Act, 1989 (Act 60 of 1989) for the class of spirit manufactured or sold under the name of brandy,</u> and the production from spirits of any other beverage or any other non-excisable goods shall be subject to such supervision by an officer as the Commissioner may in each case consider necessary.”.</p>

		<p>(c) Amendment of section 35 by the substitution for paragraph (a) of subsection (1) of the following paragraph:</p> <p style="padding-left: 40px;">“(a) The Commissioner may, subject to such conditions as he may impose in each case, license the premises of a wine-grower, wine-growers' co-operative agricultural society [, the Deciduous Fruit Board] or a person who holds a licence under any law to deal in wine in wholesale quantities, as a special customs and excise warehouse for the purpose of manufacturing wine.”.</p> <p>(d) Amendment of section 48 by the substitution for paragraph (b) of subsection (1) of the following paragraph:</p> <p style="padding-left: 40px;">“(b) in order to give effect to any request by the Minister of Trade and Industry [and for Economic Co-ordination].”.</p> <p>(e) Amendment of section 62 by the deletion of paragraphs (a) and (b) of subsection (2).</p> <p>(f) Amendment of section 75 by the substitution for subparagraphs (i), (ii) and (iii) of paragraph (b) of subsection (2) of the following subparagraphs, respectively:</p> <p style="padding-left: 40px;">“(i) in [a factory premises which is registered under the Machinery and Occupational Safety Act, 1983 (Act 6 of 1983)] <u>premises registered under the Occupational Health and Safety Act, 1993 (Act 85 of 1993)</u>;</p> <p style="padding-left: 40px;">(ii) in a mine [or works] as defined in</p>
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		<p>section 1 of the [Mines and Works Act, 1956 (Act 27 of 1956)] <u>Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002)</u>; or</p> <p>(iii) elsewhere in any other activity which the Commissioner may approve for the purposes of this subparagraph.”.</p> <p>(f) Amendment of section 88 by the substitution for paragraphs (a), (b) and (bA) of subsection (1) of the following paragraphs, respectively:</p> <p>(a) An officer[, magistrate] or member of the police force may detain any ship, vehicle, plant, material or goods at any place for the purpose of establishing whether that ship, vehicle, plant, material or goods are liable to forfeiture under this Act.</p> <p>(b) Such ship, vehicle, plant, material or goods may be so detained where they are found or shall be removed to and stored at a place of security determined by such officer, magistrate or member of the police [force] service, at the cost, risk and expense of the owner, importer, exporter, manufacturer or the person in whose possession or on whose premises they are found, as the case may be.</p> <p>(bA) No person shall remove any ship, vehicle, plant, material or goods from any place where it was so detained or from a place of security determined by an officer, magistrate or member of the police [force] service.</p>
Act 81 of 1965	Revenue Laws Amendment	<p>Amendment of section 3 –</p> <p>(i) by the deletion of paragraphs (b) and (c) of</p>

	Act, 1965	subsection (1); and (ii) by the deletion of subsection (2).
Act 95 of 1965	Customs and Excise Amendment Act, 1965	Repeal of section 17.
Act 56 of 1966	Revenue Laws Amendment Act, 1966	Repeal of section 1.
Act 57 of 1966	Customs and Excise Amendment Act, 1966	(a) Amendment of section 8 by the deletion of paragraph (a). (b) Amendment of section 14 by the deletion of paragraphs (a) and (d).
Act 96 of 1967	Customs and Excise Amendment Act, 1967	Amendment of section 3 by the deletion of subsections (1), (2) and (3).
Act 65 of 1968	Financial Institutions Amendment Act, 1968	Repeal of section 14.
Act 85 of 1968	Customs and Excise Amendment Act, 1968	Repeal of section 6.
Act 86 of 1968	State Tender Board Act, 1968	(a) Amendment of section 1 – (i) by the substitution for the definition of “employee” of the following definition: “‘employee’ means an employee as defined in section 1[(1)] of the Public Service Act, [1957 (Act 54 of 1957)] 1994;” and (ii) by the substitution for the definition of “officer” of

		<p>the following definition: “officer’ means an [officer] <u>an employee</u> as defined in section [1(1)] 1 of the Public Service Act, [1957] <u>1994</u>.”.</p> <p>(b) Amendment of section 3A by the deletion of paragraphs (a) to (d) of subsection (1).</p> <p>(c) Amendment of section 4 –</p> <p>(i) by the substitution for subsection (1) of the following subsection: “(1) Subject to the provisions of section [4 (1) (a) of the Armaments Act, 1964 (Act 87 of 1964),] <u>4 of the Armaments Corporation of South Africa, Limited Act, 2003 (Act 51 of 2003)</u>, the board shall have power to procure supplies and services for the State, and, subject to the provisions of any other Act of Parliament, to arrange the hiring or letting of anything or the acquisition or granting of any right for or on behalf of the State, and to dispose of movable State property, and may for that purpose.”; and</p> <p>(ii) by the substitution for paragraph (d) of subsection (1) of the following paragraph: “(d) [without giving reasons therefor,] accept or reject any offer for the conclusion of an agreement referred to in paragraph (a).”.</p>
Act 103 of 1969	Revenue Laws Amendment Act, 1969	<p>(a) Repeal of sections 1 to 4.</p> <p>(b) Amendment of section 7 by the deletion of paragraphs (c) and (f).</p> <p>(c) Repeal of sections 9 and 16 to 28.</p>

		<p>(d) The following section is hereby substituted for section 29:</p> <p>“Repeal of laws</p> <p>29. [Subject to the provisions of sections 23 (7A) and 24 (8A) of the Stamp Duties Act, 1968 (Act 77 of 1968), the] <u>The</u> laws of the territory of South-West Africa which are specified in the Schedule to this Act are hereby repealed with effect from the first day of October 1969, to the extent set out in the third column of that Schedule: Provided that any duty which has at the said date become payable under any law so repealed, but which has not at that date been paid, shall be recovered in accordance with and subject to the provisions of the said law: Provided further that where property has before the said date been sold to a purchaser under the land settlement laws of the said territory, transfer duty in respect of the acquisition of such property by the purchaser under the sale or in respect of any acquisition by any person of such property by virtue of a cession to him of the purchaser’s rights before a deed of grant is issued by the State in respect of such property, whether such cession was made before, on or after the said date, shall be chargeable under the provisions of the Transfer Duty Ordinance, 1951 (Ordinance 12 of 1951), of the said territory, as though that Ordinance was not repealed, and not under the provisions of the Transfer Duty Act, 1949 (Act 40 of 1949).”.</p>
Act 105 of 1969	Customs and Excise	(a) Amendment of section 1 by the deletion of

	Amendment Act, 1969	<p>paragraphs (c) and (h).</p> <p>(b) Amendment of section 18 by the deletion of paragraph (a).</p> <p>(c) Repeal of sections 23, 24, 34 and 40.</p>
Act 72 of 1970	Revenue Laws Amendment Act, 1970	Repeal of sections 5 to 10.
Act 98 of 1970	Customs and Excise Amendment Act, 1970	<p>(a) Amendment of section 1 by the deletion of paragraph (b).</p> <p>(b) Repeal of sections 3 and 10.</p>
Act 11 of 1971	Associated Institutions Provident Fund Act, 1971	<p>(a) Amendment of section 1 –</p> <p>(i) by the substitution for the definition of “department” of the following definition: “‘department’ means a department as defined in section 1 of the Public Service Act, [1957 (Act 54 of 1957)] 1994 [, and includes the Department of Posts and Telecommunications referred to in section 1 of the Post Office Service Act, 1974 (Act 66 of 1974)]”;</p> <p>(ii) by the substitution for the definition of “Minister” of the following definition: “‘Minister’ means the Minister of [Social Welfare and Pensions] Social Development”; and</p> <p>(iii) by the substitution for the definition of “Secretary” of the following definition: “‘Secretary’ means the [Secretary for Social Welfare and Pensions] Director-General of the Department of Social Development”;</p> <p>(b) Amendment of section 6A –</p> <p>(i) by the deletion of paragraphs (a) and (b) of</p>

		<p>subsection (1); and</p> <p>(ii) by the deletion of subsection (2).</p> <p>(c) Amendment of section 8 by the deletion of subsection (3).</p>
Act 74 of 1971	State Tender Board and State Procurement Board Amendment Act, 1971	<p>(a) Amendment of section 2 by the deletion of paragraph (b).</p> <p>(b) Amendment of section 4 by the substitution for subsection (2) of the following subsection:</p> <p style="padding-left: 40px;">“(2) All rights and duties of the State Procurement Board conferred or imposed upon such board in terms of any agreement concluded by such board or by or under any provision of the principal Act in respect of any such agreement, and any right of such board to accept or reject any offer for the conclusion of any agreement shall, on the date referred to in subsection (1), pass to the State Tender Board or, if the Minister so determines, to the [Armaments Board established by section 2 of the Armaments Act, 1964 (Act 87 of 1964)] <u>Board contemplated in section 6 of the Armaments Corporation of South Africa, Limited Act, 2003 (Act 51 of 2003)</u>.”.</p>
Act 89 of 1971	Customs and Excise Amendment Act, 1971	Amendment of section 3 by the deletion of subsection (1).
Act 92 of 1971	Revenue Laws Amendment Act, 1971	<p>(a) Repeal of section 1.</p> <p>(b) Amendment of section 4 by the deletion of subsections (1) and (2).</p> <p>(c) Amendment of section 5 by the deletion of</p>

		<p>subsections (1) and (2).</p> <p>(d) Repeal of sections 11, 12 and 13.</p>
Act 89 of 1972	Revenue Laws Amendment Act, 1972	<p>(a) Repeal of section 2.</p> <p>(b) Amendment of section 3 by the deletion of subsections (1) and (2).</p> <p>(c) Repeal of sections 5, 6, 7 and 9 to 13.</p>
Act 91 of 1972	Financial Institutions Amendment Act, 1972	<p>(a) Amendment of section 7 by the deletion of paragraphs (a) and (c).</p> <p>(b) Repeal of section 8.</p>
Act 103 of 1972	Customs and Excise Amendment Act, 1972	<p>(a) Repeal of section 3.</p> <p>(b) Amendment of section 11 by the deletion of paragraph (b).</p>
Act 66 of 1973	Revenue Laws Amendment Act, 1973	<p>(a) Repeal of section 1.</p> <p>(b) Amendment of section 3 by the deletion of paragraph (b).</p> <p>(c) Repeal of sections 4 and 5 to 20.</p>
Act 68 of 1973	Customs and Excise Amendment Act, 1973	<p>(a) Amendment of section 1 by the deletion of paragraph (c).</p> <p>(b) Repeal of section 5.</p>
Act 88 of 1974	Revenue Laws Amendment Act, 1974	Repeal of sections 1, 2 and 7 to 26.
Act 70 of 1975	Revenue Laws Amendment Act, 1975	<p>(a) Amendment of section 2 by the deletion of subsections (1) and (2).</p> <p>(b) Repeal of sections 3 and 4.</p>

Act 71 of 1975	Customs and Excise Amendment Act, 1975	Amendment of section 3 by the deletion of paragraphs (a) and (b).
Act 65 of 1976	Financial Relations Act, 1976	<p>(a) Amendment of section 27 –</p> <p>(i) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1) Notwithstanding anything to the contrary contained in any other law, professors, lecturers and students at a [university or university college] <u>public or private higher education institution contemplated in the Higher Education Act, 1997 (Act 101 of 1997)</u> may, subject to arrangement between the provincial administration and the council of the [university concerned in the case of a university college, between the provincial administration and the Secretary acting in consultation with the council of that university college,] <u>higher education institution concerned</u> be granted access to any provincial hospital or similar institution for the purpose of and incidental to practical teaching and training in medicine, surgery, midwifery or dentistry.”;</p> <p>(ii) by the substitution for subsection (2) of the following subsection:</p> <p style="padding-left: 40px;">“(2) Notwithstanding anything to the contrary contained in any law, a provincial administration may by agreement with the council of a [university or, in the case of a university college, with the Secretary acting in consultation with the council of that university college] <u>higher education institution</u>, make any</p>

		<p>member of the staff of a provincial hospital available to such [university or university college] higher education institution for the purpose of assisting in the teaching and training of students in medicine, surgery, midwifery or dentistry at such [university or university college] higher education institution.”; and</p> <p>(iii) by the deletion of subsection (3).</p> <p>(b) Amendment of section 28 by the substitution for subsections (1) and (2) of the following subsections, respectively:</p> <p>“(1) Notwithstanding anything to the contrary contained in any other law, students at any [university] higher education institution may, subject to arrangement between a provincial administration and the council of such [university] higher education institution as the Minister of [National Education] Higher Education and Training may designate from time to time by notice in the <i>Gazette</i>, be granted access to any college, maintained, managed and controlled by such provincial administration, for the purpose of or incidental to the training of such students as teachers in such subjects or courses as the Minister of [National Education] Higher Education and Training may from time to time designate by notice in the <i>Gazette</i>.</p> <p>(2) Notwithstanding anything to the contrary contained in any other law, a provincial administration may by agreement with the council of such [university] higher education institution as the Minister of [National Education] Higher</p>
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		<p><u>Education and Training</u> may designate from time to time by notice in the Gazette, make any member of the staff of any educational institution, maintained, managed and controlled by such provincial administration, available to such [university] higher education institution for the purpose of assisting in the teaching and training of students at such [university] higher education institution as teachers in such subjects or courses as the Minister of [National Education] Higher Education and Training may designate from time to time by notice in the Gazette.”.</p>
Act 71 of 1975	Customs and Excise Amendment Act, 1975	Amendment of section 3 by the deletion of paragraphs (a) and (b).
Act 84 of 1976	Military Pensions Act, 1976	<p>(a) Amendment of section 1 –</p> <p>(i) by the substitution for the definition of “Defence Act” of the following definition: “‘Defence Act’ means the Defence Act, [1957 (Act 44 of 1957)] 2002 (Act 42 of 2002)”;</p> <p>(ii) by the substitution for the definition of “Director-General” of the following definition: “‘Director-General’ means the Director-General: [Health and Welfare] of the National Treasury;”;</p> <p>(iii) by the substitution for the definition of “Minister” of the following definition: “‘Minister’ means the Minister of [Health and Welfare] Finance;”;</p> <p>(iv) by the substitution for the definition of “member” of the following definition: “‘member’ means, subject to the provisions of section 21, any member of the [Citizen Force or</p>

		<p>any Commando or the] Reserve mentioned in section [5 or 6] 11(b) of the Defence Act;”; and</p> <p>(v) by the substitution for the definition of “period of service” of the following definition:</p> <p>“period of service’ means any period of actual service or training with the [Citizen Force, a Commando or the] Reserve mentioned in section [5 or 6] 11(b) of the Defence Act.”.</p> <p>(b) Amendment of section 3 by the deletion of subsection (2).</p> <p>(c) Amendment of section 13 by the deletion of subsection (4).</p> <p>(d) Amendment of section 21 by the substitution for paragraph (a) of subsection (1) of the following paragraph:</p> <p>“(a) to any person who is entitled under the provisions of the [Workmen's Compensation Act, 1941 (Act 30 of 1941)] <u>Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993)</u>, to compensation in respect of his <u>or her</u> pensionable disability;”.</p> <p>(e) Amendment of section 23 by the deletion of subsection (2).</p>
Act 85 of 1976	War Damage Insurance and Compensation Act, 1976	<p>(a) Amendment of section 1 by the substitution for the definition of “treasury” of the following definition:</p> <p>“Treasury’ means the Treasury as defined in section 1 [(1) of the Exchequer and Audit Act, 1975 (Act 66 of 1975)] <u>of the Public Finance</u></p>

		<p><u>Management Act, 1999 (Act 1 of 1999).</u>”.</p> <p>(b) Amendment of section 9 by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Any money of the fund which is not required for immediate use, shall be invested with the [Public Debt Commissioners] <u>Public Investment Corporation contemplated in the Public Investment Corporation Act, 2004 (Act 23 of 2004)</u> or with a financial institution approved by the Minister and may be withdrawn when required.”.</p>
Act 101 of 1976	Financial Institutions Amendment Act, 1976	<p>(a) Repeal of section 22.</p> <p>(b) Amendment of section 23 by the deletion of paragraphs (a), (d), (e) and (f).</p> <p>(c) Repeal of section 26.</p> <p>(d) Amendment of section 28 by the deletion of paragraphs (a) and (b).</p>
Act 104 of 1976	Revenue Laws Amendment Act, 1976	<p>(a) Amendment of section 1 by the deletion of paragraph (b) of subsection (1).</p> <p>(b) Repeal of section 2.</p> <p>(c) Amendment of section 3 by the deletion of paragraphs (a) and (b).</p>
Act 105 of 1976	Customs and Excise Amendment Act, 1976	<p>(a) Repeal of section 2.</p> <p>(b) Amendment of section 9 –</p> <p>(i) by the deletion of paragraphs (a) and (b) of subsection (1); and</p> <p>(ii) by the deletion of subsection (2).</p>

		(c) Amendment of section 12 by the deletion of paragraph (b).
Act 11 of 1977	Finance and Financial Adjustments Acts Consolidation Act, 1977	<p>(a) Repeal of section 1.</p> <p>(b) Amendment of section 3 by the substitution for subsection (2) of the following subsection:</p> <p style="padding-left: 40px;">“(2) Every payment under subsection (1) shall to the extent to which it does not exceed one-third of the amount so realized or of the money so seized be made by the [Secretary for Inland Revenue] <u>Commissioner for the South African Revenue Services</u> by way of refund from the revenue in question [, and any refund so made by him shall be deemed to be a drawback for the purposes of section 3 (2) (a) of the Exchequer and Audit Act, 1975 (Act 66 of 1975)].”.</p> <p>(c) Amendment of section 5 by the substitution for the heading of the following heading:</p> <p style="padding-left: 40px;">“Provinces [and South West Africa] to pay part of certain pensions”.</p> <p>(d) The following section is hereby substituted for section 17:</p> <p style="padding-left: 40px;">“Exemption from payment of stamp and transfer duty in respect of certain cessions of rights to minerals</p> <p style="padding-left: 40px;">17. Notwithstanding anything to the contrary in any law contained, no stamp duty and no transfer duty shall be payable in respect of the cession and acquisition of any right to minerals, if the Government Mining Engineer has certified in writing that the sole purpose of the legal</p>

		<p>transaction in question is to constitute a workable mining proposition and to enable the cessionary to obtain for the joint benefit of himself and the cedent a mining lease or mining leases in accordance with the provisions of the [Mining Rights Act, 1967 (Act 20 of 1967)] <u>Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002)</u>, in respect of an area of land comprising two or more pieces of land or portions thereof.”</p> <p>(e) Amendment of section 18 by the deletion of subsections (1) and (2).</p> <p>(f) Amendment of section 19 by the substitution in subsection (1) for the definition of “source material” of the following definition:</p> <p>“‘source material’ bears the meaning assigned thereto in section 1 of the [Atomic Energy Act, 1967 (Act 90 of 1967)] <u>Nuclear Energy Act, 1999 (Act 46 of 1999)</u>.”</p> <p>(g) Amendment of section 23 by the deletion of paragraphs (a) to (e).</p> <p>(h) Amendment of section 25A by the deletion of paragraphs (a) and (b) and (d) to (i) of subsection (1).</p> <p>(i) Amendment of section 27 by the deletion of subsections (1) and (2).</p> <p>(j) Repeal of section 29.</p> <p>(k) Amendment of section 31 –</p> <p>(i) by the deletion of paragraphs (a) and (b) of</p>
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		<p>subsection (1); and</p> <p>(ii) by the deletion of subsection (2).</p> <p>(l) The following section is hereby substituted for section 33:</p> <p>“Guarantees by Minister of [Economic Affairs] <u>Economic Development</u> in respect of certain losses, damage or expenses in connection with South African merchant vessels</p> <p>33. (1) Where the Minister of [Economic Affairs] <u>Economic Development</u> is satisfied that the owner of a merchant vessel which is a South African ship as defined in section 2 of the Merchant Shipping Act, 1951 (Act 57 of 1951), is unable to obtain insurance cover in respect of such merchant vessel against the risk of loss, damage or expense arising from –</p> <p>(a) any hostile detonation of a weapon of war employing atomic or nuclear fission or fusion or other like reaction or radio-active force or matter; or</p> <p>(b) war (whether there is a declaration of war or not) between any two or more of the following, namely, the United Kingdom, the United States of America, France, the Union of Soviet Socialist Republics and the People's Republic of China,</p> <p>he <u>or she</u> may, in consultation with the Minister of Finance and subject to such terms and conditions and for such period as he <u>or she</u> may in consultation with that Minister determine, guarantee the payment of compensation for any such loss, damage or expense suffered or</p>
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		<p>incurred by the owner in connection with such merchant vessel.</p> <p>(2) Where –</p> <p>(a) any insurance contract in respect of a merchant vessel referred to in subsection (1) provides for the release of the insurer, in the event of –</p> <p>(i) any such hostile detonation or war as is referred to in subsection (1);</p> <p>(ii) any other hostilities or war; or</p> <p>(iii) any political seizure or detention of the vessel in question,</p> <p>from any obligation in terms of the contract in respect of loss, damage or expense arising from the eventuality in question; and</p> <p>(b) the Minister of [Economic Affairs] <u>Economic Development</u> is satisfied that, if the insurer were so released, the owner would probably not be able to obtain insurance cover in respect of such vessel against the risk of such loss, damage or expense except at a higher premium rate than the normal premium rate applicable in the case of insurance against the risk of loss, damage or expense arising from other causes,</p> <p>the said Minister may, in consultation with the Minister of Finance and subject to such terms and conditions and for such period as he <u>or she</u> may in consultation with that Minister determine, guarantee the payment to the owner, if the owner has in the event of any such hostile detonation, war, other hostilities, seizure or detention, been unable to obtain such insurance cover except at</p>
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		<p>such a higher premium rate, of the amount or any part of the amount representing the difference between the premium paid by the owner at such higher premium rate and a premium for such insurance cover calculated at the said normal rate.”.</p> <p>(m) Amendment of section 36 by the deletion of subsections (1) and (2).</p> <p>(n) Amendment of section 39 by the substitution for subsections (1) and (12) of the following subsections, respectively:</p> <p style="padding-left: 40px;">“(1) Notwithstanding anything to the contrary contained in any other law, the Treasury may from time to time receive the allocations by the International Monetary Fund to the Republic of special drawing rights, as defined in section 1 of the South African Reserve Bank Act, [1944 (Act 29 of 1944)] <u>1989 (Act 90 of 1989)</u>.</p> <p style="padding-left: 40px;">(12) The Minister of Finance shall as soon as possible after 31 March of each year lay on the Table of the [Senate] <u>National Council of Provinces</u> and of the House of Assembly a statement in which the receipts of and expenditure from the accounts established in terms of this section, are shown in respect of the year ending on the said date.”.</p> <p>(o) Amendment of section 40 by the substitution for subsection (2) of the following subsection:</p> <p style="padding-left: 40px;">“(2) The bank shall render to the Treasury at such times as the Treasury may direct a statement or statements in which its transactions</p>
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		<p>in respect of special drawing rights in terms of [paragraph (hA) of section 8(1)] <u>section 10(1)(m)</u> of the South African Reserve Bank Act, [1944 (Act 29 of 1944)] <u>1989 (Act 90 of 1989)</u>, are reflected.”.</p> <p>(p) Repeal of section 52.</p> <p>(q) Amendment of section 60 by the deletion of paragraph (a) of subsection (1).</p>
Act 58 of 1977	Bills of Exchange Amendment Act, 1977	<p>(a) Amendment of section 1 by the deletion of paragraphs (a) and (b).</p> <p>(b) Amendment of section 3 by the deletion of paragraph (a).</p>
Act 94 of 1977	Financial Institutions Amendment Act, 1977	Repeal of sections 10 and 11.
Act 112 of 1977	Customs and Excise Amendment Act, 1977	Repeal of sections 2 and 23.
Act 114 of 1977	Revenue Laws Amendment Act, 1977	Repeal of sections 1 to 6, 9 to 20 and 22 and 23.
Act 56 of 1978	Secret Services Act, 1978	<p>(a) Amendment of section 1 –</p> <p>(i) by the substitution for the definition of “chairman” of the following definition: “[‘chairman] ‘chairperson’ means the [chairman] chairperson of the committee designated in terms of section 3A (1) or 5 (b);”;</p> <p>(ii) by the substitution for the definition of “responsible Executive Deputy President or</p>

		<p>Minister” of the following definition:</p> <p>“[responsible Executive Deputy President or responsible Minister], in relation to any matter referred to in this Act, means the [Executive Deputy President or] Minister responsible for the Department of State under which that matter falls.”.</p> <p>(b) Amendment of section 2 –</p> <p>(i) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) The Director-General: [State Expenditure] National Treasury shall, subject to the provisions of this Act, be responsible for the administration of the account: Provided that the accounting officer of a Department of State to which any moneys have been made available under subsection (3), shall be accountable for the moneys so made available.”;</p> <p>(ii) by the substitution for paragraph (a) of subsection (2) of the following paragraph:</p> <p>“(a) The Minister of [State Expenditure Finance] may at the request of the President or the [responsible Executive] Deputy President or <u>the responsible Minister</u> transfer so much money as may be agreed upon between them from the account to the Security Services Special Account established by section 1 of the Security Services Special Account Act, 1969 (Act 81 of 1969).”; and</p> <p>(iii) by the substitution for paragraph (a) of subsection (3) of the following paragraph:</p> <p>“(a) The Minister of [State Expenditure Finance] may, at the request of any other Minister,</p>
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		<p>and in such manner and subject to such conditions as he <u>or she</u> may after consultation with such other Minister determine, make available to a Department of State for which such other Minister is responsible, moneys in the account for utilization for secret services.”.</p> <p>(c) Amendment of section 3A –</p> <p>(i) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) There is hereby established a committee to be known as the Secret Services Evaluation Committee consisting of not less than three but not more than five persons appointed by the [State] President, of whom one shall be designated by him <u>or her</u> as the [chairman] <u>chairperson</u>, and of whom at least one shall not be a holder of office in the Executive Authority of the Republic and shall be appointed after consultation with the leaders of the opposition parties in Parliament.”;</p> <p>(ii) by the substitution for paragraphs (a) and (b) of subsection (2) of the following paragraphs, respectively:</p> <p>“(a) shall remain in office at the [State] President’s pleasure, but may resign by notice in writing to the [State] President;</p> <p>(b) may receive such remuneration and allowances (if any) as the [State] President may determine;”;</p> <p>(iii) by the substitution for paragraph (b) of subsection (3) of the following paragraph:</p> <p>“(b) follow such procedure, as the [chairman]</p>
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		<p style="text-align: center;"><u>chairperson</u> may determine;”;</p> <p>(iv) by the substitution for subsections (4) and (5) of the following subsections, respectively:</p> <p style="padding-left: 40px;">“(4) The work associated with the functions of the committee shall be performed by an officer or officers in the Public Service designated by the [State] President for that purpose.</p> <p style="padding-left: 40px;">(5) The [State] President may –</p> <p style="padding-left: 80px;">(a) appoint a person to act in the place of a member of the committee; or</p> <p style="padding-left: 80px;">(b) designate a member to act in the place of the [chairman] <u>chairperson</u>, for such period as the [State] President may determine.”;</p> <p>(v) by the substitution for paragraphs (a) and (b) of subsection (8) of the following paragraphs, respectively:</p> <p style="padding-left: 40px;">“(a) No intended secret service shall be carried out or secret service be continued after a year unless a recommendation by the committee has been made therefor: Provided that the President or the [responsible Executive] Deputy President or <u>the responsible</u> Minister may, with the concurrence of the [State] President, approve that an intended secret service or a secret service which cannot be delayed or suspended without serious prejudice to the national interest, may be carried out or be continued on condition that the matter in question is submitted to the committee for its recommendation at its next ensuing meeting: Provided further that an intended secret service may be carried out or a secret service be continued notwithstanding the fact that the</p>
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		<p>committee has withheld its recommendation in respect thereof, if the [State] President approves the carrying out or continuation thereof.</p> <p>(b) If the committee withholds its recommendation in respect of a secret service referred to in the first proviso to paragraph (a) after the matter has been submitted to it, such service shall be discontinued as soon as practicable, unless and in so far as the [State] President approves the continuation thereof.”; and</p> <p>(vi) by the substitution for subsection (9) of the following subsection:</p> <p>“(9) If the committee cannot reach unanimity in relation to a recommendation, it shall submit the matter in question to the [State] President as soon as practicable for consideration, and his <u>or her</u> decision shall be final.”.</p> <p>(d) The amendment of section 3B by the substitution for subsections (1) and (2) of the following subsections, respectively:</p> <p>“(1) Notwithstanding anything to the contrary contained in this Act, no intended secret service shall be carried out unless the President or the [responsible Executive] Deputy President or <u>the responsible</u> Minister has granted his <u>or her</u> prior approval therefor and indicated to which conditions or instructions (if any) such carrying out shall be subject.</p> <p>(2) The Director-General: [State Expenditure] <u>National Treasury</u> shall, after consultation with the Auditor-General, issue directions regarding the application of financial</p>
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		control over the handling and utilization of moneys made available from the account.”.
Act 93 of 1978	Customs and Excise Amendment Act, 1978	(a) Repeal of section 7. (b) Amendment of section 8 by the deletion of paragraph (b).
Act 95 of 1978	Revenue Laws Amendment Act, 1978	Repeal of sections 1 and 4 to 8.
Act 29 of 1979	General Pensions Act, 1979	(a) Amendment of section 1 by the deletion of the definition of “Government Non-White Employees’ Pension Fund”. (b) Amendment of section 8 by the substitution for subsection (4) of the following subsection: <p style="padding-left: 40px;">“(4) If the Minister, or an officer in the Department of [Social Welfare and Pensions] <u>Social Development</u> designated by the Minister for the purpose of this section, is satisfied that any allowance which is being paid to any person under subsection (1) (b), should be cancelled, reduced or increased, he <u>or she</u> may, with due regard to the circumstances of such person and to the rates, scales, circumstances and conditions determined in terms of subsection (1), cancel, reduce or increase such allowance with effect from such date, which may be a date in the past, as he <u>or she</u> may determine.”.</p> (c) Amendment of section 13 by the substitution for subsection (1) of the following subsection: <p style="padding-left: 40px;">“(1) The annuity, gratuity or other benefit to which [an officer] <u>a staff member</u> of Parliament</p>

		<p>as defined in section 1 of the [Powers and Privileges of Parliament Act, 1963 (Act 91 of 1963)] <u>Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act 4 of 2004)</u>, or the widow or dependant of any such [officer] <u>staff member</u> becomes entitled, as calculated in terms of the provisions of the Pension Scheme for Officers of Parliament (hereinafter in this section referred to as the Scheme), shall be paid to the beneficiary from moneys appropriated by Parliament for that purpose, and a certificate duly signed by the Speaker, as defined in section 1 of that Act, to the effect that any such [officer] <u>staff member</u> or his widow or dependant, as the case may be, has become entitled to be paid benefits under the relevant provisions of the Scheme, and setting out particulars of such benefits and of the terms and conditions, if any, subject to which they are payable, shall constitute the requisite authority for the payment of such benefits.”</p> <p>(d) Amendment of section 13A by the substitution for the definition of “prescribed rate” in subsection (2) of the following definition:</p> <p>“‘prescribed rate’ means the rate of contributions prescribed under section [17 (2) (b) of the Government Service Pension Act, 1973 (Act 57 of 1973)] <u>17(3) of the Government Employees Pension Law, 1996 (Proclamation 21 of 1996)</u>.”</p> <p>(e) The following section is hereby substituted for section 16:</p> <p>“Presumptions and definitions for the</p>
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		<p>purposes of laws relating to social pensions</p> <p>16. (1) For the purposes of any law relating to social pensions [in the case of a White person or a Coloured person who is a South African citizen or an Indian] <u>any person</u> who immediately before 26 October 1976 complied with all the requirements of such law relating to citizenship or residence in the Republic, and who is resident in any country or area which, immediately before such date, was a part of the Republic and which has been designated by the Minister by notice in the Gazette for the purposes of this section –</p> <p>(a) such person shall be deemed to be resident in the Republic;</p> <p>(b) any application for a pension or grant by such person in terms of any such law, which has been submitted to the [Secretary for Social Welfare and Pensions or the Secretary for Coloured, Rehoboth and Nama Relations or the Secretary for Indian Affairs] <u>Director-General: Department of Social Development</u>, as the case may be, shall be deemed to have been submitted to a district pension officer;</p> <p>(c) 'attesting officer' includes a person who in such country or area occupies a post which has been so designated by the Minister for the purposes of this section;</p> <p>(d) 'medical officer' or 'district surgeon' includes any person who practises as a medical officer or who carries on the profession of a medical practitioner in such country or area and who</p>
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		<p>has been so designated by the Minister as a medical officer or a district surgeon, as the case may be, for the purposes of this section.</p> <p>(2) For the purposes of this section, unless the context otherwise indicates –</p> <p>[(a) 'Coloured person' means a person classified as a member of the Cape Coloured, Malay or Griqua group or the Other Coloured group in terms of the Population Registration Act, 1950 (Act 30 of 1950);</p> <p>(b) 'Indian' means a person classified as a member of the Indian group in terms of the Population Registration Act, 1950;]</p> <p>(c) 'law relating to social pensions' means the [Aged Persons Act, 1967 (Act 81 of 1967)] <u>Older Persons Act, 2006 (Act 13 of 2006)</u>, the [War Veterans' Pensions Act, 1968 (Act 25 of 1968), the Blind Persons Act, 1968 (Act 26 of 1968), the Disability Grants Act, 1968 (Act 27 of 1968), the Social Pensions Act, 1973 (Act 37 of 1973)] <u>Social Assistance Act, 2004 (Act 13 of 2004)</u>, or the regulations made under any such Act;</p> <p>[(d) 'White person' means a White person as defined in section 1 of the Population Registration Act, 1950,]</p> <p>and any word to which any meaning has been assigned in the applicable law with reference to social pensions, shall have that meaning.”.</p> <p>(f) The amendment of section 20A –</p>
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		<p>(i) by the deletion of subsection (1);</p> <p>(ii) by the substitution for paragraph (a) of subsection (2) of the following paragraph:</p> <p>“(a) an amount which is equal to the amount of the transfer value which would have been payable in terms of the provisions of the laws or the rules or regulations relating to the applicable pension fund, if the affected officer concerned was transferred, and directly appointed, to the service of another local authority having a different pension fund or associated with a different pension fund or, if no amount would have been so payable, an amount which the Minister or an officer of the Department of [Social Welfare and Pensions] <u>Social Development</u> authorized thereto by the Minister determines after consultation with the management of the applicable pension fund concerned, with due regard to the circumstances of a specified case or category of cases.”;</p> <p>(iii) by the substitution for subsection (4) of the following subsection:</p> <p>“(4) If an affected officer prior to the fixed date notifies the [Secretary for Social Welfare and Pensions] <u>Director-General for the Department of Social Development</u> in writing that he or she desires that his previous pensionable service should not be reckoned as pensionable service in terms of subsection (1), such previous pensionable service shall not be reckoned as pensionable service in terms of that subsection.”;</p>
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		<p>(iv) by the substitution in subsection (5) –</p> <p>(aa) for the definition of 'local authority' of the following definition:</p> <p>“local authority' means [an institution or a body] <u>a municipality</u> contemplated in [section 84 (1) (f)] Chapter 7 of the Republic of South Africa Constitution [Act, 1961 (Act 32 of 1961)] , 1996;</p> <p>(bb) for the definition of 'Minister' of the following definition:</p> <p>Minister' means the Minister of [Social Welfare and Pensions] <u>Social Development.</u>”; and</p> <p>(v) by the deletion of the definition of “fixed date” in subsection (5).</p>
Act 75 of 1979	Temporary Employees Pension Fund, 1979	<p>(a) Amendment of section 1 –</p> <p>(i) by the substitution for the definition of “Minister” of the following definition:</p> <p>“Minister' means the Minister of [Social Welfare and Pensions] <u>Social Development</u>”; and</p> <p>(ii) by the substitution for the definition of “Secretary” of the following definition:</p> <p>“Secretary' means the [Secretary for Social Welfare and Pensions] <u>Director-General: Department of Social Development.</u>”.</p>
Act 102 of 1979	Revenue Laws Amendment Act, 1979	<p>(a) Repeal of section 1.</p> <p>(b) Amendment of section 4 –</p> <p>(i) by the deletion of paragraphs (a) and (b) of subsection (1); and</p> <p>(ii) by the deletion of subsection (2).</p> <p>(c) Amendment of section 5 by the deletion of</p>

		<p>subsections (1) and (2).</p> <p>(d) Repeal of sections 6 to 8.</p>
Act 103 of 1979	Financial Institutions Amendment Act, 1979	<p>(a) Repeal of section 13.</p> <p>(b) Amendment of section 14 by the deletion of paragraphs (a) and (b).</p> <p>(c) Repeal of sections 19 and 20.</p>
Act 98 of 1980	Customs and Excise Amendment Act, 1980	Repeal of section 2.
Act 99 of 1980	Financial Institutions Amendment Act, 1980	<p>(a) Amendment of section 39 by the deletion of paragraph (a).</p> <p>(b) Repeal of section 43.</p> <p>(c) Amendment of section 56 by the deletion of subsection (4).</p>
Act 106 of 1980	Revenue Laws Amendment Act, 1980	<p>(a) Repeal of sections 1 to 3.</p> <p>(b) Amendment of section 5 by the deletion of subsections (1) and (2).</p> <p>(c) Repeal of section 6.</p> <p>(d) Amendment of section 7 by the deletion of subsections (1) and (2).</p> <p>(e) Amendment of section 10 by the deletion of subsections (1) and (2).</p> <p>(f) Amendment of section 11 by the deletion of subsections (1) and (2).</p>

		<p>(g) Repeal of sections 12, 16 and 19 to 22.</p> <p>(h) The following section is hereby substituted for section 23:</p> <p>“Construction of certain acts of and references in documents to Secretary for Inland Revenue</p> <p>23. Anything done by or on behalf of the Secretary for Inland Revenue in the administration of any law shall be deemed to have been done by or on behalf of the Commissioner for [Inland Revenue] <u>the South African Revenue Service contemplated in section 6 of the South African Revenue Service Act, 1997 (Act 34 of 1997)</u>, and a reference in any document to the Secretary for Inland Revenue shall be construed as a reference to the Commissioner for [Inland Revenue] <u>South African Revenue Service.</u>”.</p>
Act 99 of 1981	Revenue Laws Amendment Act, 1981	<p>(a) Repeal of section 1.</p> <p>(b) Amendment of section 3 by the deletion of subsections (1) and (2).</p> <p>(c) Amendment of section 4 by the deletion of subsections (1) and (2).</p> <p>(d) Repeal of sections 5 and 7 to 9.</p>
Act 86 of 1982	Customs and Excise Amendment Act, 1982	Repeal of sections 16 and 23.
Act 87 of 1982	Revenue Laws Amendment Act, 1982	Repeal of sections 1, 2, 4 to 7 and 9.
Act 89 of 1983	Customs and	Amendment of section 11 by the deletion of subsection

	Excise Amendment Act, 1983	(2).
Act 92 of 1983	Revenue Laws Amendment Act, 1983	(a) Amendment of section 1 by the deletion of paragraphs (a) and (b). (b) Repeal of sections 5 to 17.
Act 46 of 1984	Corporation for Public Deposits Act, 1984	(a) Amendment of section 1 – (i) by the deletion of the definition of “commissioners”; (ii) by the substitution for the definition of “public deposit” of the following definition: “public deposit” means an amount of money other than [revenue as defined in section 1 of the Exchequer and Audit Act, 1975 (Act 66 of 1975)] <u>that forming part of the National Revenue Fund as contemplated in the Public Finance Management Act, 1999 (Act 1 of 1999) –</u> (a) which is received or held by, for or on behalf of – (i) the Government of the Republic, including [the Department of Posts and Telecommunications and] the [provincial administrations] provinces ; or (ii) any body, council, fund or account established by or under any law which may, or is required to, invest, in terms of that law, or that law as construed in terms of section 14 (2) (b) of the Public Investment Commissioners Act, 1984, such amount of money with the corporation; and

		<p>(b) which is not required for immediate use or as a reasonable working balance; [and]</p> <p>(c) which is not invested or otherwise utilized, in terms of a provision of any law, otherwise than in terms of this Act, <u>and</u></p> <p><u>(d) which is not invested with the Public Investment Corporation established by section 2(1) of the Public Investment Corporation Act, 2004 (Act 23 of 2004)</u></p> <p>and, except for the purposes of section 4, includes an amount of money received or held by, for or on behalf of a person or body referred to in that section.”; and</p> <p>(iii) by inserting the following definition after the definition of “public deposit”: “Public Investment Corporation’ means the Public Investment Corporation established by section 2 of the Public Investment Corporation Act, 2004 (Act 23 of 2004).”.</p> <p>(b) Amendment of section 3 by the substitution for paragraph (a) of subsection (1) of the following paragraph:</p> <p>“(a) to invest public deposits so accepted and other moneys at its disposal in –</p> <p>[(i) stock, bonds or treasury bills issued in terms of section 19 of the Exchequer and Audit Act, 1975 (Act 66 of 1975);</p> <p>(ii) bills or promissory notes issued by – (aa) the Industrial Development Corporation of South Africa,</p>
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		<p>Limited, in terms of section 4 of the Industrial Development Act, 1940 (Act 22 of 1940);</p> <p>(bb) the Land and Agricultural Bank of South Africa in terms of section 20 of the Land Bank Act, 1944 (Act 13 of 1944);</p> <p>(iii) stock or bonds issued by the Department of Posts and Telecommunications in terms of section 12 of the Post Office Act, 1958 (Act 44 of 1958);</p> <p>(iv) stock or bills issued by the Rand Water Board in terms of the Rand Water Board Statutes (Private) Act, 1950 (Act 17 of 1950);</p> <p>(v) debentures, bills or stock issued by the National Housing Commission in terms of section 3A of the Housing Act, 1966 (Act 4 of 1966);</p> <p>(vi) securities issued by-</p> <p>(aa)</p> <p>(bb) a body, council or institution contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act 32 of 1961);</p> <p>(cc) the Electricity Supply Commission in terms of the Electricity Act, 1958 (Act 40 of 1958);</p> <p>(vii) any other debentures, bills, promissory notes or securities or</p>
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		<p>bankers' acceptances issued within or outside the Republic;</p> <p>(viii) deposits with any financial institutions as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984;]</p> <p><u>accordance with the investment policy of the corporation prescribed by the National Treasury as contemplated in section 7(4) of the Public Finance Management Act, 1999 (Act 1 of 1999).”.</u></p> <p>(c) Amendment of section 4 by the substitution for subsection (2) of the following subsection:</p> <p>“(2) A person in respect of whom the Minister has [required] <u>authorised</u>, in terms of section [10 of the Public Debt Commissioners Act, 1969 (Act 2 of 1969)] <u>11 of the Public Investment Corporation Act, 2004 (Act 23 of 2004)</u>, the [Public Debt Commissioners] <u>Public Investment Corporation</u>, as referred to in that Act, to undertake the collection, administration and investment of moneys controlled or disposed of by that person, shall unless that person requests otherwise, be deemed to be authorized in terms of subsection (1) of this section to invest those moneys with the corporation.”.</p> <p>(d) Amendment of section 9 by the substitution for subsections (1) to (4) of the following subsections, respectively:</p> <p>“(1) A meeting of the board shall be held at such time and place as the board or the [chairman] <u>chairperson</u> of the board may</p>
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		<p>determine.</p> <p>(2) The [chairman] <u>chairperson</u> shall preside at all meetings of the board at which he <u>or she</u> is present.</p> <p>(3) If the [chairman] <u>chairperson</u> of the board is absent or is unable to perform his <u>or her</u> functions as [chairman] <u>chairperson</u>, the [vice-chairman] <u>vice-chairperson</u> shall act as [chairman] <u>chairperson</u>, and while he <u>or she</u> so acts he <u>or she</u> shall have all the powers and shall perform all the duties of the [chairman] <u>chairperson</u>.</p> <p>(4) If both the [chairman] <u>chairperson</u> of the board and the [vice-chairman] <u>vice-chairperson</u> are absent from a meeting of the board the directors present shall elect one from among their number to act as [chairman] <u>chairperson</u> at that meeting, and while he <u>or she</u> so acts he <u>or she</u> shall have all the powers and shall perform all the duties of the [chairman] <u>chairperson</u>.”.</p> <p>(e) The following section is hereby substituted for section 19:</p> <p>“Application of Act [23 of 1965] 94 of 1990</p> <p>19. No provision of the Banks Act, [1965 (Act 23 of 1965)] 1990 (Act 94 of 1990), shall apply in relation to the corporation.”.</p> <p>(f) Amendment of section 21 by the deletion of subsections (1) to (4).</p>
Act 86 of 1984	Financial Institutions Amendment Act, 1984	<p>(a) Repeal of section 14.</p> <p>(b) Amendment of section 16 by the deletion of</p>

		<p>paragraph (e).</p> <p>(c) Amendment of section 17 by the deletion of paragraphs (a), (b), (e) and (f).</p> <p>(d) Repeal of sections 19 and 20.</p>
Act 89 of 1984	Customs and Excise Amendment Act, 1984	Repeal of section 4.
Act 118 of 1984	Revenue Laws Amendment Act, 1984	Repeal of sections 1, 2 and 3 to 11.
Act 81 of 1985	Revenue Laws Amendment Act, 1985	<p>(a) Repeal of sections 1 and 3.</p> <p>(b) Amendment of section 4 by the deletion of paragraph (b) of subsection (1).</p> <p>(c) Repeal of sections 10 and 11.</p>
Act 101 of 1985	Customs and Excise Amendment Act, 1985	<p>(a) Repeal of section 1.</p> <p>(b) Amendment of section 11 by the deletion of paragraph (c).</p>
Act 50 of 1986	Financial Institutions Amendment Act, 1986	Repeal of sections 13 to 16.
Act 52 of 1986	Customs and Excise Amendment Act, 1985	<p>(a) Amendment of section 7 by the deletion of paragraphs (a) and (b).</p> <p>(b) Repeal of sections 10 to 17.</p>
Act 71 of 1986	Revenue Laws Amendment Act, 1986	<p>(a) Repeal of section 1.</p> <p>(b) Amendment of section 2 –</p>

		<p>(i) by the deletion of paragraphs (a) to (d) of subsection (1); and</p> <p>(ii) by the deletion of subsection (2).</p> <p>(c) Repeal of sections 4 and 5.</p>
Act 84 of 1987	Customs and Excise Amendment Act, 1987	<p>(a) Amendment of section 2 by the deletion of paragraphs (a) and (b).</p> <p>(b) Repeal of sections 3, 9, 19, and 21.</p> <p>(c) Amendment of section 23 by the deletion of paragraphs (c) and (p).</p> <p>(d) Amendment of section 24 by the deletion of paragraph (c) of subsection (1).</p> <p>(e) Amendment of section 26 by the deletion of paragraphs (a) and (b).</p> <p>(f) Repeal of section 29.</p>
Act 51 of 1988	Financial Institutions Amendment Act, 1988	<p>(a) Repeal of section 4.</p> <p>(b) Amendment of section 5 by the deletion of paragraphs (a) and (b).</p> <p>(c) Repeal of sections 7, 18 to 22 and 24 to 32.</p>
Act 69 of 1988	Customs and Excise Amendment Act, 1988	<p>(a) Amendment of section 8 by the deletion of paragraphs (a) to (c).</p> <p>(b) Amendment of section 10 by the deletion of subsections (1) and (2).</p>
Act 53 of 1989	Financial Institutions Amendment Act, 1989	Repeal of sections 1 to 7.

Act 54 of 1989	Financial Institutions Second Amendment Act, 1989	Repeal of sections 23 to 31.
Act 56 of 1989	Reinsurance of Damage and Losses Act, 1989	<p>(a) Amendment of section 1 –</p> <p>(i) by the deletion of the definition of “borrower”;</p> <p>(ii) by the insertion before the definition of “loss in respect of a mortgage loan” of the following definitions:</p> <p>“‘consumer’ means a consumer as defined in section 1 of the National Credit Act, 2005 (Act 34 of 2005);</p> <p>‘credit provider’ means a credit provider as defined in section 1 of the National Credit Act, 2005 (Act 34 of 2005);”;</p> <p>(iii) by the substitution for the definition of “loss in respect of a mortgage loan” of the following definition:</p> <p>“‘loss in respect of a mortgage loan’ means any financial loss suffered by a [moneylender] <u>credit provider</u> in terms of a money loan secured by a mortgage bond over immovable property situated in the Republic or in any state the territory of which previously formed part of the Republic, where –</p> <p>(a) the loss results from the [moneylender] <u>credit provider</u> being unable to recover at a sale of such property –</p> <p>(i) in execution, whether the sale was held at the instance of the [moneylender] <u>credit provider</u> or at the instance of any other person; or</p>

		<p>(ii) by public auction resulting from the insolvency of the [borrower] <u>consumer</u>, any amount, including interest and other charges, owing in terms of the mortgage loan; and</p> <p>(b) the sale referred to in paragraph (a) is directly or indirectly related to or caused by any of the actions or circumstances contemplated in the definition of 'loss of or damage to property;'; and</p> <p>(iv) by the deletion of the definition of "moneylender".</p> <p>(b) Amendment of section 2 by the substitution for the words preceding paragraph (a) of the following words: "The Minister may enter into an agreement with a [registered insurer] <u>short-term insurer</u> as defined in section 1(1) of the [Insurance Act, 1943 (Act 27 of 1943)] <u>Short-term Insurance Act, 1998 (Act 53 of 1998)</u>, in terms of which he –".</p>
Act 68 of 1989	Customs and Excise Amendment Act, 1989	Repeal of section 8.
Act 90 of 1989	South African Reserve Bank Act, 1989	<p>(a) Amendment of section 1 by the substitution for the definition of "financial instrument" of the following definition:</p> <p>"financial instrument' means –</p> <p>(a) any security as referred to in the definition of 'securities' in section 1 [of the Stock Exchanges Control Act, 1985 (Act 1 of 1985)] <u>Securities Services Act 36 of 2004</u>;</p> <p>(b) [any financial instrument as defined in section 1 of the Financial Markets</p>

		<p>Control Act, 1989 (Act 55 of 1989), irrespective, in the case of such instrument that is an instrument creating or acknowledging indebtedness, of the term for which it has been issued];</p> <p>(c) any right or other benefit in respect of or accruing to a security referred to in paragraph (a) [or a financial instrument referred to in paragraph (b)];”.</p> <p>(b) Amendment of section 11 by the substitution for subsection (2) of the following subsection:</p> <p>“(2) The provisions of the Inspection of Financial Institutions Act, [1984 (Act 38 of 1984)] 80 of 1998, except sections 2 and [7] 11 thereof, shall <i>mutatis mutandis</i> apply in respect of an inspection carried out in terms of subsection (1).”.</p> <p>(c) Amendment of section 12 by the substitution for subsection (2) of the following subsection:</p> <p>“(2) The provisions of sections [4, 5, 8 and 9] 3, 3A, 4, 5, 8 and 12 of the Inspection of Financial Institutions Act, [1984 (Act 38 of 1984)] 1998 (Act 80 of 1998), shall apply <i>mutatis mutandis</i> in respect of an inspection carried out in terms of subsection (1).”.</p> <p>(d) Amendment of section 15 by the deletion of subsection (2).</p> <p>(e) Amendment of section 27 by the substitution for paragraph (c) of subsection (1) of the following paragraph:</p> <p>“(c) any agreement entered into by the Minister</p>
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		<p>of [Economic Affairs and Technology] <u>Trade and Industry</u> under section 2 of the Export Credit and Foreign Investments [Re-insurance] <u>Insurance Act</u> , 1957 (Act 78 of 1957), with the Credit Guarantee Insurance Corporation of Africa Limited for the reinsurance of any contract, entered into by the said corporation with a person who exports capital goods or services from the Republic, for insuring against risks (not normally insurable) of monetary loss or monetary detriment attributable to any change in the value of the currency of the Republic in relation to the currency of the United States of America,</p> <p>shall accrue to the Government.”.</p> <p>(f) Amendment of section 34 by the substitution for paragraph (k) of subsection (1) of the following paragraph:</p> <p>“(k) without the written approval of the Department of Finance, intentionally destroys, melts down, dissolves in any dissolvent, breaks up or damages a coin that has been issued under [section 11 of the South African Mint and Coinage Act, 1964 (Act 78 of 1964), or under] section 14 of this Act, or removes any such coin out of the Republic, or causes or permits it to be so removed, with the purpose of so dealing with it or causing it to be so dealt with outside the Republic; or”.</p>
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Act 59 of 1990	Customs and Excise Amendment Act, 1990	<p>(a) Repeal of sections 2, 9 and 14.</p> <p>(b) Amendment of section 29 –</p> <p>(i) by the repeal of paragraph (b) of subsection (1); and</p> <p>(ii) by the repeal of subsection (2).</p>
Act 64 of 1990	Financial Institutions Amendment Act, 1990	<p>(a) The following section is hereby substituted for section 17:</p> <p>“Restriction of liability</p> <p>17. The Minister of Finance, or any officer or contract worker in the employment of the Department of Finance, shall not be liable in respect of any bona fide exercise of any discretion in the performance of any duty imposed upon him or her under –</p> <p>(a) [the Insurance Act, 1943 (Act 27 of 1943)] <u>the Long-term Insurance Act, 1998 (Act 52 of 1998)</u>;</p> <p>(b) the Pension Funds Act, 1956 (Act 24 of 1956);</p> <p>(c) the Friendly Societies Act, 1956 (Act 25 of 1956);</p> <p>(d) the [Unit Trusts Control Act, 1981 (Act 54 of 1981)] <u>Collective Investment Schemes Control Act, 2002 (Act 45 of 2002)</u>;</p> <p>(e) [the Participation Bonds Act, 1981 (Act 55 of 1981);]</p> <p>(f) the [Stock Exchanges Control Act, 1985 (Act 1 of 1985)] <u>Securities Services Act, 2004 (Act 36 of 2004)</u>;</p> <p>(g) [the Financial Markets Control Act, 1989 (Act 55 of 1989);]</p> <p>(h) the Reinsurance of Material Damage and</p>

		<p>Losses Act, 1989 (Act 56 of 1989); and</p> <p>(i) ...”.</p> <p>(b) Repeal of sections 13 to 16.</p>
Act 94 of 1990	Banks Act, 1990	<p>(a) Amendment of section 2 by the substitution for subparagraph (v) of paragraph (b) of the following subparagraph:</p> <p>“(v) the [Public Investment Commissioners] <u>Public Investment Corporation</u> referred to in section 2 of the [Public Investment Commissioners Act, 1984 (Act 45 of 1984)] <u>Public Investment Corporation Act, 2004 (Act 23 of 2004)</u>.”.</p> <p>(b) Amendment of section 38 –</p> <p>(i) by the substitution for paragraph (a) of the following paragraph:</p> <p>“(a) in the name of a trustee [of a unit trust scheme as defined in section 1 of the Unit Trusts Control Act, 1981 (Act 54 of 1981)] or <u>custodian of a collective investment scheme as defined in section 1 of the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002)</u>, or [of a nominated company of the trustee approved by the Registrar of Unit Trust Companies] <u>a nominated representative of such trustee or custodian appointed in terms of section 68(6)(a) of the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002)</u>.”;</p> <p>(ii) by the substitution for paragraph (c) of the following paragraph:</p> <p>“(c) for a period of not more than six months, in</p>

		<p>the name of a stock-broker [or of a company established by such stock-broker for a purpose mentioned in section 12 (3) of the Stock Exchanges Control Act, 1985 (Act 1 of 1985)] <u>as defined in section 1 of the Securities Services Act, 2004 (Act 36 of 2004)</u>, or of a company controlled by the bank or of an employee of the bank, if it is necessary that the shares be so allotted, issued or registered in order to facilitate delivery to the purchaser or to protect the rights of the beneficiary in respect of those shares or where the beneficiary is not known;” and</p> <p>(iii) by the substitution for paragraph (e) of the following paragraph:</p> <p>“(e) in the name of a central securities depository as defined in section 1 of the [Safe Deposit of Securities Act, 1992] <u>Securities Services Act, 2004 (Act 36 of 2004)</u>.”.</p> <p>(c) Amendment of section 63 by the substitution for paragraph (a) of subsection (1) of the following paragraph:</p> <p>“(a) shall, whenever such auditor furnishes, in terms of section [20(5)(b)] 45(1) of the [first-mentioned Act] <u>Auditing Profession Act, 2005 (Act 26 of 2005)</u>, the [Public Accountants' and Auditors' Board] <u>Independent Regulatory Board for Auditors established by section 3 of that Act</u> with copies of the report, acknowledgement of</p>
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		<p>receipt and reply and with the other particulars referred to in that section, relating to an irregularity or suspected irregularity in the conduct of the affairs of the bank for which such auditor has been appointed as auditor, also furnish the Registrar with such copies and particulars.”.</p> <p>(d) Amendment of section 87 by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Notwithstanding anything to the contrary contained in any law or the common law, and unless otherwise provided in the memorandum of association or articles of association of a bank, a minor over the age of 16 years [or a married woman, whether or not under marital power,] may be a depositor with a bank and may without the consent or assistance of his <u>or her</u> guardian [or her husband, as the case may be,] execute all necessary documents, give all necessary acquittances and cede, pledge, borrow against, and generally deal with, his or her deposit as he or she thinks fit, and shall enjoy all the privileges and be liable to all the obligations and conditions applicable to depositors.”.</p>
Act 95 of 1990	Extension of the Powers of the South African Reserve Bank Act, 1990	<p>(a) Amendment of section 1 –</p> <p>(i) by the substitution for the words preceding paragraph (a) of the following words:</p> <p>“The South African Reserve Bank established by section 9 of the Currency and Banking Act, 1920 (Act 31 of 1920), and the Registrar of Banks referred to in section [3(1) of the Banks Act, 1965 (Act 23 of 1965)] <u>4(1) of the Banks Act,</u></p>

		<p><u>1990 (Act 94 of 1990)</u>, may, subject to the provisions of section 2 –”; and</p> <p>(ii) by the substitution for paragraph (a) of the following paragraph:</p> <p>“(a) within or in relation to any country other than the Republic of South Africa and which other country has been designated by the [State] President by proclamation in the Gazette; or”.</p> <p>(b) The following section is hereby substituted for section 2:</p> <p>“Vesting of certain functions</p> <p>2. Notwithstanding the provisions of section 1, any function which in terms of the provisions of the Banks Act, [1965 (Act 23 of 1965)] <u>1990 (Act 94 of 1990)</u>, vests in the Minister of Finance shall, in so far as the said Act is, in terms of the law of any other country referred to in section 1 (a), in force in that other country, and for the purposes of the performance of such function within or in relation to that other country or in respect of a person carrying on business or intending to carry on business as a banking institution or bank controlling company within that other country, be deemed to vest in the person who in that other country holds the office which corresponds to the office of the Minister of Finance.”.</p>
Act 97 of 1990	Financial Services Board, 1990	<p>(a) Amendment of section 1 by the substitution for the definition of “trust property” of the following definition:</p> <p>“‘trust property’ means ‘trust property’ as defined in section 1 of the [Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of</p>

		<p>1984)] <u>Financial Institutions (Protection of Funds) Act, 2001 (Act 28 of 2001);</u>”.</p> <p>(b) Amendment of section 8 by the substitution for subsection (1), (2) and (4) of the following subsections, respectively:</p> <p>“(1) The first meeting of the board shall be held at a time and place determined by the [chairman] chairperson, and thereafter the board shall meet at such times and places as the board may from time to time determine.</p> <p>(2) The [chairman] chairperson may at any time convene an extraordinary meeting of the board to be held at a time and place determined by him <u>or her</u>.</p> <p>(4) If both the [chairman] chairperson and the deputy [chairman] chairperson are absent from any meeting of the board, the members present shall from among themselves elect a person to preside at such meeting.”.</p>
Act 54 of 1991	Financial Institutions Amendment Act, 1991	Repeal of sections 4, 9, 10 to 22 and 23 to 29.
Act 72 of 1991	Exemption from Certain Payments at the Transfer of the Sorghum Beer Industry Act, 1991	<p>Amendment of section 1 –</p> <p>(i) by the deletion of subsection (2); and</p> <p>(ii) by the substitution for subsection (3) of the following subsection:</p> <p>“(3) The exemption[s] granted by subsections (1) [and (2)] shall be applicable once only to an increase of share capital and issue of shares, respectively, referred to in those subsections.”.</p>
Act 41 of 1992	Financial	Amendment of the Schedule by deleting references to

	Services Board Amendment Act, 1992	the following Acts: (a) Unit Trusts Control Act, 1981 (Act 54 of 1981); (b) the Stock Exchanges Control Act, 1985 (Act 1 of 1985); and (c) the Financial Markets Control Act, 1989 (Act 55 of 1989).
Act 42 of 1992	Deposit Taking Institutions Amendment Act, 1992	Repeal of section 3.
Act 61 of 1992	Customs and Excise Amendment Act, 1992	Amendment of section 13 by the deletion of paragraphs (b) and (d).
Act 78 of 1992	Finance Acts Consolidation Act, 1992	(a) Amendment of section 2 by the substitution for subsection (1) of the following subsection: “(1) The Minister of Finance may, after consultation with the Minister of Defence, enter into an agreement with a [registered insurer] <u>long-term insurer</u> as defined in section 1 of the [Insurance Act, 1943 (Act 27 of 1943)] <u>Long-term Insurance Act, 1998 (Act 52 of 1998)</u> , or with an organization representing insurers so registered, in terms of which he <u>or she</u> binds the Government of the Republic to indemnify such insurer or organization on the terms and conditions set forth in such agreement, against losses sustained by such insurer or organization, under a scheme established with the object of providing insurance on the lives of, or for benefits on the total or partial permanent disablement to perform any labour of, persons rendering service in the South African Defence Force, or in any

		<p>such portion thereof as he may determine, including any auxiliary service established for the South African Defence Force.”.</p> <p>(b) Amendment of section 3 by the substitution for paragraph (b) of the following paragraph:</p> <p>“(b) with effect from 1 April 1980 and subject to such conditions as the Minister of Trade and Industry [and for Economic Co-ordination] may with the concurrence of the Minister of [State Expenditure] <u>Finance</u> determine, such rate of interest as may likewise be determined.”.</p> <p>(c) The following section is hereby substituted for section 5:</p> <p>“Authorization for repayment of certain internal registered stock prior to due date</p> <p>5. [Notwithstanding the provisions of section 24 (1) of the Exchequer Act, 1975 (Act 66 of 1975), the] <u>The</u> Treasury may, prior to the due date, repay at face value internal registered stock utilized as part payment in the purchase of land, buildings and goodwill in respect of businesses in the process of land consolidation or the granting of self-government or independence to the self-governing territories and which, on presentation to the Treasury for repayment, is still being held by the persons to whom it was allocated by the Treasury, or their hereditary successors.”.</p> <p>(d) Amendment of section 8 by the substitution for subsections (1) to (3) of the following subsections, respectively:</p>
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		<p>“(1) The Minister of [State Expenditure] Finance may, notwithstanding any provisions to the contrary in any other law contained, in consultation with the Minister responsible for the South African Rail Commuter Corporation Limited referred to in section 22 (1) of the Legal Succession to the South African Transport Services Act, 1989 (Act 9 of 1989), determine that the dividends or any specified portion of the dividends accruing to the State as a shareholder of the Company referred to in section 2 of the said Act and which is called Transnet Limited, shall be paid by Transnet Limited to the said Corporation.</p> <p>(2) The amount of dividends determined in terms of subsection (1) shall be paid directly to the said Corporation, and the balance of the dividends, if any, shall be deposited in the [State] National Revenue Fund.</p> <p>(3) The amount referred to in subsection (2) shall be utilized by the said Corporation to defray any operating loss on rail commuter services which may be agreed upon between the said Corporation and the Minister of [State Expenditure] Finance, but shall not exceed the amount of such loss.”.</p>
Act 83 of 1992	Financial Institutions Amendment Act, 1992	Repeal of sections 15, 31, 32 and 34 to 38.
Act 7 of 1993	Financial Institutions Amendment Act, 1993	Repeal of sections 7 to 19.

Act 8 of 1993	Financial Supervision of the Road Accident Fund Act, 1993	<p>(a) Amendment of section 2 –</p> <p>(i) by the substitution for the heading of the following heading: “[Insurance Act, 1943] <u>Short-term Insurance Act, 1998</u>, to apply”; and</p> <p>(ii) by the substitution for subsections (1) and (3) of the following subsections, respectively:</p> <p style="padding-left: 40px;">“(1) Subject to any directions of the executive officer, the provisions of the [Insurance Act, 1943 (Act 27 of 1943)] <u>Short-term Insurance Act, 1998 (Act 53 of 1998)</u>, in relation to an insurer registered in terms of that Act to carry on short-term insurance business, shall apply to the Fund.</p> <p style="padding-left: 40px;">(3) The Fund shall obtain the opinion of [an actuary as defined in section 1 of the Insurance Act, 1943,] a statutory actuary as defined in section 1 of the <u>Short-term Insurance Act, 1998</u> or of a registered accountant and auditor <u>as contemplated in the Auditing Profession Act, 2005 (Act 26 of 2005)</u>, whenever required, by virtue of the provisions of subsection (1), by the executive officer in respect of such aspects of the business of the Fund as the executive officer may determine.”.</p>
Act 9 of 1993	Deposit Taking Institutions Amendment Act, 1993	Amendment of section 18 by the deletion of paragraphs (b) to (d).
Act 10 of 1993	South African Reserve Bank Amendment Act, 1993	Amendment of section 2 by the deletion of paragraph (a).
Act 98 of 1993	Customs and	Amendment of section 11 by the deletion of paragraph

	Excise Amendment Act, 1993	(b).
Act 104 of 1993	Financial Institutions Second Amendment Act, 1993	Repeal of sections 50 to 54, 56 to 61, 64 to 67 and 70 to 73.
Act 124 of 1993	Mutual Banks Act, 1993	<p>(a) Amendment of section 4 by the substitution for subsection (1) and (2) of the following subsections, respectively:</p> <p style="padding-left: 40px;">“(1) In addition to the powers and duties conferred or imposed upon him by this Act, the Registrar shall, for the purposes of the performance of his functions under this Act, have powers and duties in all respects corresponding to the powers and duties conferred or imposed by the Inspection of Financial Institutions Act, [1984 (Act 38 of 1984)] 1998 (Act 80 of 1998), upon a registrar contemplated in the last-mentioned Act.</p> <p style="padding-left: 40px;">(2) Any reference in this Act to an inspection or investigation made under this section shall be construed as a reference to an inspection made in accordance with the provisions of the Inspection of Financial Institutions Act, [1984] 1998.”.</p> <p>(b) Amendment of section 5 by the substitution for paragraph (b) of subsection (1) of the following paragraph:</p> <p style="padding-left: 40px;">“(b) direct such mutual bank or such holder of any interest in a mutual bank to furnish the Registrar with a report by a public accountant as defined in section 1 of the</p>

		<p>[Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991)] <u>Auditing Profession Act, 2005 (Act 26 of 2005)</u>, or by any other person with appropriate professional skill, on any matter, or any aspect of any matter, about which the Registrar has directed or may direct under paragraph (a) the mutual bank or the holder of any interest in a mutual bank to furnish information.”.</p> <p>(c) Amendment of section 10 by the substitution for paragraph (b) of subsection (3) of the following paragraph:</p> <p>“(b) a report by a public accountant as defined in section 1 of the [Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991)] <u>Auditing Profession Act, 2005 (Act 26 of 2005)</u>, or by any other knowledgeable person approved by the Registrar, on such aspects relating to the application in question;”.</p> <p>(d) Amendment of section 45 by the substitution for paragraph (b) of subsection (1) of the following paragraph:</p> <p>“(b) Any such auditor shall be an accountant and auditor registered as such in terms of the [Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991)] <u>Auditing Profession Act, 2005 (Act 26 of 2005)</u>, who is engaged in public practice, and no officer of a mutual bank or of any of its associates, and no firm of which such an officer is a member or employee, shall be appointed as</p>
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		<p>an auditor of that mutual bank.”.</p> <p>(e) Amendment of section 46 –</p> <p>(i) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Notwithstanding anything to the contrary contained in the [Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991)] <u>Auditing Profession Act, 2005 (Act 26 of 2005)</u>, but subject to subsections (2) and (3) of this section, the auditor referred to in section 45 shall –“;</p> <p>(ii) by the substitution for paragraph (a) of subsection (1) of the following paragraph:</p> <p>“(a) whenever he <u>or she</u> furnishes, in terms of section [20(5)(b)] <u>45(1)</u> of the said Act, the [Public Accountants' and Auditors' Board] <u>Independent Regulatory Board for Auditors established by section 3 of that Act</u> with copies of the report, acknowledgement of receipt and reply and with the other particulars referred to in that section, relating to an irregularity or suspected irregularity in the conduct of the affairs of the mutual bank for which he has been appointed as auditor, also furnish the Registrar with such copies and particulars;”.</p> <p>(f) Amendment of section 50 –</p> <p>(i) by the substitution for paragraph (a) of subsection (4) of the following paragraph:</p> <p>“(a) of securities, as defined in section 1 of the [Stock Exchanges Control Act, 1985 (Act 1 of 1985)] <u>Securities Services Act, 2004 (Act 36 of 2004)</u>, issued for publication on</p>
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		<p>the authority of a licensed [stock] exchange, as so defined; and</p> <p>(ii) by the deletion of paragraph (b).</p> <p>(g) Amendment of section 54 by the deletion of paragraph (b) of subsection (1).</p> <p>(h) The following section is hereby substituted for section 60:</p> <p>“Shareholding in insurer</p> <p>60. Except with the prior written approval of the Registrar, no mutual bank and no associate of a mutual bank shall, either jointly or individually, hold shares in any [registered insurer] <u>long-term insurer</u> as defined in section 1 of the [Insurance Act, 1943 (Act 27 of 1943)] <u>Long-term Insurance Act, 1998 (Act 52 of 1998</u> or in any <u>short-term insurer as defined in section 1 of the Short-term Insurance Act, 1998 (Act 53 of 1998,</u> to the extent to which the nominal value of those shares exceeds 49 per cent of the nominal value of all the issued shares of such <u>long-term or short-term insurer, as the case may be.</u>”.</p> <p>(i) Amendment of section 88 by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Notwithstanding anything to the contrary contained in any law or the common law, and unless otherwise provided by the articles of a mutual bank, a minor over the age of 16 years [or a married woman, whether or not subject to the marital power,] may without the consent or assistance of his guardian [or her husband, as the case may be,] execute all necessary</p>
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		documents, give all necessary acquittances and cede, pledge, borrow against and generally deal with his or her share in or deposit with the mutual bank as he or she thinks fit, and shall enjoy all the privileges (except that a minor shall not hold office) and be liable to all the obligations attaching to members or depositors.”.
Act 140 of 1993	Revenue Laws Amendment Act, 1993	(a) Amendment of section 13 by the deletion of paragraph (c) of subsection (1). (b) Amendment of section 17 by the deletion of subsections (1) and (2).
Act 197 of 1993	Closed Pension Fund Act, 1993	(a) Amendment of section 9 by the substitution for subsection (1) and (4) of the following subsections, respectively: “(1) (a) Money required for meeting the fund's obligation with regard to the payment of any pension, gratuity or benefit in terms of this Act shall be paid over to the fund either from the [State Revenue Fund] National Revenue Fund as provided in subsection (2) [or in the form of public stock issued in terms of section 19 of the Exchequer Act, 1975 (Act 66 of 1975)] . (b) Money which is to be paid over from the [State Revenue Fund] National Revenue Fund in terms of paragraph (a), shall be deemed to have been appropriated by Parliament for the purpose mentioned in that paragraph. (4) No amounts other than those referred to in subsection (2) shall form a charge against the [State Revenue Fund] National Revenue Fund in respect of the fund.”.

		<p>(b) The following section is hereby substituted for section 12:</p> <p>“The financial statements of the fund shall be audited annually by an auditor registered [in terms of section 15 of the Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991)] <u>under the Auditing Profession Act, 2005 (Act 26 of 2005)</u>, as a public accountant and auditor and who is engaged in public practice as such, and audited copies of such statements shall within six months of the end of the financial year be submitted to the Minister and the Auditor-General.”.</p>
Act 7 of 1994	Reconstruction and Development Programme Fund Act, 1994	<p>(a) Amendment of section 6 by the substitution for subsection (1) of the following subsection:</p> <p>“(1) The Accountant-General in the [Department of State Expenditure] <u>National Treasury</u> shall be the accounting officer responsible for the administration of the fund and shall, subject to the directions of the Minister.”</p> <p>(b) Amendment of section 8 by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Subject to any technical assistance agreement, any money of the fund which is not required for immediate use may be invested with the [Public Investment Commissioners] <u>Public Investment Corporation established by section 2 of the Public Investment Corporation Act, 2004 (Act 23 of 2004)</u> or with a financial institution approved by the Minister and shall be withdrawn when required.”.</p>
Act 19 of 1994	Customs and	Repeal of section 4.

	Excise Amendment Act, 1994	
Act 26 of 1994	Banks Amendment Act, 1994	Amendment of section 45 by the deletion of paragraphs (a), (b), (d) and (g).
Act 45 of 1995	Customs and Excise Amendment Act, 1995	(a) Repeal of section 2. (b) Amendment of section 36 by the deletion of paragraph (b). (c) Amendment of section 53 by the deletion of paragraphs (a), (d), (e), (k), (l), (o), and (p).
Act 32 of 1996	Supervision of Financial Institutions Rationalisation Act, 1996	Amendment of section 2 by the deletion of paragraphs (a) and (b) of subsection (5).
Act 46 of 1996	Revenue Laws Amendment Act, 1996	(a) Repeal of sections 1 to 3. (b) Amendment of section 9 – (i) by the deletion of paragraphs (a) and (b) of subsection (1); and (ii) by the deletion of subsection (2). (c) Repeal of sections 16 to 19.
Act 69 of 1996	Special Pensions Act, 1996	Amendment of section 14 by the substitution for paragraph (a) of the following paragraph: “(a) the [Social Assistance Act, 1992] <u>Social Assistance Act, 2004 (Act 13 of 2004)</u> .”
Act 13 of 1997	Development Bank of Southern Africa Act, 1997	Amendment of section 13 by the substitution for subsection (3) of the following subsection: “(3) The books of account of the Bank shall be audited by a person <u>or firm</u> registered in [terms of

		section 15 of the Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991)] <u>in accordance with the provisions of the Auditing Profession Act, 2005 (Act 26 of 2005).</u> ”.
Act 22 of 1997	Financial Institutions Amendment Act, 1997	Repeal of section 4.
Act 34 of 1997	South African Revenue Service Act, 1997	Amendment of Schedule 1 by deleting reference to the Marketable Securities Tax Act, 1948 (Act 32 of 1948).
Act 50 of 1998	Demutualisation Levy Act, 1998	<p>(a) Amendment of section 4 by the substitution for paragraph (a) of subsection (1) of the following paragraph:</p> <p style="padding-left: 40px;">“(1) Subject to subsection (2), the value of the free reserves is the free reserves –</p> <p style="padding-left: 80px;">(a) as determined at a specific date and recorded in the demutualisation scheme confirmed by the [Registrar of Insurance] court, as contemplated in section [25 of the Insurance Act] 37 of the Long-term Insurance Act, 1998 (Act 52 of 1998, or by the Registrar of Short-term Insurance as contemplated in section 36 of the Short-term Insurance Act, 1998 (Act 53 of 1998), as the case may be.”.</p> <p>(b) Amendment of section 6 by the deletion of subsection (4).</p>
Act 52 of 1998	Long-term Insurance Act, 1998	Amendment of section 7 by the substitution for paragraph (e) of subsection (2) of the following paragraph:

		“(e) the Land and Agricultural Bank of South Africa referred to in section [3 of the Land Bank Act, 1944 (Act 13 of 1944)] <u>2</u> of the <u>Land and Agricultural Development Bank Act, 2002 (Act 15 of 2002)</u> , if and in so far as it acts in accordance with that Act.”.
Act 53 of 1998	Short-term Insurance Act, 1998	Amendment of section 7 by the substitution for paragraph (h) of subsection (2) of the following paragraph: “(h) the Land and Agricultural Bank of South Africa referred to in section [3 of the Land Bank Act, 1944 (Act 13 of 1944)] <u>2</u> of the <u>Land and Agricultural Development Bank Act, 2002 (Act 15 of 2002)</u> , if and in so far as it acts in accordance with that Act.”.
Act 75 of 1998	Special Pensions Amendment Act, 1998	Repeal of section 6.
Act 134 of 1998	Conversion of SASRIA Act, 1998	(a) Amendment of section 1 by the substitution for paragraph (a) of the definition of “short-term insurance industry” of the following paragraph: “(a) every [registered insurer] <u>short-term insurer</u> as defined in section 1(1) of the [Insurance Act, 1943 (Act 27 of 1943)] <u>Short-term Insurance Act, 1998 (Act 53 of 1998)</u> , that participates in short-term insurance business for special risks.”. (b) Amendment of section 4 by the deletion of subsection (2).
Act 1 of 1999	Public Finance Management	Amendment of section 93 by the deletion of subsection (4).

	Act, 1999	
Act 29 of 1999	Public Finance Management Amendment Act, 1999	Repeal of section 33.
Act 53 of 1999	Revenue Laws Amendment Act, 1999	(a) Repeal of sections 1 to 5 and 74 to 79. (b) Amendment of section 81 by the deletion of paragraphs (a) to (d) of subsection (1). (c) Amendment of section 82 by the deletion of paragraph (b). (d) Amendment of section 85 by the deletion of paragraph (h) of subsection (1). (e) Repeal of sections 96, 109 and 110.
Act 59 of 2000	Revenue Laws Amendment Act, 2000	(a) Amendment of section 2 by the deletion of paragraph (f). (b) Amendment of section 63 by the deletion of subsections (1) and (2). (c) Amendment of section 64 by the deletion of paragraph (a).
Act 19 of 2001	Revenue Laws Amendment Act, 2001	(a) Amendment of section 37 by the deletion of subsection (2). (b) Amendment of section 38 by the deletion of subsection (2). (c) Amendment of section 41 by the deletion of subsection (2). (d) Amendment of section 45 by the deletion of

		<p>subsection (2).</p> <p>(e) Amendment of section 48 by the deletion of subsection (2).</p> <p>(f) Amendment of section 51 by the deletion of subsection (2).</p> <p>(g) Repeal of sections 54 to 64 and 67.</p> <p>(h) Amendment of section 69 by the deletion of subsections (1) and (2).</p> <p>(i) Repeal of section 74.</p>
Act 38 of 2001	Financial Intelligence Centre Act, 2001	<p>(a) Amendment of section 1 by the substitution for the definition of “intelligence service” in subsection (1) of the following definition:</p> <p>“‘intelligence service’ means the National Intelligence Agency or the South African Secret Service [established by] <u>as contemplated in section 3 of the Intelligence Services Act, [1994 (Act 38 of 1994)] 2002 (Act 65 of 2002);</u>”.</p> <p>(b) Amendment of section 12 by the substitution for paragraph (a) of subsection (1) of the following paragraph:</p> <p>“(a) information with respect to that person has been gathered in a security screening investigation by the National Intelligence Agency [established by] <u>as contemplated in section 3 of the Intelligence Services Act, [1994 (Act 38 of 1994)] 2002 (Act 65 of 2002);</u>”.</p> <p>(c) Amendment of section 13 by the substitution for</p>

		<p>paragraph (a) of subsection (1) of the following paragraph:</p> <p>“(a) information with respect to that person has been gathered in a security screening investigation by the National Intelligence Agency [established by] <u>contemplated in</u> section 3 of the Intelligence Services Act, [1994 (Act 38 of 1994)] <u>2002 (Act 65 of 2002)</u>.”</p>
Act 60 of 2001	Revenue Laws Amendment Act, 2001	<p>(a) Repeal of sections 1 to 5.</p> <p>(b) Amendment of section 10 by the deletion of subsection (2).</p> <p>(c) Amendment of section 11 by the deletion of subsection (2).</p> <p>(d) Amendment of section 14 by the deletion of subsection (2).</p> <p>(e) Amendment of section 15 by the deletion of subsection (2).</p> <p>(f) Repeal of section 114.</p> <p>(g) Amendment of section 121 by the deletion of subsection (2).</p> <p>(h) Amendment of section 126 –</p> <p>(i) by the deletion of paragraph (a) of subsection (2); and</p> <p>(ii) by the deletion of subparagraph (ii) of paragraph (b) of subsection (2).</p> <p>(i) Amendment of section 134 by the deletion of</p>

		<p>subsections (1) and (2).</p> <p>(j) Repeal of sections 141 to 147.</p> <p>(k) Amendment of section 154 by the deletion of paragraphs (a) and (b) of subsection (2).</p> <p>(l) Amendment of section 155 by the deletion of paragraph (b).</p> <p>(m) Amendment of section 157 by the deletion of paragraph (a).</p> <p>(n) Amendment of section 160 by the deletion of subsection (2).</p> <p>(o) Repeal of section 166.</p> <p>(p) Amendment of section 179 by the deletion of paragraph (a) of subsection (1).</p> <p>(q) Repeal of sections 180 to 182.</p>
Act 37 of 2002	Financial Advisory and Intermediary Services Act, 2002	<p>(a) Amendment of the definition of “financial product” in subsection (1) of section 1 by the substitution for subparagraph (v) of that definition of the following subparagraph:</p> <p style="padding-left: 40px;">“(v) any 'securities' as defined in section 1 of the Securities Services Act, [2002] <u>2004 (Act 36 of 2004.</u>”</p> <p>(b) Amendment of section 45 –</p> <p>(i) by the substitution for subparagraph (i) of paragraph (a) of subsection (1) of the following subparagraph:</p> <p style="padding-left: 40px;">“(i) any 'authorised user', 'clearing house',</p>

		<p>'central securities depository' or 'participant' as defined in section 1 of the Securities Services Act, [2002] <u>2004 (Act 36 of 2004)</u>, or exchange licensed under section 10 of that Act;"</p> <p>and</p> <p>(ii) by the deletion of paragraphs (a) and (b) of subsection (4).</p> <p>(c) Amendment of the Schedule by deleting references to the following laws:</p> <p>(a) the Stock Exchanges Control Act, 1985 (Act 1 of 1985); and</p> <p>(b) the Financial Markets Control Act, 1989, (Act 55 of 1989).</p>
Act 74 of 2002	Revenue Laws Amendment Act, 2002	<p>(a) Amendment of section 1 –</p> <p>(i) by the deletion of subsection (1); and</p> <p>(ii) by the deletion of paragraphs (a) and (b) of subsection (2).</p> <p>(b) Amendment of section 108 by the deletion of subsection (2).</p> <p>(c) Amendment of section 111 by the deletion of subsection (2).</p> <p>(d) Amendment of section 113 by the deletion of paragraph (a) of subsection.(1)</p>

Annexure B

**List of Statutes administered by National Treasury
(1910-2004)**

Number	Name of Act, number and year
1.	Pensions (Supplementary) Act 36 of 1913
2.	Pensions (Supplementary) Act 37 of 1914
3.	Pensions (Supplementary) Act 25 of 1915
4.	Pensions (Supplementary) Act 45 of 1916
5.	Pensions (Supplementary) Act 27 of 1918
6.	Pensions (Supplementary) Act 44 of 1919
7.	Pensions (Supplementary) Act 39 of 1920
8.	<i>Pensions (Supplementary) Act 37 of 1921</i>
9.	Income Tax Act 23 of 1922
10.	Pensions (Supplementary) Act 39 of 1922
11.	Pensions (Supplementary) Act 33 of 1923
12.	Pensions (Supplementary) Act 37 of 1924
13.	Pensions (Supplementary) Act 44 of 1925
14.	Pensions (Supplementary) Act 41 of 1926
15.	Pensions (Second Supplementary) Act 42 of 1926
16.	Appropriation (Part) Act 6 of 1927
17.	Pensions (Supplementary) Act 32 of 1927
18.	Pensions (Supplementary) Act 20 of 1928
19.	Pensions (Supplementary) Act 28 of 1929
20.	Pensions (Supplementary) Act 33 of 1930
21.	Pensions (Supplementary) Act 33 of 1931
22.	Savings Bank Societies Borrowing Powers Act 6 of 1932
23.	Pensions (Supplementary) Act 30 of 1932
24.	Currency and Exchanges Act 9 of 1933
25.	<i>Union and Southern Rhodesia Death Duties Act 22 of 1933</i>
26.	Pensions (Supplementary) Act 24 of 1933
27.	<i>Abolition of Quitrent Act 54 of 1934</i>
28.	Pensions (Supplementary) Act 65 of 1934
29.	Pensions (Supplementary) Act 54 of 1935
30.	Pensions (Supplementary) Act 26 of 1936
31.	Part Appropriation Act 8 of 1937

Number	Name of Act, number and year
32.	<i>Abolition of Quitrent (Towns and Villages) Act 33 of 1937</i>
33.	Pensions (Supplementary) Act 49 of 1937
34.	Pensions (Supplementary) Act 7 of 1938
35.	Second Pensions (Supplementary) Act 21 of 1938
36.	Pensions (Supplementary) Act 40 of 1939
37.	Pensions (Supplementary) Act 28 of 1940
38.	Pensions (Supplementary) Act 32 of 1941
39.	Pensions (Supplementary) Act 43 of 1942
40.	Pensions (Supplementary) Act 32 of 1943
41.	Pensions (Supplementary) Act 43 of 1944
42.	Pensions (Supplementary) Act 42 of 1945
43.	Banking Institutions Act 25 of 1946
44.	<i>Special Taxation Amendment Act 54 of 1946</i>
45.	Pensions (Supplementary) Act 56 of 1946
46.	<i>Special Taxation Amendment Act 29 of 1947</i>
47.	Pensions (Supplementary) Act 47 of 1947
48.	Pensions (Supplementary) Act 24 of 1948
49.	<i>Special Taxation Amendment Act 38 of 1948</i>
50.	Second Pensions (Supplementary) Act 46 of 1948
51.	<i>Transfer Duty Act 40 of 1949</i>
52.	Pensions (Supplementary) Act 46 of 1949
53.	Pensions (Supplementary) Act 32 of 1950
54.	Pensions (Supplementary) Act 48 of 1951
55.	<i>Transfer Duty Amendment Act 59 of 1951</i>
56.	Pensions (Supplementary) Act 57 of 1952
57.	<i>Transfer Duty Amendment Act 31 of 1953</i>
58.	<i>Income Tax Act 34 of 1953</i>
59.	<i>Customs Amendment Act 36 of 1953</i>
60.	Pensions (Supplementary) Act 46 of 1953
61.	<i>Transfer Duty Amendment Act 32 of 1954</i>
62.	Pensions (Supplementary) Act 53 of 1954
63.	<i>Income Tax Act 43 of 1955</i>
64.	<i>Estate Duty Act 45 of 1955</i>
65.	Pensions (Supplementary) Act 66 of 1955
66.	Pension Funds Act 24 of 1956
67.	Friendly Societies Act 25 of 1956
68.	Pensions (Supplementary) Act 67 of 1956

Number	Name of Act, number and year
69.	<i>Estate Duty Amendment Act 59 of 1957</i>
70.	<i>Income Tax Act 61 of 1957</i>
71.	Pensions (Supplementary) Act 80 of 1957
72.	Pensions (Supplementary) Act 15 of 1958
73.	<i>Income Tax Act 36 of 1958</i>
74.	Second Pensions (Supplementary) Act 47 of 1958
75.	Pensions (Supplementary) Act 68 of 1959
76.	<i>Income Tax Act 78 of 1959</i>
77.	<i>Estate Duty Amendment Act 65 of 1960</i>
78.	Pensions (Supplementary) Act 67 of 1960
79.	Pensions (Supplementary) Act 65 of 1961
80.	Revenue Laws Amendment Act 71 of 1961
81.	<i>Income Tax Act 80 of 1961</i>
82.	<i>Income Tax Act 58 of 1962</i>
83.	Pensions (Supplementary) Act 82 of 1962
84.	<i>Income Tax Amendment Act 90 of 1962</i>
85.	<i>Income Tax Amendment Act 6 of 1963</i>
86.	Friendly Societies Amendment Act 60 of 1963
87.	<i>Revenue Laws Amendment Act 70 of 1963</i>
88.	<i>Income Tax Act 72 of 1963</i>
89.	Pensions (Supplementary) Act 94 of 1963
90.	Bills of Exchange Act 34 of 1964
91.	<i>Revenue Laws Amendment Act 77 of 1964</i>
92.	<i>Tax Reserve Account Act 82 of 1964</i>
93.	Pensions (Supplementary) Act 83 of 1964
94.	<i>Income Tax Act 90 of 1964</i>
95.	<i>Customs and Excise Act 91 of 1964</i>
96.	Prevention of Counterfeiting of Currency Act 16 of 1965
97.	Friendly Societies Amendment Act 67 of 1965
98.	<i>Revenue Laws Amendment Act 81 of 1965</i>
99.	<i>Income Tax Act 88 of 1965</i>
100.	<i>Customs and Excise Amendment Act 95 of 1965</i>
101.	Pensions (Supplementary) Act 100 of 1965
102.	<i>Income Tax Act 55 of 1966</i>
103.	<i>Revenue Laws Amendment Act 56 of 1966</i>
104.	<i>Customs and Excise Amendment Act 57 of 1966</i>
105.	Pensions (Supplementary) Act 60 of 1966

Number	Name of Act, number and year
106.	Pensions (Supplementary) Act 93 of 1967
107.	<i>Revenue Laws Amendment Act 94 of 1967</i>
108.	<i>Income Tax Act 95 of 1967</i>
109.	<i>Customs and Excise Amendment Act 96 of 1967</i>
110.	Financial Institutions Amendment Act 99 of 1967
111.	Cape of Good Hope Society Act 33 of 1968
112.	Financial Institutions Amendment Act 65 of 1968
113.	<i>Estate Duty Amendment Act 75 of 1968</i>
114.	<i>Income Tax Act 76 of 1968</i>
115.	Pensions (Supplementary) Act 84 of 1968
116.	<i>Customs and Excise Amendment Act 85 of 1968</i>
117.	State Tender Board Act 86 of 1968
118.	Financial Institutions Amendment Act 80 of 1969
119.	<i>Income Tax Act 89 of 1969</i>
120.	Pensions (Supplementary) Act 100 of 1969
121.	<i>Revenue Laws Amendment Act 103 of 1969</i>
122.	<i>Customs and Excise Amendment Act 105 of 1969</i>
123.	Financial Institutions Amendment Act 23 of 1970
124.	<i>Income Tax Act 52 of 1970</i>
125.	<i>Revenue Laws Amendment Act 72 of 1970</i>
126.	Second Financial Institutions Amendment Act 75 of 1970
127.	Pensions (Supplementary) Act 95 of 1970
128.	<i>Customs and Excise Amendment Act 98 of 1970</i>
129.	Associated Institutions Provident Fund Act 11 of 1971
130.	State Tender Board and State Procurement Board Amendment Act 74 of 1971
131.	<i>Income Tax Act 88 of 1971</i>
132.	<i>Customs and Excise Amendment Act 89 of 1971</i>
133.	<i>Revenue Laws Amendment Act 92 of 1971</i>
134.	Pensions (Supplementary) Act 94 of 1971
135.	<i>Revenue Laws Amendment Act 89 of 1972</i>
136.	<i>Income Tax Act 90 of 1972</i>
137.	Financial Institutions Amendment Act 91 of 1972
138.	Pensions (Supplementary) Act 98 of 1972
139.	<i>Customs and Excise Amendment Act 103 of 1972</i>
140.	<i>Income Tax Act 65 of 1973</i>
141.	<i>Revenue Laws Amendment Act 66 of 1973</i>
142.	Financial Institutions Amendment Act 67 of 1973

Number	Name of Act, number and year
143.	<i>Customs and Excise Amendment Act 68 of 1973</i>
144.	Pensions (Supplementary) Act 75 of 1973
145.	<i>Customs and Excise Amendment Act 7 of 1974</i>
146.	<i>Second Customs and Excise Amendment Act 64 of 1974</i>
147.	Pensions (Supplementary) Act 78 of 1974
148.	<i>Income Tax Act 85 of 1974</i>
149.	<i>Revenue Laws Amendment Act 88 of 1974</i>
150.	Exchequer Act 66 of 1975 (only sections 28, 29 and 30 remain)
151.	Pensions (Supplementary) Act 68 of 1975
152.	<i>Income Tax Act 69 of 1975</i>
153.	<i>Revenue Laws Amendment Act 70 of 1975</i>
154.	<i>Customs and Excise Amendment Act 71 of 1975</i>
155.	Financial Relations Act 65 of 1976
156.	Military Pensions Act 84 of 1976
157.	War Damage Insurance and Compensation Act 85 of 1976
158.	Financial Institutions Amendment Act 101 of 1976
159.	<i>Income Tax Act 103 of 1976</i>
160.	<i>Revenue Laws Amendment Act 104 of 1976</i>
161.	<i>Customs and Excise Amendment Act 105 of 1976</i>
162.	Finance and Financial Adjustments Acts Consolidation Act 11 of 1977
163.	<i>Customs and Excise Amendment Act 12 of 1977</i>
164.	Bills of Exchange Amendment Act 58 of 1977
165.	Financial Institutions Amendment Act 94 of 1977
166.	<i>Second Customs and Excise Amendment Act 112 of 1977</i>
167.	<i>Income Tax Act 113 of 1977</i>
168.	<i>Revenue Laws Amendment Act 114 of 1977</i>
169.	Pensions (Supplementary) Act 116 of 1977
170.	Secret Services Act 56 of 1978
171.	Financial Institutions Amendment Act 80 of 1978
172.	<i>Customs and Excise Amendment Act 93 of 1978</i>
173.	<i>Revenue Laws Amendment Act 95 of 1978</i>
174.	<i>Income Tax Act 101 of 1978</i>
175.	Pensions (Supplementary) Act 106 of 1978
176.	Railways and Harbours Additional Appropriation Act 4 of 1979
177.	Additional Appropriation Act 15 of 1979
178.	Post Office Additional Appropriation Act 22 of 1979
179.	Railways and Harbours Appropriation Act 27 of 1979

Number	Name of Act, number and year
180.	Part Appropriation Act 28 of 1979
181.	General Pensions Act 29 of 1979
182.	Post Office Appropriation Act 33 of 1979
183.	Temporary Employees Pension Fund Act 75 of 1979
184.	<i>Revenue Laws Amendment Act 102 of 1979</i>
185.	Financial Institutions Amendment Act 103 of 1979
186.	<i>Income Tax Act 104 of 1979</i>
187.	Pensions (Supplementary) Act 106 of 1979
188.	Customs and Excise Amendment Act 110 of 1979
189.	Appropriation Act 120 of 1979
190.	Additional Appropriation Act 1 of 1980
191.	Part Appropriation Act 10 of 1980
192.	Railways and Harbours Additional Appropriation Act 14 of 1980
193.	Railways and Harbours Appropriation Act 17 of 1980
194.	Post Office Appropriation Act 18 of 1980
195.	Pensions (Supplementary) Act 93 of 1980
196.	<i>Customs and Excise Amendment Act 98 of 1980</i>
197.	Financial Institutions Amendment Act 99 of 1980
198.	Appropriation Act 103 of 1980
199.	<i>Income Tax Act 104 of 1980</i>
200.	<i>Revenue Laws Amendment Act 106 of 1980</i>
201.	Railways and Harbours Additional Appropriation Act 34 of 1981
202.	Financial Institutions Amendment Act 36 of 1981
203.	Additional Appropriation Act 37 of 1981
204.	Part Appropriation Act 39 of 1981
205.	Railways and Harbours Part Appropriation Act 49 of 1981
206.	Post Office Part Appropriation Act 50 of 1981
207.	Post Office Appropriation Act 74 of 1981
208.	Railways and Harbours Appropriation Act 80 of 1981
209.	<i>Income Tax Act 96 of 1981</i>
210.	<i>Revenue Laws Amendment Act 99 of 1981</i>
211.	Appropriation Act 109 of 1981
212.	<i>Customs and Excise Amendment Act 114 of 1981</i>
213.	Pensions (Supplementary) Act 115 of 1981
214.	Transport Services Additional Appropriation Act 24 of 1982
215.	Part Appropriation Act 41 of 1982
216.	Additional Appropriation Act 46 of 1982

Number	Name of Act, number and year
217.	Transport Services Appropriation Act 54 of 1982
218.	Post Office Appropriation Act 57 of 1982
219.	Financial Institutions Amendment Act 82 of 1982
220.	<i>Customs and Excise Amendment Act 86 of 1982</i>
221.	<i>Revenue Laws Amendment Act 87 of 1982</i>
222.	<i>Income Tax Act 91 of 1982</i>
223.	Appropriation Act 95 of 1982
224.	Pensions (Supplementary) Act 106 of 1982
225.	Transport Services Additional Appropriation Act 7 of 1983
226.	Additional Post Office Appropriation Act 11 of 1983
227.	Part Appropriation Act 14 of 1983
228.	Additional Appropriation Act 15 of 1983
229.	Transport Services Appropriation Act 22 of 1983
230.	Post Office Appropriation Act 26 of 1983
231.	<i>Customs and Excise Amendment Act 89 of 1983</i>
232.	<i>Revenue Laws Amendment Act 92 of 1983</i>
233.	<i>Income Tax Act 94 of 1983</i>
234.	Pensions (Supplementary) Act 97 of 1983
235.	Appropriation Act 98 of 1983
236.	Second Pensions (Supplementary) Act 111 of 1983
237.	Additional Post Office Appropriation Act 22 of 1984
238.	Part Appropriation Act 24 of 1984
239.	Additional Appropriation Act 28 of 1984
240.	<i>Income Tax Amendment Act 30 of 1984</i>
241.	Transport Services Appropriation Act 34 of 1984
242.	Post Office Appropriation Act 41 of 1984
243.	Corporation for Public Deposits Act 46 of 1984
244.	Financial Institutions Amendment Act 86 of 1984
245.	<i>Customs and Excise Amendment Act 89 of 1984</i>
246.	Appropriation Act 98 of 1984
247.	<i>Revenue Laws Amendment Act 118 of 1984</i>
248.	Revenue Accounts Financing Act 120 of 1984
249.	<i>Income Tax Act 121 of 1984</i>
250.	Pensions (Supplementary) Act 124 of 1984
251.	Part Appropriation Act of the Administration: House of Assembly (HA) 22 of 1985
252.	Part Appropriation Act of the Administration: House of Representatives (HR) 23 of 1985
253.	Part Appropriation Act of the Administration: House of Delegates (HD) 24 of 1985

Number	Name of Act, number and year
254.	Additional Appropriation Act 32 of 1985
255.	Additional Appropriation Act of the Administration: House of Assembly (HA) 33 of 1985
256.	Additional Appropriation Act of the Administration: House of Representatives (HR) 34 of 1985
257.	Additional Appropriation Act of the Administration: House of Delegates (HD) 35 of 1985
258.	Part Appropriation Act 37 of 1985
259.	Transport Services Appropriation Act 38 of 1985
260.	Post Office Appropriation Act 40 of 1985
261.	Appropriation Act of the Administration: House of Delegates (HD) 62 of 1985
262.	Appropriation Act of the Administration: House of Assembly (HA) 63 of 1985
263.	Appropriation Act of the Administration: House of Representatives (HR) 66 of 1985
264.	Appropriation Act 73 of 1985
265.	<i>Revenue Laws Amendment Act 81 of 1985</i>
266.	<i>Income Tax Act 96 of 1985</i>
267.	Pensions (Supplementary) Act 100 of 1985
268.	<i>Customs and Excise Amendment Act 101 of 1985</i>
269.	Financial Institutions Amendment Act 106 of 1985
270.	Part Appropriation Act 6 of 1986
271.	Part Appropriation Act (House of Assembly) 13 of 1986
272.	Part Appropriation Act (House of Representatives) 14 of 1986
273.	Part Appropriation Act (House of Delegates) 15 of 1986
274.	Additional Post Office Appropriation Act 16 of 1986
275.	Additional Appropriation Act 17 of 1986
276.	Additional Appropriation Act (House of Representatives) 19 of 1986
277.	Additional Appropriation Act (House of Delegates) 20 of 1986
278.	Additional Appropriation Act (House of Assembly) 21 of 1986
279.	Transport Services Appropriation Act 26 of 1986
280.	Post Office Appropriation Act 28 of 1986
281.	Financial Institutions Amendment Act 50 of 1986
282.	Appropriation Act (House of Assembly) 51 of 1986
283.	<i>Customs and Excise Amendment Act 52 of 1986</i>
284.	Appropriation Act (House of Delegates) 55 of 1986
285.	Appropriation Act (House of Representatives) 61 of 1986
286.	Appropriation Act 63 of 1986
287.	<i>Income Tax Act 65 of 1986</i>
288.	<i>Revenue Laws Amendment Act 71 of 1986</i>

Number	Name of Act, number and year
289.	Pensions (Supplementary) Act (House of Assembly) 102 of 1986
290.	<i>Taxation Laws Amendment Act 108 of 1986</i>
291.	Pensions (Supplementary) Act 109 of 1986
292.	Part Appropriation Act 5 of 1987
293.	Financial Institutions Amendment Act 6 of 1987
294.	Transport Services Part Appropriation Act 7 of 1987
295.	Part Appropriation Act (House of Assembly) 10 of 1987
296.	Part Appropriation Act (House of Representatives) 11 of 1987
297.	Part Appropriation Act (House of Delegates) 12 of 1987
298.	Additional Appropriation Act (House of Delegates) 13 of 1987
299.	Additional Appropriation Act 14 of 1987
300.	Post Office Appropriation Act 15 of 1987
301.	State Tender Board Amendment Act 18 of 1987
302.	Additional Appropriation Act (House of Representatives) 19 of 1987
303.	Additional Appropriation Act (House of Assembly) 22 of 1987
304.	Currency and Exchanges Amendment Act 23 of 1987
305.	Post Office Appropriation Act 28 of 1987
306.	Transport Services Appropriation Act 30 of 1987
307.	Appropriation Act (House of Representatives) 39 of 1987
308.	Appropriation Act (House of Assembly) 49 of 1987
309.	Appropriation Act (House of Delegates) 77 of 1987
310.	Appropriation Act 83 of 1987
311.	<i>Customs and Excise Amendment Act 84 of 1987</i>
312.	<i>Income Tax Act 85 of 1987</i>
313.	<i>Taxation Laws Amendment Act 86 of 1987</i>
314.	Pensions (Supplementary) Act 89 of 1987
315.	Part Appropriation Act 4 of 1988
316.	Part Appropriation Act (House of Representatives) 6 of 1988
317.	Part Appropriation Act (House of Delegates) 7 of 1988
318.	Part Appropriation Act (House of Assembly) 10 of 1988
319.	Additional Appropriation Act 15 of 1988
320.	Additional Appropriation Act (House of Representatives) 16 of 1988
321.	Additional Appropriation Act (House of Delegates) 17 of 1988
322.	Additional Appropriation Act (House of Assembly) 18 of 1988
323.	Transport Services Appropriation Act 23 of 1988
324.	Post Office Appropriation Act 34 of 1988
325.	Friendly Societies Amendment Act 44 of 1988

Number	Name of Act, number and year
326.	Currency and Exchanges Amendment Act 48 of 1988
327.	Financial Institutions Amendment Act 51 of 1988
328.	Appropriation Act (House of Representatives) 58 of 1988
329.	Appropriation Act (House of Delegates) 61 of 1988
330.	Appropriation Act (House of Assembly) 62 of 1988
331.	<i>Customs and Excise Amendment Act 69 of 1988</i>
332.	Appropriation Act 79 of 1988
333.	<i>Taxation Laws Amendment Act 87 of 1988</i>
334.	Finance Act 88 of 1988 (only section 1 remains)
335.	<i>Income Tax Act 90 of 1988</i>
336.	Accountants' and Auditors' and Financial Institutions Amendment Act 92 of 1988
337.	South African Reserve Bank, Banking Institutions, Mutual Building Societies and Building Societies Amendment Act 96 of 1988
338.	<i>Income Tax Amendment Act 99 of 1988</i>
339.	Part Appropriation Act 1 of 1989
340.	Post Office Appropriation Act, Additional, 2 of 1989
341.	Transport Services Appropriation Act, Additional, 4 of 1989
342.	Appropriation Act, Additional, 5 of 1989
343.	Appropriation Act (House of Assembly), Part, 10 of 1989
344.	Appropriation Act (House of Representatives), Part, 11 of 1989
345.	Appropriation Act (House of Delegates), Part, 12 of 1989
346.	Banking Institutions, Mutual Building Societies and Building Societies Amendment Act 13 of 1989
347.	Appropriation Act (House of Representatives), Additional, 15 of 1989
348.	Appropriation Act (House of Delegates), Additional, 16 of 1989
349.	Appropriation Act (House of Assembly), Additional, 17 of 1989
350.	Transport Services Appropriation Act 28 of 1989
351.	Pensions (Supplementary) Act 32 of 1989
352.	Post Office Appropriation Act 38 of 1989
353.	Financial Institutions Amendment Act 53 of 1989
354.	Financial Institutions Second Amendment Act 54 of 1989
355.	Reinsurance of Damage and Losses Act 56 of 1989
356.	Appropriation Act 67 of 1989
357.	<i>Customs and Excise Amendment Act 68 of 1989</i>
358.	<i>Taxation Laws Amendment Act 69 of 1989</i>
359.	<i>Income Tax Act 70 of 1989</i>
360.	Appropriation Act (House of Assembly) 81 of 1989
361.	Appropriation Act (House of Representatives) 82 of 1989

Number	Name of Act, number and year
362.	Appropriation Act (House of Delegates) 83 of 1989
363.	Pensions Second (Supplementary) Act 86 of 1989
364.	South African Reserve Bank Act 90 of 1989
365.	Part Appropriation Act 1 of 1990
366.	Additional Post Office Appropriation Act 2 of 1990
367.	Transport Services Additional Appropriation Act 4 of 1990
368.	Additional Appropriation Act 6 of 1990
369.	Appropriation Act (House of Representatives), Part, 7 of 1990
370.	Appropriation Act (House of Assembly), Part, 8 of 1990
371.	Appropriation Act (House of Delegates), Part, 11 of 1990
372.	Additional Appropriation Act (House of Assembly) 19 of 1990
373.	Additional Appropriation Act (House of Representatives) 20 of 1990
374.	Additional Appropriation Act (House of Delegates) 21 of 1990
375.	Post Office Appropriation Act 22 of 1990
376.	Appropriation Act (House of Assembly) 57 of 1990
377.	Appropriation Act (House of Delegates) 58 of 1990
378.	<i>Customs and Excise Amendment Act 59 of 1990</i>
379.	Financial Institutions Amendment Act 64 of 1990
380.	Reinsurance of Material Damage and Losses Amendment Act 65 of 1990
381.	<i>Taxation Laws Amendment Act 89 of 1990</i>
382.	Appropriation Act 93 of 1990
383.	Banks Act 94 of 1990
384.	Extension of the Powers of the South African Reserve Bank Act 95 of 1990
385.	Financial Services Board Act 97 of 1990
386.	<i>Income Tax Act 101 of 1990</i>
387.	Appropriation Act (House of Representatives) 103 of 1990
388.	Pensions (Supplementary) Act 118 of 1990
389.	Additional Appropriation Act 26 of 1991
390.	Part Appropriation Act 27 of 1991
391.	Part Appropriation Act (House of Assembly) 28 of 1991
392.	Part Appropriation Act (House of Representatives) 29 of 1991
393.	Part Appropriation Act (House of Delegates) 30 of 1991
394.	Additional Appropriation Act (House of Assembly) 31 of 1991
395.	Additional Appropriation Act (House of Representatives) 32 of 1991
396.	Additional Appropriation Act (House of Delegates) 33 of 1991
397.	Post Office Appropriation Act 35 of 1991
398.	Finance Act (House of Assembly) 44 of 1991

Number	Name of Act, number and year
399.	Financial Institutions Amendment Act 54 of 1991
400.	Exemption from Certain Payments at the Transfer of the Sorghum Beer Industry Act 72 of 1991
401.	Deposit-taking Institutions Amendment Act 81 of 1991
402.	<i>Value-Added Tax Act 89 of 1991</i>
403.	Appropriation Act (House of Assembly) 91 of 1991
404.	Appropriation Act (House of Representatives) 92 of 1991
405.	Appropriation Act (House of Delegates) 93 of 1991
406.	<i>Customs and Excise Amendment Act 111 of 1991</i>
407.	Financial Institutions Second Amendment Act 119 of 1991
408.	Finance Act 120 of 1991
409.	<i>Income Tax Act 129 of 1991</i>
410.	Appropriation Act 132 of 1991
411.	Pensions (Supplementary) Act 133 of 1991
412.	<i>Taxation Laws Amendment Act 136 of 1991</i>
413.	Additional Appropriation Act (House of Assembly) 24 of 1992
414.	Additional Appropriation Act (House of Representatives) 25 of 1992
415.	Additional Appropriation Act (House of Delegates) 26 of 1992
416.	Part Appropriation Act 27 of 1992
417.	Additional Appropriation Act 28 of 1992
418.	Part Appropriation Act (House of Assembly) 30 of 1992
419.	Part Appropriation Act (House of Representatives) 31 of 1992
420.	Part Appropriation Act (House of Delegates) 32 of 1992
421.	Financial Services Board Amendment Act 41 of 1992
422.	Deposit-taking Institutions Amendment Act 42 of 1992
423.	Post Office Appropriation Act 48 of 1992
424.	<i>Customs and Excise Amendment Act 61 of 1992</i>
425.	Appropriation Act (House of Assembly) 72 of 1992
426.	Appropriation Act (House of Representatives) 73 of 1992
427.	Appropriation Act (House of Delegates) 74 of 1992
428.	Public Investment Commissioners Amendment Act 76 of 1992
429.	Finance Acts Consolidation Act 78 of 1992
430.	Financial Institutions Amendment Act 83 of 1992
431.	Financial Services Board Second Amendment Act 84 of 1992
432.	Appropriation Act 95 of 1992
433.	<i>Customs and Excise Second Amendment Act 105 of 1992</i>
434.	Finance Act 131 of 1992
435.	<i>Taxation Laws Amendment Act 136 of 1992</i>

Number	Name of Act, number and year
436.	Pensions (Supplementary) Act 138 of 1992
437.	<i>Income Tax Act 141 of 1992</i>
438.	Secret Services Account Amendment Act 142 of 1992
439.	Additional Appropriation Act 1 of 1993
440.	Financial Institutions Amendment Act 7 of 1993
441.	Financial Supervision of the Road Accidents Fund Act (previously known as: Financial Supervision of the Multilateral Motor Vehicle Accidents Fund Act) 8 of 1993
442.	Deposit-taking Institutions Amendment Act 9 of 1993
443.	South African Reserve Bank Amendment Act 10 of 1993
444.	Additional Appropriation Act (House of Assembly) 24 of 1993
445.	Additional Appropriation Act (House of Representatives) 25 of 1993
446.	Additional Appropriation Act (House of Delegates) 26 of 1993
447.	Post Office Appropriation Act 35 of 1993
448.	<i>Value-Added Tax Amendment Act 61 of 1993</i>
449.	Public Accountants' and Auditors' Amendment Act 70 of 1993
450.	Appropriation Act (House of Representatives) 74 of 1993
451.	Appropriation Act (House of Delegates) 75 of 1993
452.	Appropriation Act (House of Assembly) 77 of 1993
453.	Finance Act (House of Assembly) 79 of 1993
454.	Appropriation Act 96 of 1993
455.	<i>Taxation Laws Amendment Act 97 of 1993</i>
456.	<i>Customs and Excise Amendment Act 98 of 1993</i>
457.	Financial Institutions Second Amendment Act 104 of 1993
458.	<i>Income Tax Act 113 of 1993</i>
459.	Mutual Banks Act 124 of 1993
460.	Pensions (Supplementary) Act 128 of 1993
461.	<i>Revenue Laws Amendment Act 140 of 1993</i>
462.	Policy Board for Financial Services and Regulation Act 141 of 1993
463.	Adjustments Appropriation Act (House of Assembly) 160 of 1993
464.	Adjustments Appropriation Act (House of Assembly) 164 of 1993
465.	Adjustments Estimate Act (House of Delegates) 165 of 1993
466.	Adjustments Appropriation Act 167 of 1993
467.	<i>Income Tax Amendment Act 168 of 1993</i>
468.	Second Finance Act 184 of 1993
469.	Closed Pension Fund Act 197 of 1993
470.	Reconstruction and Development Programme Fund Act 7 of 1994
471.	Post Office Appropriation Act 11 of 1994

Number	Name of Act, number and year
472.	Appropriation Act 16 of 1994
473.	<i>Customs and Excise Amendment Act 19 of 1994</i>
474.	<i>Taxation Laws Amendment Act 20 of 1994</i>
475.	<i>Income Tax Act 21 of 1994</i>
476.	Mutual Banks Amendment Act 25 of 1994
477.	Banks Amendment Act 26 of 1994
478.	Finance Act 41 of 1994
479.	Adjustments Appropriation Act 1 of 1995
480.	Additional Post Office Appropriation Act 4 of 1995
481.	Post Office Appropriation Act 17 of 1995
482.	<i>Income Tax Act 21 of 1995</i>
483.	Public Investment Commissioners Amendment Act 22 of 1995
484.	Public Accountants' and Auditors' Amendment Act 23 of 1995
485.	<i>Taxation Laws Amendment Act 37 of 1995</i>
486.	Appropriation Act 42 of 1995
487.	<i>Customs and Excise Amendment Act 45 of 1995</i>
488.	Audit Matters Rationalisation and Amendment Act 53 of 1995
489.	Stock Exchanges Control Amendment Act 54 of 1995
490.	Financial Markets Control Amendment Act 55 of 1995
491.	Adjustments Appropriation Act 1 of 1996
492.	South African Reserve Bank Amendment Act 2 of 1996
493.	Government Employees Pension Law 21(P) of 1996
494.	Currency and Exchanges Amendment Act 23 of 1996
495.	Post Office Appropriation Act 30 of 1996
496.	Supervision of Financial Institutions Rationalisation Act 32 of 1996
497.	<i>Income Tax Act 36 of 1996</i>
498.	<i>Taxation Laws Amendment Act 37 of 1996</i>
499.	<i>Tax on Retirement Funds Act 38 of 1996</i>
500.	Appropriation Act 41 of 1996
501.	<i>Customs and Excise Amendment Act 44 of 1996</i>
502.	<i>Revenue Laws Amendment Act 46 of 1996</i>
503.	Banks Amendment Act 55 of 1996
504.	Special Pensions Act 69 of 1996
505.	Safe Deposit of Securities Amendment Act 70 of 1996
506.	Stock Exchanges Control Amendment Act 71 of 1996
507.	Financial Markets Control Amendment Act 73 of 1996
508.	<i>Final Relief on Tax, Interest, Penalty and Additional Tax Act 101 of 1996</i>

Number	Name of Act, number and year
509.	Adjustments Appropriation Act 1 of 1997
510.	Post Office Appropriation Act 2 of 1997
511.	Exchequer Amendment Act 3 of 1997
512.	Public Accountants' and Auditors' Amendment Act 5 of 1997
513.	Finance Act 6 of 1997
514.	Development Bank of Southern Africa Act 13 of 1997
515.	Financial Institutions Amendment Act 22 of 1997
516.	<i>Taxation Laws Amendment Act 27 of 1997</i>
517.	<i>Income Tax Act 28 of 1997</i>
518.	Appropriation Act 29 of 1997
519.	Reporting by Public Entities Amendment Act 30 of 1997
520.	<i>South African Revenue Services Act 34 of 1997</i>
521.	South African Reserve Bank Amendment Act 39 of 1997
522.	Revenue Funds Interim Arrangements Act 95 of 1997
523.	Financial and Fiscal Commission 1993 Constitutional Provisions Repeal Act 96 of 1997
524.	Intergovernmental Fiscal Relations Act 97 of 1997
525.	Local Authorities Loans Fund Acts Repeal Act 98 of 1997
526.	Financial and Fiscal Commission Act 99 of 1997
527.	Adjustments Appropriation Act 3 of 1998
528.	Interim Appropriation Act 11 of 1998
529.	Financial Markets Control Amendment Act 13 of 1998
530.	Stock Exchange Control Amendment Act 14 of 1998
531.	Appropriation Act 29 of 1998
532.	<i>Taxation Laws Amendment Act 30 of 1998</i>
533.	Safe Deposit of Securities Amendment Act 38 of 1998
534.	<i>Demutualisation Levy Act 50 of 1998</i>
535.	Insurance Second Amendment Act 51 of 1998
536.	Long-term Insurance Act 52 of 1998
537.	Short-term Insurance Act 53 of 1998
538.	Inherited Debt Relief Act 54 of 1998
539.	Special Pensions Amendment Act 75 of 1998
540.	National Payment System Act 78 of 1998
541.	Reconstruction and Development Programme Fund Amendment Act 79 of 1998
542.	Inspection of Financial Institutions Act 80 of 1998
543.	Second Adjustments Appropriation Act 129 of 1998
544.	Conversion of SASRIA Act 134 of 1998
545.	Public Finance Management Act 1 of 1999

Number	Name of Act, number and year
546.	Statistics Act 6 of 1999
547.	Public Investment Commissioners Amendment Act 7 of 1999
548.	<i>Skills Development Levies Act 9 of 1999</i>
549.	Public Finance Management Amendment Act 29 of 1999
550.	<i>Appropriation Act 31 of 1999</i>
551.	Taxation Laws Amendment Act 32 of 1999
552.	Financial Markets Control Amendment Act 40 of 1999
553.	Closed Pension Fund Amendment Act 41 of 1999
554.	Adjustments Appropriation Act 51 of 1999
555.	Second Adjustments Appropriation Act 52 of 1999
556.	<i>Revenue Laws Amendment Act 53 of 1999</i>
557.	Mutual Banks Amendment Act 54 of 1999
558.	Preferential Procurement Policy Framework Act 5 of 2000
559.	South African Airways Unallocatable Debt Act 7 of 2000
560.	Financial Services Board Amendment Act 12 of 2000
561.	Appropriation Act 23 of 2000
562.	<i>Taxation Laws Amendment Act 30 of 2000</i>
563.	Adjustments Appropriation Act 34 of 2000
564.	Finance Act 35 of 2000
565.	Banks Amendment Act 36 of 2000
566.	Second Adjustments Appropriation Act 55 of 2000
567.	Bills of Exchange Amendment Act 56 of 2000
568.	South African Reserve Bank Amendment Act 57 of 2000
569.	Council for Medical Schemes Levies Act 58 of 2000
570.	<i>Revenue Laws Amendment Act 59 of 2000</i>
571.	<i>Taxation Laws Amendment Act 5 of 2001</i>
572.	Appropriation Act 18 of 2001
573.	<i>Revenue Laws Amendment Act 19 of 2001</i>
574.	Financial Institutions (Protection of Funds) Act 28 of 2001
575.	Financial Intelligence Centre Act 38 of 2001
576.	Pension Funds Second Amendment Act 39 of 2001
577.	Stock Exchanges Control Amendment Act 40 of 2001
578.	Provincial Tax Regulation Process Act 53 of 2001
579.	Adjustments Appropriation Act 59 of 2001
580.	<i>Second Revenue Laws Amendment Act 60 of 2001</i>
581.	Social Grants Appropriation Act 2 of 2002
582.	Burundi Protection Support Appropriation Act 3 of 2002

Number	Name of Act, number and year
583.	<i>Unemployment Insurance Contributions Act 4 of 2002</i>
584.	Appropriation Act 29 of 2002
585.	<i>Taxation Laws Amendment Act 30 of 2002</i>
586.	Financial Advisory and Intermediary Services Act 37 of 2002
587.	Collective Investment Schemes Control Act 45 of 2002
588.	<i>South African Revenue Service Amendment Act 46 of 2002</i>
589.	Finance Act 48 of 2002
590.	Adjustments Appropriation Act 73 of 2002
591.	<i>Revenue Laws Amendment Act 74 of 2002</i>
592.	Gold and Foreign Exchange Contingency Reserve Account Defrayal Act 4 of 2003
593.	Food Relief Adjustments Appropriation Act 5 of 2003
594.	Division of Revenue Act 7 of 2003
595.	Pensions (Supplementary) Act 8 of 2003
596.	<i>Exchange Control Amnesty and Amendment of Taxation Laws Act 12 of 2003</i>
597.	Bophuthatswana National Provident Fund Act Repeal Act 13 of 2003
598.	Sefalana Employee Benefits Organisation Act Repeal Act 14 of 2003
599.	Insurance Amendment Act 17 of 2003
600.	Appropriation Act 18 of 2003
601.	Banks Amendment Act 19 of 2003
602.	Special Pensions Amendment Act 21 of 2003
603.	Financial and Fiscal Commission Amendment Act 25 of 2003
604.	Special Pensions Second Amendment Act 30 of 2003
605.	Government Employees Pension Law Amendment Act 35 of 2003
606.	Adjustments Appropriation Act 37 of 2003
607.	Pensions Second (Supplementary) Act 39 of 2003
608.	<i>Revenue Laws Amendment Act 45 of 2003</i>
609.	Local Government: Municipal Finance Management Act 56 of 2003
610.	Drought Relief Adjustments Appropriation Act 3 of 2004
611.	<i>Taxation Laws Amendment Act 16 of 2004</i>

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