

REPUBLIC OF SOUTH AFRICA

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# AIR SERVICES LICENSING AMENDMENT BILL

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*(As introduced in the National Assembly (proposed section 75); explanatory summary of  
Bill published in Government Gazette No. 31061 of 15 May 2008)  
(The English text is the official text of the Bill)*

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(MINISTER OF TRANSPORT)

**[B 25—2008]**

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(b) by the insertion after subsection (1) of the following subsection:

“(1A) For the purposes of the appointment of the members of the council contemplated in subsection (1) the Minister must, through the media, invite nominations of persons who comply with the requirements referred to in that subsection and who are not disqualified by virtue of section 6(1) as candidates for such appointment.” 5

### **Substitution of section 5 of Act 115 of 1990**

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

#### **“Term of office**

5. A member of the council shall hold office for a period [not exceeding] 10  
of three years[: **Provided that a member**] and shall be eligible for  
re-appointment [at the expiry of his term of office] for further periods not  
exceeding three years at a time.”.

### **Amendment of section 6 of Act 115 of 1990**

4. Section 6 of the principal Act is hereby amended by the substitution in subsection 15  
(1) for paragraph (c) of the following paragraph:

“(c) is, in the case of a member contemplated in section 4(b) or (c), an [officer or] 15  
employee as defined in [section 1 of the Public Service Act, 1984 (Act No.  
111 of 1984)] section 1 of the Public Service Act, 1994 (Proclamation No. 103  
of 1994); or” 20

### **Substitution of certain words in Act 115 of 1990**

5. The principal Act is hereby amended—

- (a) by the substitution for the words “he”, “his” and “him”, wherever they occur in section 4(2) and (3), section 5, section 6(1), (2), (3) and (4), section 8(2), (4) and (5), section 10(2), section 11(1) and (3), section 15(5)(a), section 26(1)(g) 25  
and section 28(1), of the words “he or she”, “his or her” and “him or her”, respectively;
- (b) by the substitution for the word “he”, wherever it occurs in section 16(4)(c), of the words “the applicant”;
- (c) by the substitution for the words “his” and “he”, wherever they occur in 30  
section 19(a) and (b), of the words “the licensee’s” and “the licensee”, respectively;
- (d) by the substitution for the word “he”, wherever it occurs in section 20(3)(b), of the words “that person”;
- (e) by the substitution for the word “him”, wherever it occurs in section 25(1)(a), 35  
of the words “that person”; and
- (f) by the substitution for the words “chairman” and “vice-chairman”, wherever they occur in section 4(3), section 8(1), (2) and (7), section 11(1), section 16(3)(a)(ii) and section 27(d), of the words “chairperson” and “vice-chairperson”, respectively. 40

### **Short title**

6. This Act is called the Air Services Licensing Amendment Act, 2008.

**MEMORANDUM ON THE OBJECTS OF THE AIR SERVICES  
LICENSING AMENDMENT BILL, 2008**

1. The purpose of the Air Services Licensing Amendment Bill, 2008, is to amend the Air Services Licensing Act, 1990 (Act No. 115 of 1990) (the Act), so as to effect certain technical amendments. These amendments can be summarised as follows:
  - 1.1 The Bill seeks to delete references to obsolete legislation. It also seeks to substitute certain words in the Act with gender-sensitive or neutral words, e.g. “he” with “he or she” and “chairman” with “chairperson” etc.
  - 1.2 The Bill furthermore seeks to clarify the fact that the Minister designates the chairperson and vice-chairperson. It also seeks to establish a nomination procedure for members of the council through public participation. Currently the Act makes no provision for any nomination procedure.
  - 1.3 In order to provide a measure of security of tenure for members of the council, it is proposed in the Bill that members are to be appointed for a period of three years and that they may be reappointed for further periods not exceeding three years at a time. Currently, members are appointed for a period “not exceeding three years” and are eligible for reappointment.
  - 1.4 The Bill also seeks to create the possibility that the chairperson of the Air Services Council may be an employee in the public service. Currently, section 6(1)(c) of the Act disqualifies any officer or employee in the public service from being appointed as a member of the Council. In order to promote continuity in deciding on matters pertaining to air licences, the Minister deemed it proper that he should be able to appoint the chairperson of the council from amongst employees in the public service.

**2. CONSULTATION**

The Bill was published for public comment in Government *Gazette* No. 29983 of 15 June 2007 (Volume 504). All relevant comments have been incorporated in the Bill.

**3. FINANCIAL IMPLICATIONS**

None.

**4. PARLIAMENTARY PROCEDURE**

- 4.1 The State Law Advisers and the Department of Transport are of the opinion that the Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.
- 4.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.