

South African **Law Reform Commission**



DISCUSSION PAPER 137

PROJECT 25

**STATUTORY LAW REVISION:
LEGISLATION ADMINISTERED BY THE
DEPARTMENT OF SCIENCE AND TECHNOLOGY**

13 JUNE 2015

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Introduction

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

The eight members of the SALRC are –

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Preface

This discussion paper was prepared to elicit responses from interested parties and stakeholders. It will also serve as a basis for the SALRC's further deliberations in the process of finalizing a report. The paper contains the SALRC's preliminary findings and proposals after having reviewed the legislation administered by the Department of Science and Technology (DST). The laws were reviewed for constitutionality in terms of section 9 of the Bill of Rights, and for redundancy and obsolescence.

Respondents are asked to submit their written comments to the SALRC by 14 September 2015. Please send inputs to the address on the previous page (comments can be sent by e-mail or by post).

The SALRC will assume that respondents agree to the SALRC quoting from or referring to comments made in submissions, and to such comments being attributed to the relevant respondents. Respondents should be aware that the SALRC may in any event be required under the Promotion of Access to Information Act 2 of 2000 to release information contained in representations.

Any inquiries should be addressed to the Secretary of the SALRC or to the SALRC official assigned to this investigation, Miss Veruksha Bhana, whose contact particulars appear on page ii. This discussion paper is available on the internet at <http://salawreform.justice.gov.za/dpapers.htm>.

Preliminary recommendations

The SALRC is mandated with the task of revising the South African statute book, with a view to identifying and recommending for repeal or amendment legislation or provisions in legislation that are inconsistent with the right to equality as enshrined in the Constitution of the Republic of South Africa of 1996; or which are redundant or obsolete.

The SALRC has reviewed all legislation administered by the Department of Science and Technology (DST) for redundancy or unconstitutionality. The findings are contained in this paper.

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CHAPTER 1

PROJECT 25: STATUTORY LAW REVISION

A INTRODUCTION

1 The objects of the South African Law Reform Commission

1.1 The objects of the SA Law Reform Commission (SALRC) are set out in the South African Law Reform Commission Act 19 of 1973, as follows: 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:

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

1.2 Thus the SALRC is an advisory statutory body whose aim is the renewal and improvement of the law of South Africa on a continual basis.

2 History of the investigation

1.3 Shortly after its establishment in 1973, the SALRC began revising all pre-Union legislation, as part of its Project 7. This investigation 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, which aims to establish a permanently simplified, coherent, and generally accessible statute book. This report resulted in Parliament adopting the Repeal of Laws Act 94 of 1981, which repealed approximately 790 post-Union statutes.

1.4 Immediately after the advent of constitutional democracy in South Africa in 1994, the legislation enacted prior to that year remained in force. Numerous pre-1994 provisions do not comply with the country's Constitution, a discrepancy exacerbated by the fact that some of those provisions were enacted to promote and sustain the policy of apartheid.

1.5 In 2003, Cabinet approved that the Minister of Justice and Constitutional Development should coordinate and mandate the SALRC to review provisions in the legislative framework that would result in discrimination, as defined by section 9 of the Constitution. Section 9 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, or birth.

1.6 In 2004 the SALRC included in its law reform programme an investigation on statutory law to revise all statutes from 1910 to date. Whereas previous investigations had focused on identifying obsolete and redundant provisions for repeal, the current investigation emphasizes compliance with the Constitution. Redundant and obsolete provisions that are identified in the course of this investigation are also recommended for repeal, but the constitutional inquiry has focused mainly on identifying statutory provisions that blatantly violate the provisions of section 9 (the Equality Clause) of the Constitution.

1.7 A 2004 provisional audit by the SALRC of national legislation that has remained on the statute book since 1910 established that roughly 2 800 individual statutes existed in 2004. These comprised principal Acts, amendment Acts, private Acts, additional or supplementary Acts, and partially repealed Acts. A substantial number of Acts on the statute book no longer serve any useful purpose and many others have retained unconstitutional provisions. This situation has already resulted in expensive and sometimes protracted litigation.

B WHAT IS STATUTORY LAW REVISION?

1.8 Statutory law revision ordinarily focuses on the identification and repeal of statutes that are no longer useful in practice. As the Law Reform Commission for England and Wales explains, the purpose of statute revision is to modernise and simplify statutes that need updating, and to reduce the size of the statute book to the benefit of legal professionals and other people who use it.¹

¹ See the *Background Notes on Statute Law Repeals* compiled by the Law Commission for England and Wales, par 1 accessed from http://lawcommission.justice.gov.uk/docs/background_notes.pdf on 28 May 2008 (hereinafter referred to as Law Commission for England and Wales *Background Notes on Statute Law Repeals*).

Revision lessens the chance of people being misled by redundant laws that still appear in the statute book and seem to be relevant or “live”. If statutory provisions appear in the statute book and are referred to in legal textbooks, readers may reasonably assume they still serve a purpose.

1.9 As is the case in other jurisdictions, once legislation is deemed no longer to apply, the question arises whether it should remain in the statute book or be repealed.² Usually such legislation no longer has any legal effect and is considered obsolete, redundant, or spent. A statutory provision may be identified for repeal because the grounds for which it was passed have lapsed or are presently remedied by another measure or provision.

1.10 In the context of this investigation, the statutory law revision primarily targets statutory provisions that are obviously at odds with the Constitution, particularly section 9.

1.11 The Law Commission for England and Wales lists the following guidelines for identifying statutory provisions that are candidates for repeal:³

- (a) references to bodies, organisations, etc. that have been dissolved or wound up or which have otherwise ceased to serve any purpose;
- (b) references to issues that are no longer relevant as a result of changes in social or economic conditions (e.g. legislation about tithes or tin mines);
- (c) references to Acts that have been superseded by more modern (or EU) legislation or by international Convention;
- (d) references to statutory provisions (i.e. sections, schedules, orders, etc.) that have been repealed;
- (e) repealing provisions e.g. “Section 33 is repealed/shall cease to have effect”;
- (f) commencement provisions once the whole of an Act is in force;
- (g) transitional or savings provisions that are spent;
- (h) provisions that are self-evidently spent - e.g. a one-off statutory obligation to do something becomes spent once the required act has duly been done;
- (i) powers that have never been exercised over a period of many years or where any previous exercise is now spent.

1.12 The Law Commission of India notes that in England the terms “expired”, “spent”, “repealed in general terms”, “virtually repealed”, “superseded”, and “obsolete” were defined in memoranda to Statute Law Revision Bills as follows:⁴

² See Law Commission for England and Wales *Background Notes on Statute Law Repeals the Background*, par 6.

³ See Law Commission for England and Wales *Background Notes on Statute Law Repeals*, par 7.

- 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.

1.13 Statutory provisions usually become redundant as time passes.⁵ Generally, the redundancy of legislation is not signalled by a single occurrence; rather, legislation is often simply overtaken by social and economic changes. Inevitably some provisions fade away more quickly than others. Relatively short-lived provisions include commencement and transitional provisions, and those that confer powers to be exercised during the period between the passing of legislation and its implementation (in some jurisdictions known as “pump-priming” provisions). Provisions that provide for delegated legislation-making powers might also become unnecessary over time, or a committee or board established by a statute might no longer be required.

1.14 Substantial revision of statutory law is possible in South Africa because of the general savings provisions of section 12(2) of the South African Interpretation Act. The South African Interpretation Act 33 of 1957 mirrors section 16(1) of the Interpretation Act of 1978 of England and

⁴ Law Commission of India *Ninety-Sixth Report on Repeal of Certain Obsolete Central Acts* March 1984; p 3 of Chapter 2 (p 6 of 21) accessed from <http://lawcommissionofindia.nic.in/51-100/Report96.pdf> on 28 May 2008.

⁵ See Law Commission for England and Wales *Background Notes on Statute Law Repeals*, par 9 and 10.

Wales.⁶ Section 12(2) of the South African Interpretation Act provides that 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.

1.15 The methodology adopted in this investigation is to review the statute book by department. The SALRC identifies a department, reviews the national legislation administered by that department for constitutionality and redundancy, sets out the preliminary findings and proposals in a consultation paper, and consults with that department to verify the SALRC's preliminary findings and proposals. The next step that the SALRC undertakes is the development of a discussion paper in respect of the legislation of each department. Once the paper is approved by the SALRC, it is published for general information and comment. Finally, the SALRC develops a report in respect of each department. The report reflects the comments received on the discussion paper, and contains a draft Bill that proposes amending legislation.

C THE INITIAL INVESTIGATION

1.16 In the early 2000s, the SALRC and the German Agency for Technical Cooperation commissioned the Centre for Applied Legal Studies at the University of the Witwatersrand to conduct a preliminary study on law reform. The study examined the feasibility, scope, and operational structure of revising the South African statute book for constitutionality, redundancy,

⁶ With the exception of few minor changes, the South African Interpretation Act 5 of 1910 repeated the provisions of the United Kingdom Interpretation Act of 1889 (Interpretation Act 1889 (UK) 52 & 53 Vict c 63). See Law Commission for England and Wales *Background Notes on Statute Law Repeals the Background*, par 8.

and obsolescence. The Centre for Applied Legal Studies pursued four main avenues of research in this study, which was conducted in 2001 and submitted to the SALRC in April 2001.⁷ These four steps are outlined here.

1. A series of interviews was conducted with key role-players drawn from the three governmental tiers, Chapter 9 institutions, the legal profession, academia, and civil society. These interviews revealed a high level of support for a law reform project.
2. All Constitutional Court judgments up to 2001 were analysed. The results were compiled as schedules summarising the nature and outcome of these cases, and the statutes impugned. The three most problematic categories of legislative provisions were identified, and the Constitutional Court's jurisprudence in each category was analysed. The three most problematic 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 for each category.
3. Sixteen national statutes were tested against the guidelines. The results were compared with the results from a control audit that tested the same statutes against the entire Bill of Rights, excluding socio-economic rights. Comparison of the outcomes showed that a targeted revision of the statute book in accordance with the guidelines had produced highly effective results.
4. A survey of law reform in five other countries (United Kingdom, Germany, Norway, Switzerland, and France) was conducted. Apart from France, all these countries had conducted or were conducting statutory revision exercises. The motivation for the revision and the outcomes of the exercises differed by country.

1.17 The SALRC finalised the following Reports, proposing reform of discriminatory areas of the law or the repeal of specific discriminatory provisions:

- (a) the Recognition of Customary Marriages (August 1998);
- (b) the Review of the Marriage Act 25 of 1961 (May 2001);
- (c) the Application of the Bill of Rights to Criminal Procedure, Criminal Law, the Law of Evidence and Sentencing (May 2001);
- (d) Traditional Courts (January 2003);
- (e) the Recognition of Muslim marriages (July 2003);
- (f) the Repeal of the Black Administration Act 38 of 1927 (March 2004);

⁷

"Feasibility and Implementation Study on the Revision of the Statute Book" prepared by the Law and Transformation Programme of the Centre for Applied Legal Studies of the University of the Witwatersrand April 2001 available upon request from pvanwyk@justice.gov.za.

- (g) Customary Law of Succession (March 2004); and
- (h) Domestic Partnerships (March 2006).

D SCOPE OF THE PROJECT

1.18 The constitutional validity aspect of this project focuses on statutes or provisions in statutes that are clearly inconsistent with the right to equality entrenched in section 9 of the Constitution. In practical terms this means that this leg of the investigation is 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 discriminate 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 on 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. This investigation focuses on the constitutionality of provisions in statutes of South African law, with special attention paid to consonance with section 9 of the Constitution. The investigation also attends to obsolescence or redundancy of provisions. In 2003, Cabinet directed 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, or birth. The SALRC agreed that the project should proceed by scrutinising and revising national legislation that discriminates unfairly.⁸ However, as explained in the preceding sections of this chapter, even the section 9 inquiry was limited because it dealt primarily with statutory provisions that were blatantly in conflict with section 9 of the Constitution. This delimitation arose mainly from considerations of time and capacity. Nonetheless, during the investigation some other anomalies and obvious inconsistencies with the Constitution were identified, and recommendations have been made on how to address them.

⁸ Cathi Albertyn prepared a 'Summary of Equality jurisprudence and Guidelines for assessing the SA Statute Book for Constitutionality against section 9 of the 1996 Constitution', specifically for the SALRC in February 2006 available upon request from pvanwyk@justice.gov.za.

E CONSULTATION WITH STAKEHOLDERS

1.20 In 2004, Cabinet endorsed the proposal that government departments should be asked to participate in and contribute to this investigation. In certain instances, legal researchers cannot decide whether to recommend a provision for repeal unless they have access to factual information that might be considered “inside” knowledge – of the type usually accessible within a specific department or organisation. Examples include savings or transitional provisions that are instituted to preserve the status quo until an office-holder ceases to hold office or until a loan has been repaid. In such cases, the consultation paper drafted by the SALRC invites the department or organisation being consulted to supply the necessary information. Similarly, the aim of publishing discussion papers as part of an investigation is to determine whether departments and stakeholders agree with and support the SALRC’s findings and its proposals for legislative amendment or repeal. The SALRC relies on the assistance of departments and stakeholders. This process ensures that all relevant provisions are identified during the review and are dealt with responsively, without creating unintended negative consequences.

1.21 The methodology adopted in this investigation is to review the statute book by department. The SALRC identifies a department, reviews the national legislation administered by that department for constitutionality and redundancy, sets out the preliminary findings and proposals in a consultation paper, and consults with that department to verify the SALRC’s preliminary findings and proposals. The next step the SALRC undertakes is the development of a discussion paper in respect of legislation of each department. Once the paper is approved by the SALRC, it is published for general information and comment. Finally, the SALRC develops a report in respect of each department. The report reflects the comments on the discussion paper and contains a draft Bill proposing amending legislation.

1.22 In August 2014, the SALRC submitted a consultation paper containing its preliminary findings and proposals to the DST. In December 2014, the DST submitted its comments on the SALRC’s consultation paper to the SALRC. The SALRC then began to write a draft discussion paper, which reflected the comments received from the DST.

1.23 The Commission considered the draft discussion paper on this review at its meeting held on 13 June 2015 and approved its publication for general information and comment.

CHAPTER 2

REVIEW OF LEGISLATION

A INTRODUCTION

2.1 The vision of the Department of Science and Technology (DST) is to help in creating a prosperous society that derives enduring and equitable benefits from science and technology. The department's mission is to develop, coordinate and manage a national system of innovation that will bring about maximum human capital, sustainable economic growth, and improved quality of life.⁹

2.2 The following statutes are administered by the DST; the list excludes transversal legislation related to the Department of Public Service and Administration:

1. The Scientific Research Council Act 46 of 1988
2. National Advisory Council on Innovation Act 55 of 1997
3. National Research Foundation Act 23 of 1998
4. Academy of Science of South Africa Act 67 of 2001
5. Africa Institute of South Africa Act Repeal Act 21 of 2013
6. Natural Scientific Professions Act 27 of 2003
7. Astronomy Geographic Advantage Act 21 of 2007
8. Human Sciences Research Council Act 17 of 2008
9. Technology Innovation Agency Act 26 of 2008
10. South African National Space Agency Act 36 of 2008
11. Intellectual Property Rights from Publicly Financed Research and Development Act 51 of 2008

2.3 The following statutes amend legislation administered by the DST:

12. Science and Technology Amendment Act 16 of 2011
13. Science and Technology Amendment Act 7 of 2014

⁹ See *Our Vision, Mission and Corporate Values* at <http://www.dst.gov.za> accessed on 14 August 2014.

B LEGISLATION

1 Scientific Research Council Act 46 of 1988

2.4 The purpose of this Act is to provide for the continued existence of the Council for Scientific and Industrial Research (CSIR);¹⁰ and for the management thereof by a Board; and for matters connected therewith.¹¹

2.5 Section 3 of the Act describes the objects of the CSIR as follows:

through directed and particularly multi-disciplinary research and technological innovation, to foster, in the national interest and in fields which in its opinion should receive preference, industrial and scientific development, either by itself or in co-operation with principals from the private or public sectors, and thereby to contribute to the improvement of the quality of life of the people of the Republic, and to perform any other functions that may be assigned to the CSIR by or under this Act.

2.6 The Act still serves an important purpose and no provision of this Act contravenes section 9 of the Constitution. The Act should be retained.

2 National Advisory Council on Innovation Act 55 of 1997

2.7 The purpose of this Act is “to establish a national advisory council on innovation; to determine its composition and objects and functions; to regulate financial and staff matters; and to provide for matters connected therewith”. The Act came into operation on 2 November 1998.

2.8 According to the website of the National Advisory Council on Innovation,¹² the NACI – shall advise the Minister of Science and Technology, and through the Minister of Science and Technology, the Ministers Committee and the Cabinet, on the role and contribution of science, mathematics, innovation

¹⁰ Section 2(1) provides that “The Council for Scientific and Industrial Research established by section 2 of the Scientific Council Act, 1945 (Act No. 33 of 1945), shall, notwithstanding the repeal of the Scientific Research Council Act, 1984 (Act No. 82 of 1984), by this Act, continue to exist as a juristic person known as the CSIR.”

¹¹ See <http://www.csir.co.za> accessed in July 2014

¹² See <http://www.naci.org.za> accessed in July 2014

and technology, including indigenous technologies, in promoting and achieving national objectives, namely to improve and sustain the quality of life of all South Africans, develop human resources for science and technology, build the economy, and strengthen the country's competitiveness in the international sphere.

2.9 The Act still serves an important purpose and no provision of this Act contravenes section 9 of the Constitution. The Act should be retained.

3 National Research Foundation Act 23 of 1998

2.10 The purpose of this Act¹³ is as follows:

To provide for the promotion of research, both basic and applied, and the extension and transfer of knowledge in the various fields of science and technology and indigenous technology; and for this purpose to provide for the establishment of a National Research Foundation; and to provide for incidental matters.

2.11 The Act still serves an important purpose and no provision of this Act contravenes section 9 of the Constitution. The Act should be retained.

4 Academy of Science of South Africa Act 67 of 2001

2.12 The purpose of this Act is as follows:¹⁴

To establish a juristic person known as the Academy of Science of South Africa; to determine its objectives, functions and method of work; to prescribe the manner in which it is to be managed and governed; to provide for the repeal of the Suid-Afrikaanse Akademie vir Wetenskap en Kuns Act, 1959; and to provide for matters connected therewith.

2.13 The Act still serves an important purpose and no provision of this Act contravenes section 9 of the Constitution. The Act should be retained.

¹³ See link to Act No 23 of 1998 on <http://www.nrf.ac.za/about-nrf/mandate> (website of the NRF <http://www.nrf.ac.za>) accessed in July 2014

¹⁴ See <http://www.assaf.co.za> accessed in July 2014

5 Africa Institute of South Africa Act Repeal Act 21 of 2013

2.14 The purpose of the Act is to “provide for the disestablishment of the Africa Institute of South Africa; to provide for the transfer of the assets, liabilities, rights and obligations of the Institute; to repeal the Africa Institute of South Africa Act, 2001; and to provide for matters connected therewith.”

2.15 This repealing Act was assented to on 9 December 2013 and came into effect on 1 April 2014.¹⁵

2.16 The Act disestablishes the Africa Institute of South Africa (AISA), which was established by section 2 of the Africa Institute of South Africa Act 68 of 2001. The repealing Act provides that all assets, liabilities, rights and obligations of the AISA are transferred to the Human Sciences Research Council (HSRC). The repealing Act further provides that all employees of the AISA are transferred to the HRSC, in accordance with section 197 of the Labour Relations Act 66 of 1995.

2.17 The AISA now functions as a strategic research programme within the HSRC.

2.18 Although the incorporation described above repealed the Africa Institute of South Africa Act 68 of 2001, it was not deemed necessary to amend the Human Sciences Research Council Act 17 of 2008 in the process.

2.19 No provision of Act 21 of 2013 (the repealing Act) contravenes section 9 of the Constitution, and the Act has now served its purpose. However, because the Human Sciences Research Council Act 17 of 2008 has not been amended in this regard, the SALRC recommends that the repealing Act remain in the statute book for purposes of legal certainty. It provides important information on the disestablishment and relocation of the AISA to the HSRC.

6 Natural Scientific Professions Act 27 of 2003

2.20 The purpose of the Act is to “provide for the establishment of the South African Council for Natural Scientific Professions; and for the registration of professional, candidate and certificated natural scientists; and to provide for matters connected therewith.”¹⁶

¹⁵ See <http://www.ai.org.za/uncategorized/africa-institute-of-south-africa-moves-to-new-home-at-the-hsrc> accessed in August 2014

2.21 The Act still serves an important purpose and no provision of this Act contravenes section 9 of the Constitution. The Act should be retained.

7 Astronomy Geographic Advantage Act 21 of 2007

2.22 The purpose of the Act is to “provide for the preservation and protection of areas within the Republic that are uniquely suited for optical and radio astronomy; to provide for intergovernmental co-operation and public consultation on matters concerning nationally significant astronomy advantage areas; and to provide for matters connected therewith.”

2.23 The Act still serves an important purpose and no provision of this Act contravenes section 9 of the Constitution. The Act should be retained.

8 Human Sciences Research Council Act 17 of 2008

2.24 The purpose of the Act is to “provide for the promotion of research in the field of human sciences in order to improve understanding of social conditions and the process of social change; to provide for the continued existence of the Human Sciences Research Council; and to provide for matters connected therewith.”¹⁷

2.25 The Act still serves an important purpose and no provision of this Act contravenes section 9 of the Constitution. The Act should be retained.

9 Technology Innovation Agency Act 26 of 2008

2.26 The purpose of the Act is as follows:

To provide for the promotion of the development and exploitation in the public interest of discoveries, inventions, innovations and improvements, and for that purpose to establish the Technology Innovation Agency; to provide for its powers and duties and for the manner in which it must be

¹⁶ See <http://www.sacnasp.org.za> accessed in July 2014

¹⁷ See www.hsrc.ac.za accessed in August 2014

managed and controlled; and to repeal an Act; and to provide for matters connected therewith.¹⁸

2.27 The Act still serves an important purpose and no provision of this Act contravenes section 9 of the Constitution. The Act should be retained.

10 South African National Space Agency Act 36 of 2008

2.28 The purpose of the Act is as follows:

To provide for the promotion and use of space and co-operation in space-related activities, foster research in space science, advance scientific engineering through human capital, support the creation of an environment conducive to industrial development in space technologies within the framework of national government policy, and for that purpose to establish the South African National Space Agency; to provide for the objects and functions of the South African National Space Agency and for the manner in which it must be managed and governed; and to provide for matters connected therewith.¹⁹

2.29 The Act still serves an important purpose and no provision of this Act contravenes section 9 of the Constitution. The Act should be retained.

11 Intellectual Property Rights from Publicly Financed Research and Development Act 51 of 2008

2.30 The purpose of the Act is to “provide for more effective utilisation of intellectual property emanating from publicly financed research and development; to establish the National Intellectual Property Management Office and the Intellectual Property Fund; to provide for the establishment of offices of technology transfer at institutions; and to provide for matters connected therewith”.²⁰

2.31 The Act still serves an important purpose and no provision of this Act contravenes section 9 of the Constitution. The Act should be retained.

¹⁸ For information on the Technology Innovation Agency (TIA), see www.tia.org.za accessed in July 2014

¹⁹ For information on the National Space Agency, see www.sansa.org.za accessed in July 2014

²⁰ See www.nipmo.org.za accessed in July 2014

12 Science and Technology Amendment Act 16 of 2011

2.32 The purpose of the Act is as follows:

To amend the Scientific Research Council Act, 1988, so as to amend certain definitions and insert certain new definitions; to provide for the term of office of the board members; to correct certain references; to effect certain technical corrections; to delete certain inappropriate or obsolete provisions; to amend the National Advisory Council on Innovation Act, 1997, so as to amend certain definitions and insert certain new definitions; to provide for the appointment of an independent chief executive officer; to effect certain technical corrections; to amend the National Research Foundation Act, 1998, so as to amend certain definitions and insert certain new definitions; to correct certain references; to provide for the term of office and disqualification of board members; to effect certain technical corrections; to amend the Academy of Science of South Africa Act, 2001, so as to amend and insert certain new definitions; to provide for election of certain officials of the Council and the Academy; to effect certain technical corrections; to amend the Africa Institute of South Africa Act, 2001, so as to amend certain definitions; to make provision for the term of office of the board members; to correct certain references; to effect certain technical corrections; to amend the Natural Scientific Professions Act, 2003, so as to amend certain definitions; to correct certain references; and to effect certain technical corrections; and to provide for matters connected therewith.

2.33 The Act still serves an important purpose and no provision of this Act contravenes section 9 of the Constitution. The Act should be retained.

13 Science and Technology Amendment Act 7 of 2014

2.34 The purpose of the Act is as follows:

To amend the Scientific Research Council Act, 1988, the National Research Foundation Act, 1998, the Academy of Science of South Africa Act, 2001, the Natural Scientific Professions Act, 2003, the Human Sciences Research Council Act, 2008, the Technology

Innovation Agency Act, 2008, and the South African National Space Agency Act, 2008, so as to harmonise the processes for the appointment of the chairpersons of the Boards of the entities reporting to the Minister; to streamline the processes for the appointment of members of the Boards and of the chief executive officers of the entities; to provide for the filling of vacancies of members of the Boards; to provide for the qualification requirements for membership of the Boards and the disqualification of members of the Boards; to provide for the extension of the term of office of members of the Boards; and to provide for the dissolution and reconstitution of the Boards; and to provide for matters connected therewith.

2.35 The Act still serves an important purpose and no provision of this Act contravenes section 9 of the Constitution. The Act should be retained.