

NATIONAL LAND TRANSPORT AMENDMENT BILL, 2015

Presentation to SABOA Conference

4 March 2015



transport

Department:
Transport
REPUBLIC OF SOUTH AFRICA

Clause 1: section 1 - Definitions

- The definition of “Contracting authority” has been qualified to accommodate the widened powers of the provinces (see later)
- New definitions of “e-hailing” and “e-hailing application” have been inserted to provide for electronic hailing applications (see later)
- The definition of “Integrated public transport network” (IPTN) has been amended to clarify the difference between IPTNs and integrated rapid public transport networks (IRPTNs). An IPTN may include an IRPTN, e.g. a bus rapid transit (BRT) system



Clause 1: Definitions cont.

- The definition of “metered taxi service” has been amended to include e-hailing, which will perform the functions of a meter
- A definition of “Municipal Regulatory Entity” (MRE) has been inserted to make the Act easier to read
- A new definition of “Non-motorised transport” has been inserted
- SARCC has been changed to PRASA
- A new definition of “targeted categories of passengers” replaces “special categories of passengers” to comply with international best practice
- Other consequential amendments have been made to the definitions

Clause 3: Section 8 - Regulations

- The powers of the Minister to make regulations have been expanded
- The power to make regulations on processes for involving existing operators in negotiations and making them offers has been expanded
- The power to prescribe fees has been expanded
- The Minister can prescribe colour coding and branding for vehicles where national uniformity is required (comment from provincial workshops)
- The Minister is empowered to make regulations on requirements for targeted categories of passengers



Clause 6: New Section 10A - Accessible and non-motorised transport (NMT)

- A new section is inserted to promote accessible transport and NMT – The Minister, MECs and Planning Authorities must take steps to promote accessible transport and NMT
- The municipalities listed in the Schedule must implement universally accessible transport in terms of regulations to be made by the Minister
- A new definition of accessible transport is inserted to bring the Act into line with international best practice



Clause 7: Section 11 - Responsibilities of the Spheres of Government

- Provinces are given powers to conclude new contracts (negotiated, tendered and commercial) in municipal areas not included in the Schedule
- The Minister may add or subtract municipalities to the Schedule, if satisfied that it has an adequate capacity and that there are substantial subsidised bus services in the area.
- The contracts must be designed i.t.o the ITP of the municipality, or if there is no ITP the province must design them in collaboration with the municipality as part of capacity building with agreed timeframes
- The Minister may prescribe the process and provide pro forma agreement.



Clause 9: Section 15 - Intermodal Planning Committees

- The Minister may prescribe a date by which IPCs must be established (SLA comment)
- The functions of IPCs are expanded to include NMT and freight transport
- IPCs are required to facilitate service level agreements between the municipality and PRASA for rail in appropriate areas

Clause 11: Section 18 - Regulatory functions of municipalities

- The position is clarified that an MRE may only deal with services completely within its boundaries
- Where services are between municipal boundaries, the PRE must deal with them
- MREs must keep information on taxi associations and operators, as with PREs



Clause 15: Section 24 - Functions of PREs

- The PREs must keep information on taxi associations and operators, and on routes operated by associations and non-members in the province
- Other consequential amendments are made



Clause 18: Section 39 - Rationalisation of public transport services

- The steps to be taken to rationalise services are amended to provide that planning authorities must, before applying rationalisation measures to limit OLs:
 - apply law enforcement to remove illegal operators, after consulting regulatory entities and
 - ask the regulatory entity to take measures to cancel permits and OLs not in use in terms of section 79 of the Act
- Before taking the steps the planning authority must consult with affected operators and relevant regulatory entities



Clause 19: Section 41 - First phase negotiated contracts

- The position in relation to negotiated contracts is clarified:
 - The contracting authority (CA) may conclude one or more contracts or a combination of contracts
 - Provisions currently in the Regulations are moved to the Act on advice from the SLA: the CA can do different negotiated contracts on different routes
 - Negotiated contracts may be phased in or amended, but the total contract term may not be more than 12 years
 - Stopgap contracts of an interim nature are allowed while negotiations are in progress
 - The Minister is given powers to extend the 12-year maximum period of a negotiated contract on written application by the planning authority, if the Minister is satisfied that the extension will be in the public interest



Clause 20: Section 41 cont.

- Section 42 which empowers the Minister to set requirements for tender and contract documents or to publish model tender and contract documents is extended to negotiated contracts
- The model documents may only be made compulsory in the case of the municipalities which are not listed in the Schedule, i.e. not the metros and larger municipalities, in relation to contracts to establish BRT systems



Clause 22: Section 45 - Involvement of municipalities in public transport services

- Section 45 of the Act is repealed for the following reasons:
 - Municipal operators are prevented by other legislation from tendering for services outside of the relevant municipal area. In terms of the Municipal Systems Act a municipality may appoint a municipal entity to perform a contract without going out to tender
 - The restriction that municipalities may not use their municipal land transport funds to subsidise municipal entities unless they are financially ringfenced, is seen to be unwarranted



Clause 23: Section 46 - Existing contracting arrangements

- The section is amended to make it clear that the responsibility rests on municipalities to contract/deal with incumbent operators
- Section 46(2) is deleted to remove the requirement that disputes must be submitted to mediation or arbitration
- The parties can still agree to submit disputes to mediation or arbitration
- The section is also amended to clarify that the city (municipality) must be the contracting authority



Clause 24: Section 47 - Conversion of permits

- The heading of section 47 is amended to clarify its meaning
- It is made clearer that OLS issued under the NLTTA must be renewed at least every 7 years (not only permits)
- The provision that no operator may receive subsidy or Government assistance until his/her permits are converted has been removed, because the conversion process is likely to take some time
- The position is made clearer that there must be a simultaneous application for conversion of a permit where application is made to renew, amend or transfer the permit
- Some provisions that are currently in the regulations are moved to the Act on advice from the SLA
- The cut-off date for conversion is reset as 5 years after the Amendment Act comes into operation



Clause 30: Section 56 - Operating licences for contracted services

- Section 56 is amended to provide that OLs must be issued automatically where a contracting authority has concluded a stopgap negotiated contract pending a final 12-year contract – see amendment to section 41 above

Clause 33: Section 60 - Special events

- Section 60 on temporary OLs for special events is amended to clear up issues raised in workshops, among others that temporary OLs can be issued “over the counter” to persons who already hold an OL or permit by an official delegated by the regulatory entity
- The application process for temporary OLs is also simplified



Clause 34: Section 62 – Issue and contents of OL

- The section is amended to remove the requirement that proof of insurance cover must be submitted, in the light of the 2008 amendment of the RAF Act (operators and drivers cannot be sued except in very limited circumstances)

Clause 35: Section 64 - Persons who may hold OLs

- Section 64 is amended to clarify that tourist transport operators who are accredited under Part 3 of Chapter 6 may obtain OLs for certified vehicles even if they are not the registered owner of the vehicle (as suggested by the inter-departmental Steering Committee)



Clause 37: Section 67 – Charter services

- This section on charter services is amended at the request of the PREs to provide that where application is made for a charter service only, i.e. not coupled with a minibus taxi-type service or scheduled service, the regulatory entity must be satisfied that:
 - There will be a need for the service, and
 - The service will be provided on a regular basis in terms of a contract or other arrangement
- The regulatory entity must attach appropriate conditions to prevent abuse of the licence



Clause 39: Section 73 - Amendment of OL to replace vehicle

- Section 73 is simplified to provide that in the case of vehicle replacement, the replacement must be allowed if:
 - The vehicle is a motor car (sedan), minibus or midibus, or
 - In the case of a bus, the replacing vehicle has the same capacity or less, or is not more than 40% larger



Clause 41: Section 75 - Interaction with cross-border transport

- Section 75 is amended to delete the presumption that cross-border transport is undertaken where passengers are picked up or set down within 2 km of an international border – the provision is moved to the Cross-Border Act (see clause 51)
- This is being done at the request of the Cross-Border Agency (CBRTA)

Clause 43: Section 81 – Accreditation of tourist operators

- This section is amended to provide that where a tourist operator applies for accreditation, the application must be published in the Govt. Gazette and interested persons allowed to comment
- The NPTR must consider comments before taking a decision

Clause 44: Section 84 – Vehicles used for tourist services

- This section is amended to clarify that:
 - An accredited tourist operator may use any suitable vehicle, if it displays a token or sticker issued by the NPTR
 - The NPTR must issue an OL for such a vehicle either when accrediting the operator or on later application
 - Such OLs may be issued “over the counter”
 - The NPTR may impose conditions when issuing an OL



Clause 46: Section 92 - Appeals to the TAT

- Section 92 is clarified to provide that persons can appeal to the Transport Appeal Tribunal (TAT) also for decisions relating to accreditation of tourist operators and decisions relating to permits
- Section 92 is amended to clarify the interaction with appeals under the Municipal Systems Act
- Appeals for other decisions should possibly be added, e.g. a decision to withdraw on OL or a decision whether or not to hold a hearing



Clause 48: New section 93A - Delays and exemptions

- Allows the Minister to delay the implementation of the Act or exempt the NPTR, provinces, municipalities, PREs or MREs from implementing provisions of the Act for set times where practicalities or lack of capacity prevent it
- There is a similar provision in section 177 of the MFMA

- The end – Thank you



transport

Department:
Transport
REPUBLIC OF SOUTH AFRICA