

DRAFT NATIONAL LAND TRANSPORT AMENDMENT BILL

**SABOA Conference
28 February 2013**



transport

Department:
Transport
REPUBLIC OF SOUTH AFRICA

Clause1: Table of Contents

- Typing errors corrected in Table of Contents



Clause 2: Definitions

- “Accessible transport” – new definition
- “Contracting authority” definition qualified (see later – powers of provinces widened)
- “Integrated PT network” amended to clarify difference between IPTNs and IRPTNs. An IPTN may include an IRPTN, e.g. a BRT system



Clause 2: Definitions cont.

- Def of “Municipal Regulatory Entity” (MRE) inserted to make Act easier to read
- “Non-motorised transport” – new definition
- SARCC changed to PRASA
- Def of “targeted categories of passengers” replaces “special categories of passengers”
- Other consequential amendments



Clause 3: Functions of Minister

- New function added on promoting the safety of pedestrians and passengers



Clause 4: s.8 Regulations

- Powers of Minister to make regulations expanded
- Power to prescribe fees expanded
- Min can prescribe colour coding where national uniformity is required (comment from prov workshops)
- Min empowered to make regulations on consumer protection issues under the CPA
- Min empowered to make regulations on requirements for targeted categories of passengers
- Min empowered to make regulations on criteria for deciding if a municipality has capacity to contract
- Another consequential amendment



Clause 5: s.9 Functions of MECs

- Minister empowered to make regulations on the content of annual reports submitted by MECs (comment by State Law Adviser – SLA)



Clause 6: s.10 Regulations by MECs

- MECs empowered to make regulations on colour coding and branding of vehicles, but subject to any regulations made by the Minister

Clause 7: New s.10A Accessible and non-motorised transport

- New section inserted at request of Directorate Public Transport Network Development to promote accessible transport and NMT



Clause 8: s.11 Responsibilities of the Spheres of Government

- Provinces given powers to conclude new contracts (negotiated, tendered and commercial) in municipal areas not included in the Schedule
- 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
- Must be part of a capacity building programme with agreed timeframes
- The Minister is empowered to prescribe the process in regulations and provide *pro forma* agreements



Clause 8: s.11 Responsibilities of the Spheres of Government cont.

- Minister may issue directives to expedite the process etc.
- Minister must consult with the MEC who must ensure connectivity of public transport between municipal areas
- Minister may add more municipalities to the Schedule, either of his own accord or on request of the municipality, if satisfied that it has an adequate ITP and capacity and that there are substantial subsidised bus services in the area. May also remove them
- Functions of municipalities amended in relation to targeted categories of passengers and universal access

Clause 8: s.11 Responsibilities of the Spheres of Government cont.

- Power of municipality to do service level planning for rail amended to add “in agreement with PRASA or other rail service providers”
- Amendment to say Minister may assign the contracting function to a municipality only if the municipality is listed in the Schedule
- New subsection (8) added to clarify who must do contracts in the case of old order contracts: is qualified to say “unless the function is assigned”
- Other consequential amendments to section 11



Clause 9: s.15 Intermodal Planning Committees

- Power of Minister included to prescribe a date by which IPCs must be established (SLA comment on Second Regs)
- Functions of IPCs expanded to include non-motorised and freight transport
- IPCs required to facilitate service level agreements between the municipality and PRASA for rail in appropriate areas



Clause 10 & 11: s.17 & 18

- Consequential amendments made
- Clarifies that an MRE may only deal with services completely within its boundaries
- Where services are between municipal boundaries, the PRE must deal with them



Clause 12: s.21

- Amended to clarify MRE powers
- NPTR given powers to regulate matters contemplated in the Consumer Protection Act (the CPA allows sectoral Departments to regulate)
- NPTR given powers to issue directives to PREs, MREs or planning authorities where they are not fulfilling their obligations, or may request the Minister to issue a directive

Clause 13 & 14: s.23 & 24

- Appointment of PRE members clarified: need not be persons who previously worked for the Provincial Department – pursuant to questions at workshops
- Functions of PRE members clarified: when taking decisions they exercise an independent discretion as a quasi-judicial body
- Consequential amendments to section 24



Clause 15 & 16: s.27 & 36

- Section 27 amended to remove a concept that was required for transport authorities in the original Bill
- Section 36 amended to remove a duplication

Clause 17: s.39

- Steps taken to rationalise services 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

Clause 18: s.41

- Position in relation to negotiated contracts clarified:
 - The contracting authority (CA) may conclude one or more contracts or a combination of contracts
 - Provisions in the Regulations moved to the Act: the CA can do different negotiated contracts on different routes
 - Allows negotiated contracts to be phased in or amended
 - Provision in Regulations on how to give notice to operators and make them offers moved to the Act
 - Allows prior contracts of an interim nature



Clause 18: s.41 cont.

- The planning authority must first take steps to ascertain what non-contracted services are operating on the routes – DoT should issue guidelines
- It must then negotiate to try to involve them in the new contracts
- If disputes arise the parties must try to resolve them or will have to go to court if they cannot do so. The parties could agree to submit the dispute to mediation or arbitration



Clause 19: s.42

- The Minister is empowered to prescribe model contract documents for negotiated contracts as well as subsidised service (tendered) contracts
- The Minister is empowered to make the model documents compulsory if he wishes, but does not have to do so



Clause 20: s.46

- Section 46(2) is deleted to remove the compulsory submitting of disputes to mediation or arbitration
- The parties can still agree to submit disputes to mediation or arbitration
- Section also amended to clarify that the city (municipality) must be the contracting authority



Clause 21: s.47

- Act made clearer that OLs issued under the NLTTA must be renewed at least every 7 years (not only permits)
- Provision deleted that no operator may receive subsidy or Government assistance until his/her permits are converted (conversion process likely to take some years)
- Position made clearer that there must be simultaneous applications for conversion and renewal, amendment or transfer of a permit
- Minister empowered to make regulations on detailed processes for conversion (comment by SLA)
- Some provisions currently in regulations moved to the Act on advice from the SLA
- Cut-off date reset as 5 years after the Amendment Act comes into operation



Clause 22: s.48

- Provision that Minister must make regulations within 2 years to convert non-contracted scheduled services to commercial service contracts changed to “may” because conversion of permits etc. likely to take much longer
- The provision is confined to “on-plan” services



Clause 23 & 24: s.49 & 51

- Section 49 amended to clarify its meaning pursuant to questions from workshops
- Consequential amendment to section 51



Clause 25: s.53 Exemptions

- Staff services included as an exemption if vehicle owned by the employer and no charge made (due to comments received)
- Section 68 also amended to clarify that services not for reward are exempt
- Other consequential amendments



Clause 26 & 27: s.54 & 57

- Section 54 amended to clarify powers of MREs (see above)
- Section 57 amended to correct an omission
- Section 57 also amended to provide that the PRE must consider “Registration” particulars if any are prescribed (possible amendment to section 6)



Clause 28 to 30: s.59,60 & 64

- Section 59 amended to provide that Minister can prescribe types of OL applications that do not have to be published for comment
- Section 60 on temporary OLs amended to clear up issues raised in workshops
- Section 64 amended to clarify that accredited tourist operators can get OLs for certified vehicles even if they do not own them



Clause 31: s.68 Staff services

- Section 68 (staff services) amended to provide that staff services will be exempt where not for reward and the vehicle is owned by the employer
- Where the employer contracts a vehicle, an OL will be required, but the application need not be advertised
- Changes are pursuant to comments received at workshops



Clause 32 & 33: s.73 & 75

- Section 73 amended to provide that in the case of vehicle replacement, the replacing vehicle can be the same size but also smaller
- Section 75 amended to delete the provision creating a 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 causing practical problems



Clause 34 to 36: s.86, 92 & 93

- Section 86: consequential amendment
- Section 92 clarified to provide that persons can appeal to the TAT also for decisions relating to accreditation and permits
- Section 92 amended to clarify interaction with appeals under the Municipal Systems Act
- Section 93: wording clarified



Clause 38: New s.93A

- 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 preclude it
- There is a similar provision in the MFMA



Clause 36: Schedule

- Clause 36 adds a Schedule of municipalities that have capacity for purposes of contracting or are already engaged in the process (see above)



Clause 40: S.84 of Municipal Structures Act

- Section 84 of Municipal Structures Act amended on roles of district and local municipalities to bring it into line with the NLTA

“Registration” issues

- It is suggested that section 6 of the Act be amended to provide that PREs and MREs must keep certain info on “registration issues”, i.e. particulars of :
 - Associations and their members operating in their area
 - Non-members
 - Routes operated by associations and non-members, which must correlate with the routes in the relevant ITP
- The PRE can undertake other registration issues administratively
- Provinces can make their own legislation on registration if they wish



Comments and input

- Comments and input should be sent to:
 - Adv Takalani Nndanduleni
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- The draft Bill will be published in the Government Gazette in March 2013 for public comments.

