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NATIONAL LAND TRANSPORT AMENDMENT BILL, 2016

Presentation to the Portfolio Committee

20 September 2016



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1. Background

- The National Land Transport Act 5 of 2009 (NLTA) was passed to further the process of transforming and restructuring the national land transport system that was started by the previous Transition Act (NLTTA)
- The Amendment Bill provides for developments since 2009, such as rolling out of the 2007 Public Transport Strategy
- The Act has met with much success in achieving its objectives, e.g. consolidating transport functions at the local level
- There are also some technical issues that have required amendment of the Act



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2. Main reasons for the Amendment Bill

- Provision is made for non-motorised transport (NMT) and accessible transport – in line with international best practice
- Some of the contracting arrangements for public transport services are revised
- The functions of the spheres of government are clarified
- The administrative arrangements for operating licences (OLs) are streamlined
- Provision is made for electronic hailing (e-hailing) of taxis
- The Minister is empowered to delay the implementation of the Act, e.g. while contracting arrangements are put in place
- Consequential amendments are made and errors are corrected



3. Definitions

Clause of Bill	Section of Act	Amendment	Purpose of amendment
1(a)	1	New definition of “association”	Needed because Regulatory Entities are required to keep information on associations and routes etc.
1(b)	1	Def. of “contracting authority” amended	New contracting arrangements included (see below)
1(c)	1	Def. of “integrated public transport network” amended	Non-motorised transport (NMT) included and clarifies IRPTNs and IPTNs
1(d)	1	Def. of “metered taxi service” amended	Provides for electronic hailing (e-hailing) services
1(e)	1	New def. of “Municipal Regulatory Entity”	Makes Act easier to read
1(f)	1	New def. of “non-motorised transport” (NMT)	Provides for NMT in the Act
1(g)	1	Def. of Rail Commuter Corporation updated to PRASA	Updates the Act
1(h), (i), (j)	1	Consequential amendments to definitions	Necessitated by other amendments
1(k)	1	New def. of “targeted categories of passengers”	Replaces “special categories” in line with international usage

4. Functions of Minister

Clause of Bill	Section of Act	Amendment	Purpose of amendment
2	5(4)(k)	Minister must promote measures to ensure safety	Complements the Act



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5. Regulations by Minister

Clause of Bill	Section of Act	Amendment	Purpose of amendment
3(a)	8(1)(d)	Minister's power to make regulations on the process of offering alternative services to operators expanded	Experience has shown the need for these regulations
3(b)	8(1)(fA)	Power to make regulations to set fees included	Omission in Act
3(c)	8(1)(h)	Power to publish codes of conduct for operators and drivers	Needed to increase the quality of PT services
3(d)	8(1)(h)	Minister's powers to make regulations on colour coding and branding limited to where national uniformity is required	MECs are empowered to make these regulations for their provinces
3(d)	8(1)(n)	Min. can make regulations on meetings of regulatory entities	Will facilitate administration
3(e)	8(1)(y)	Min. can make regulations on requirements and time frames for vehicles etc. to accommodate targeted categories of passengers	Government policy is to cater for the needs of these passengers



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6. Functions of MECs

Clause of Bill	Section of Act	Amendment	Purpose of amendment
4	9(2)(d)	Annual reports by MECs must include the prescribed information	Provisions in regulations moved to the Act on advice of the State Law Adviser (SLA)



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7. Regulations by MECs

Clause of Bill	Section of Act	Amendment	Purpose of amendment
5	10(1)(eA)	MEC may make regulations on colour coding and branding of vehicles, subject to regulations made by the Minister	Makes for better regulation of public transport (PT) services



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8. Accessible transport and NMT

Clause of Bill	Section of Act	Amendment	Purpose of amendment
6	10A	New section to promote accessible transport and NMT. Definition of accessible transport included	Minister, MECs and Planning Authorities must take steps to promote accessible transport and NMT



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9. Responsibilities of spheres of government

Clause of Bill	Section of Act	Amendment	Purpose of amendment
7(a)	11(1)(a)(xi)	Power included for national government (DoT) to enter into new contracts for PT services	At present the Act only provides for the National Government to have powers over old order contracts
7(b)	11(1)(b)(vii A)	Powers are included for provinces to conclude new contracts (negotiated, tendered and commercial contracts) in municipal areas where the municipality does not comply with the prescribed requirements and criteria	Provinces need these powers in areas where municipalities lack capacity, to facilitate contracting and unlock deadlocks that may occur, e.g. if the province and municipality cannot agree
7(c)	11(1)(c)(v)	Municipalities must do financial planning for land transport in consultation with rail operators	Necessary to achieve co-ordination and integration
7(d), (e), (f), (g)	11(1)(c)(xiv), (xix), (xxii), (xxiv)	Consequential amendments and a correction	



Key Amendments

9. Responsibilities of spheres of government, cont.

Clause of Bill	Section of Act	Amendment	Purpose of amendment
7(h)	11(1)(c)(xxvi)	Powers of municipalities to conclude contracts will only apply to municipalities that meet the prescribed requirements and criteria	These criteria are listed below. Will replaces assignment of the contracting function to municipalities
7(i), (j), (k), (l)	11(2), (3), (4), (5), (6)	Only the operating licensing (OL) function can be assigned to a municipality	In line with new contracting arrangements mentioned above. Includes consequential amendments
7(m)	11(8), (9), (10)	<p>The process of dealing with old order contracts between provinces and municipalities is clarified (i.e. the bus contracts concluded under the Transition Act).</p> <p>Where a province contracts, the services must be in line with the ITPs of the municipalities or designed in collaboration with the municipality</p> <p>The Minister is empowered to make regulations on requirements and criteria to be met by municipalities when contracting</p>	<p>To ensure continuity of services and gives effect to municipal functions</p> <p>The Minister is empowered to prescribe the contracting process in regulations and give directives</p> <p>Gives effect to the new contracting arrangements. The criteria and requirements are:</p> <ul style="list-style-type: none"> • An acceptable ITP • That the municipality has capacity • That the services in the area justify the contract



10. Impartiality

Clause of Bill	Section of Act	Amendment	Purpose of amendment
8	13(1)(f)	Members of the SAPS, traffic officers and Metro Police are included in the list of persons who may not have a financial or business interest in the PT industry	Promotes impartiality



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11. Intermodal planning committees (IPCs)

Clause of Bill	Section of Act	Amendment	Purpose of amendment
9	15	<p>IPCs must be established by a date to be prescribed</p> <p>IPCs only to consist of officials (the Land Transport Advisory Boards include the private sector)</p> <p>Purposes of IPCs expanded</p> <p>The IPC must facilitate a service level agreement with PRASA where appropriate</p>	Improvements based on comments and experience



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12. Municipal Regulatory Entities (MREs)

Clause of Bill	Section of Act	Amendment	Purpose of amendment
10 and 11	17, 18	Consequential amendments and clarifies that MREs will be responsible for services only within their municipal area MREs are required to keep information on operator associations and their members, routes etc.	The keeping of the information is necessary because registration is no longer a national requirement



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13. National PT Regulator (NPTR)

Clause of Bill	Section of Act	Amendment	Purpose of amendment
12	20	More detail is provided on appointment and administrative arrangements for the National Public Transport Regulator (NPTR)	Gives effect to comments by the National Treasury
13	21	New duties for the NPTR are introduced to deal with passenger complaints, advise the Minister on treatment of passengers etc. The NPTR must keep information on operator associations and members, and routes The NPTR may issue directives to PREs and MREs where they are not performing their functions	Improves functions and duties of the NPTR



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14. Provincial Regulatory Entities (PREs)

Clause of Bill	Section of Act	Amendment	Purpose of amendment
14	23	<p>More detail is provided on appointment and administrative arrangements for the PRES</p> <p>Functions of PRE members are clarified: when taking decisions they exercise an independent discretion as a quasi-judicial body (i.e. similar to a court)</p> <p>PREs only report to the HoD of the Provincial Department on administrative matters – this aspect has been causing confusion</p>	Promotes good administration and clears up a current misunderstanding
15	24	Requires PREs to keep information on operator associations, their members, and routes in the case of minibus taxi services	Necessary because registration is no longer a national requirement



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15. Municipal LT funds, provincial land transport frameworks (PLTFs) and integrated transport plans (ITPs)

Clause of Bill	Section of Act	Amendment	Purpose of amendment
16	27	Consequential amendment on MREs	
17	35	The requirement to update PLTFs every 2 years is removed	This requirement is regarded as too onerous and expensive
18	36(4)(c)	The MEC must also monitor other organs of state to see that they follow the correct procedures in relation to ITPs	Change in response to comments received

16. Rationalisation of PT services

Clause of Bill	Section of Act	Amendment	Purpose of amendment
19	39	When a planning authority is rationalising PT services, it must consult affected operators, and relevant regulatory entities, and apply law enforcement measures before doing so	Provisions to streamline the rationalisation process



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17. Negotiated contracts and stopgap contracts

Clause of Bill	Section of Act	Amendment	Purpose of amendment
20	41	<p>Clarifies the meaning of “once off” in relation to negotiated contracts</p> <p>Procedural provisions currently in the Contracting Regulations are moved into the Act</p> <p>Contracting authorities are only obliged to negotiate with affected operators, i.e. those on the relevant routes</p> <p>The provision that the Minister may publish model contract documents is extended to negotiated contracts</p>	<p>Gives effect to comments received</p> <p>This is done on advice from the SLA</p> <p>Deals with problems currently experienced by contracting authorities</p> <p>The Minister should be able to make the documents compulsory for negotiated contracts</p>
21	41A	<p>Empowers contracting authorities to conclude stopgap contracts for not more than 3 years where</p>	<p>Will provide continuity of services while the contracting authority negotiates with operators</p>



18. Subsidised and commercial contracts, and old order contracts

Clause of Bill	Section of Act	Amendment	Purpose of amendment
22	42	Subsidised contracts are made subject to the Municipal Systems Act which says that a contracting authority does not have to go out on tender if negotiating with a municipal entity or another municipality The provisions empowering the Minister to publish model tender and contract documents are streamlined	Will allow municipalities to negotiate with municipal entities Provisions streamlined
23	43	Commercial contracts are also made subject to Municipal Systems Act	See above
24	45	This section imposing limitations on the involvement of municipalities in PT services is repealed	The provisions came from the Transition Act and are redundant
25	46	Consequential amendments	Due to amendments to section 11



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19. Rationalisation of services

Clause of Bill	Section of Act	Amendment	Purpose of amendment
26	47	Will extend the deadline for converting permits to OLs for 5 years Provides for administrative measures to streamline the conversion process	It will not be possible for the PREs to meet the December 2016 deadline An administrative process will be started by means of regulations to ensure completion of the process
27	48(2)	Provides for the conversion of permits for scheduled services to commercial service contracts	This gives effect to government policy to promote contracts
28	49	The taxi recap provisions are amended to clarify them The requirement that the new vehicle may not have a capacity of more than 20% larger than the old vehicle has been removed	Due to comments from the PREs and industry



20. Operating licences

Clause of Bill	Section of Act	Amendment	Purpose of amendment
29	51	Consequential amendment	
30	53	Provisions on exemptions clarified: Staff services will be exempt where the employer owns the vehicle and does not charge a fare Farmers only exempt when conveyance takes place during farming operations	Addresses current uncertainties
31	54	Clarifies where applications must be made to MREs	Consequential amendment
32	56	OLs must be issued automatically where a stopgap contract is awarded	Consequential amendment
33	57	Regulatory entities must also consider contraventions of the codes of conduct when evaluating applications for OLs Some other provisions streamlined	Consequential amendment and streamlining



20. Operating licences cont.

Clause of Bill	Section of Act	Amendment	Purpose of amendment
34	59	Applications for OLs do not need to be published in certain cases	Comments from the PREs
35	60	Applications for temporary licences are streamlined	Gives effect to current practice and comments received
36	62	Requirement to submit proof of insurance deleted due to amendments to the Road Accident Fund Act	In terms of the RAF Act operators cannot be sued in the case of accidents except in very limited circumstances
37	64	Clarifies that an OL can be issued to an accredited tourist transport operator even if he/she is not the owner of the vehicle	Gives effect to the accreditation system for tourist operators

21. Metered taxis

Clause of Bill	Section of Act	Amendment	Purpose of amendment
38	66	<p>The provision on standards for metered taxis is deleted as it is covered by the Legal Metrology Act, 2013 and other legislation</p> <p>The section amended to regulate e-hailing services:</p> <ul style="list-style-type: none"> • Minister may make regulations setting standards and requirements for e-hailing services • The regulations may include that a meter is required as well as an e-hailing application • Minister may make regulations on requirements for meters 	<p>The current services provided by means of e-hailing applications require regulation and control</p> <p>The nature of e-hailing services is clarified</p> <p>The Minister should be empowered to regulate meters for metered taxis</p>



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22. Charter and staff services

Clause of Bill	Section of Act	Amendment	Purpose of amendment
39	67	Limitations are imposed on charter service OLs: the applicant must show a need for the service and that it will be provided on a regular basis etc.	To stop abuse of charter OLs: comments from the PREs
40	68	Clarifies that an OL is not required for staff services where no fare is charged and that where staff services are contracted to an operator, he/she requires an OL	Will eliminate current uncertainty

23. Operating licences: general and cross-border transport

Clause of Bill	Section of Act	Amendment	Purpose of amendment
41	73	Sizes of vehicles for the purposes of replacement of vehicle clarified	Will eliminate current confusion
42	74(1)(a)	Allows a vehicle to be replaced temporarily where the existing vehicle is sold, stolen or destroyed	Requests from operators
43	75(3)	The presumption that where passengers are loaded within 2 km of a border, the operator is undertaking cross-border transport is removed	This provision belongs in the Cross-Border Road Transport Act. The amendment has been agreed to by the Cross-Border Road Transport Agency
44	79	Criteria for withdrawing OLS amended to include contravention of legislation and contravention of a code of conduct	Comments from the PREs and consequential amendment



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24. Tourist transport

Clause of Bill	Section of Act	Amendment	Purpose of amendment
45	81	Applications for accreditation of tourist operators must be published for comment	Omission in Act
46	84	The provisions that accredited tourist operators may use any suitable vehicle are clarified. This includes rented vehicles that are suitable An OL must be issued for the vehicle over the counter. The NPTR may impose conditions when doing so	Improvements to the accreditation system
47	86	Consequential amendment	

25. General amendments

Clause of Bill	Section of Act	Amendment	Purpose of amendment
48	92	Clarifies and broadens who may appeal to the Transport Appeal Tribunal (TAT) Distinguishes appeals under the Municipal Systems Act	Comments received
49	93	The provision that existing transport authorities must be adopted into the municipality's administration after the date determined by the Minister for the demise of the relevant authority, is amended	Will eliminate an anomaly
50	93A	To avoid legal challenges, the Minister may 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 the Municipal Finance Management Act, 2003 - MFMA)	Suggested inclusion in response to comments received



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26. Amendments of other Acts

Clause of Bill	Section of Act	Amendment	Purpose of amendment
50	93B	Clarifies section 84(1)(b) of the Municipal Structures Act as regards PT functions between district and local municipalities	Necessary to align the two Acts
51		Amends section 23 of the Legal Succession to the SA Transport Services Act, 1989 to provide that PRASA must deliver rail commuter services at the request of a municipality in terms of a service level agreement and subject to budget availability	Necessary to implement current policy
52		Repeals sections of the Road Transportation Act, 1977 that are redundant and were not repealed when the Act was assigned to the provinces	Necessary to “clean up” the legislation

27. Consultations

- The Department of Cooperative Governance and Traditional Affairs(COGTA)
- National Taxi Alliance (NTA)
- The South African Local Government Association (SALGA)
- The National Consumer Commissioner
- The Department of Trade and Industry (Dti)
- The Passenger Rail Agency of South Africa (PRASA)
- The Cross-Border Road Transport Agency (CBRTA)
- South African National Taxi Council (SANTACO)
- The National Treasury
- Municipalities



27. Consultations cont..

- The Department of Tourism
- The SA Network of Women in Transport (SANWIT)
- The Southern African Bus Operators' Association (SABOA)
- The Road Traffic Management Corporation (RTMC)
- The Committee of Transport Officials (COTO)
- National Economic Development and Labour Council (NEDLAC)
- The State Law Advisors (SLA)
- The eThekweni Metropolitan Municipality
- The eThekweni Transport Authority
- The City of Johannesburg Metropolitan Municipality
- The City of Cape Town Metropolitan Municipality



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27. Consultations cont..

- The Kwa-Zulu Natal Department of Transport
- The Mpumalanga Department of Public Works, Roads and Transport
- The Limpopo Operating Licensing Board
- The Limpopo Department of Roads and Transport
- The Gauteng Department of Roads and Transport
- The Gauteng Metered Taxi Association
- The Eastern Cape Department of Transport
- The Free State Department of Police, Roads and Transport
- The Western Cape Provincial Regulatory Entity
- The Western Cape Department of Transport and Public Works
- The Western Cape Metered Taxi Association



27. Consultations cont..

- The North West Department of Public Works and Roads
- The Northern Cape Department of Roads and Public Works
- The South African Tourism Services Association (SATSA)
- UBER
- The Special Economic Sectors, Employment & Infrastructure Development Cluster (ESEID)



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28.KEY ISSUES IN THE BILL AND CHALLENGES MOVING FORWARD

Key issues:-

- The contracting arrangements for public transport services are revised
- Provision is made for electronic hailing (e-hailing) of taxis
- The Minister is empowered to delay the implementation of the Act, e.g. while contracting arrangements are put in place
- Integrated Public Transport Networks (IPTNs) and stopgap contracts introduced.

Key challenges:-

- Proposal for a Transport Authority by Gauteng government (it is a substantive matter)
- Conversion of permits to operating licences (OLs) lapses in December 2016.



29. Financial Implications

- The Bill proposes clarifications on roles and powers as well as expansions on definitions and is therefore not expected to have any additional financial implications that were not envisaged by the principal Act.



30. Parliamentary Procedure

- The Department is of the opinion that the Bill must be dealt with in accordance with the procedure established by section 76 of the Constitution as it deals with “public transport” envisaged in Schedule 4 to the Constitution.



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The End

Thank You



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