

27 January 2018

It040118

PROPOSED AMENDMENTS

NATIONAL LAND TRANSPORT AMENDMENT BILL

[B7-2016]

CLAUSE 1

1. On page 2, after line 19, to insert the following:
 - (c) by the insertion after the definition of "designed or modified" of the following definition:

" 'electronic hailing' or 'e-hailing' means hailing or pre-booking a motor vehicle operated by the holder of an operating licence or permit authorising a public transport service that uses an e-hailing technology-enabled application which—

 - (a) enables the hailing or pre-booking of a vehicle electronically;
 - (b) has the facility to estimate fares and electronically communicate the estimate to passengers in advance;
 - (c) communicates the final fare to passengers at the conclusion of the trip;
 - (d) provides the prescribed details of the driver of the vehicle to the passenger or passengers, and

(e) complies with any relevant regulations made under section 8(1)(fC) or 66(4)(cA):".

2. On page 3, in line 13, to omit "have", and to substitute "and may or may not have a".
3. On page 3, from line 13, to omit "if road based".
4. On page 3, in line 35, after "motorised", to insert "or non-motorised".
5. On page 3, in line 56, to omit "(i)", and to substitute "(i)".

CLAUSE 3

1. On page 4, after line 16, to insert the following paragraph:

"(fC) standards or requirements for electronic hailing applications or similar technology used for any public transport services, including, but not limited to, information that must be supplied to passengers, measures to ensure the accuracy of such information and measures for the protection of passengers using such services:"

CLAUSE 5

1. On page 4, in line 41, after "amended", to insert "—".
2. On page 4, from line 41, to omit "by the insertion in subsection (1) after paragraph (e) of the following paragraph:", and to substitute:
 - (a) by the insertion in subsection (1) after paragraph (e) of the following paragraph:";

3. On page 4, after line 45, to insert the following:
- (b) by the substitution in subsection (1) for paragraph (f) of the following paragraph:

"(f) the composition, powers and duties of Provincial Regulatory Entities, and"; and

- (c) by the addition of the following subsection:

"(5) Before making any regulations contemplated in subsection (1), the MEC must publish a draft of such regulations for public comment in the relevant provincial gazette, and must consider any comments received in response to such publication."

NEW CLAUSE

1. That the following be a new clause:

"Amendment of section 12 of Act 5 of 2000

8. Section 12 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

"(1) A province may pass legislation or enter into an agreement with one or more municipalities in the province to provide for the joint exercise or performance of their respective powers and functions contemplated in this Act and

may establish a provincial entity or similar body in this regard, subject to the Constitution and this section."; and

(b) by the addition of the following subsections:

"(4) A provincial entity contemplated in subsection (1) must at least be responsible for—

(a) the functions as set out in section 11(1)(b)(ii), (iii), (iv), (vi) and (vii) and 11(1)(c) (vi), (ix), (xi), (xii), (xix), (xx), (xxii) and (xxvii);

(b) the promotion and support of non-motorised transport, and

(c) any other function which may be agreed upon by the province and the municipalities who are members of the provincial entity

(5) A provincial entity contemplated in subsection (1) may perform its functions in a municipality outside of or adjacent to the province, in agreement with the relevant municipalities and the other relevant province or provinces.

(6) The agreement contemplated in subsection (1) must provide for governance, institutional mechanisms and funding for the functioning of the provincial entity.

(7) The MEC must publish the agreement contemplated in subsection (1) and any subsequent amendments thereof in the relevant provincial gazette."

CLAUSE 9

1. On page 7, after line 37, to insert the following:

"(4) Where a provincial entity is established as contemplated in section 12(1), it must perform the functions of the intermodal planning committee contemplated in this section for the municipalities which are members of the entity, including the functions set out in section 11(1)(c)(xix) for those municipalities."

CLAUSE 11

1. On page 8, in line 2, to omit "and", and to substitute the following:

(b) by the substitution for subsection (3) of the following subsection:

"(3) Such a municipality may give notice in the prescribed manner and after undertaking the prescribed public participation procedures, that it will no longer receive applications for operating licences for new services except in accordance with invitations given by it for specified services on specified routes or in specified areas in accordance with its integrated transport plan, either for the purpose of concluding a contract or because those routes or areas are already adequately served."; and.

CLAUSE 19

1. On page 10, in line 37, after "operators", to insert "and after undertaking other prescribed public participation procedures".

2. On page 10, in line 47, after "appropriate," to insert, "the regulatory entity must on request of the planning authority.".

CLAUSE 22

1. On page 12, in line 11, to omit "substantive", and to substitute "material".

CLAUSE 26

1. On page 12 to omit lines 48 to 52 and on page 13 to omit lines 1 to 9 and substitute for them the following:

"47. (1) All permits and operating licences issued before the date of commencement of this Act issued for a definite period remain valid but lapse when that period expires, provided that if such a permit or operating licence is still valid on a date [calculated as seven years from the date of commencement of this Act, it will lapse on that date] to be determined by the Minister by notice in the *Gazette* after consultation with all regulatory entities, such permit or operating licence will lapse on the date so determined unless converted to an operating licence in the case of a permit or renewed in the case of an operating licence before the date so determined, and such applications for conversion or renewal must be made to the regulatory entity that is responsible for receiving applications for operating licences for the relevant services.

(2) All permits and operating licences issued for an indefinite period remain valid, subject to sections 48 and 49, but lapse [seven

years after the date of commencement of this Act] on a date to be determined by the Minister by notice in the *Gazette* after consultation with all regulatory entities, but the holder may apply before that date [within that period] in the case of a permit for its conversion to an operating licence, or, in the case of an operating licence, for its renewal, to the entity that is responsible for receiving applications for operating licences for the relevant services."

NEW CLAUSE

1. That the following be a new clause:

"Amendment of section 50 of Act 5 of 2009

30. Section 50 of the principal Act is hereby amended by the addition of the following subsections:

"(4) Where it comes to the notice of a person providing an electronic-hailing software application that an operator using that application for a vehicle does not hold a valid operating licence or permit for that vehicle, or whose operating licence or permit has lapsed or been cancelled, that person must disconnect the e-hailing application forthwith and keep it disconnected until a valid operating licence has been obtained for the vehicle.

(5) A person who fails to comply with subsection (4) commits an offence."

CLAUSE 31

1. On page 14, in line 43, after "amended", to insert "—".
2. On page 14, from line 43, to omit "by the substitution for subsection (2) of the following subsection:", and to substitute:
 - (a) by the substitution for subsection (2) of the following subsection:".
3. On page 14, after line 46, to insert the following:
 - (b) by the substitution in subsection (5) for paragraph (e) of the following paragraph:
 - "(e) specify the vehicle or **[exact type]** category of vehicle to be used for providing the services concerned; and".

CLAUSE 38

1. On Page 16, after line 15, to insert the following:
 - (a) by the deletion of paragraph (b) of subsection (1);
2. On Page 16 in line 31 omit "electronic" and substitute "electronic".
3. On Page 16, after line 44, to insert the following:

"(7) Any person who conducts a business providing or facilitating a metered taxi service, or provides an e-hailing software application for a vehicle, whether or not such a person is an operator, may not in any way allow or facilitate the provision of metered taxi services, including e-hailing services, for that vehicle, unless the

operator of the vehicle holds a valid operating licence or permit for the vehicle in compliance with section 50(1).

(8) A person who fails to comply with subsection (7) commits an offence."

CLAUSE 51

1. Clause rejected.

CLAUSE 52

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

"Amendment of laws

53. The laws mentioned in the first column of the Schedule are hereby amended to the extent specified in the third column of that Schedule."

SCHEDULE

1. On page 20, after line 14, to insert the following:

Schedule

Amendment of laws

(Section 53)

No. and year of Act	Short title	Extent of amendment
Act No. 9 of 1989	Legal Succession to the South African Transport Services Act, 1989	1. Amendment of section 23 by the substitution in subsection (1) for paragraph (a) of the following paragraph: "(a) ensure that, at the request of the Department of Transport <u>or a municipality</u> , rail commuter services are provided within, to or from the Republic in the public interest, <u>subject to the agreements contemplated in section 11(1)(c)(xix) of the National Land Transport Act, 2009 (Act No. 5 of 2009), and operational budget availability</u> ; and".
Act No. 74 of 1977	Road Transportation Act, 1977	1. Repeal of sections 26, 26A and 27.

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