



## **NEGOTIATING MANDATE**

**TO:** The Chairperson of the Select Committee on Economic and Business Development

**NAME OF BILL:** NATIONAL LAND TRANSPORT AMENDMENT BILL

**NUMBER OF BILL:** [B 7 B – 2016]

**DATE OF DELIBERATION:** 24 January 2019

**VOTE OF THE LEGISLATURE:** The Gauteng Provincial Legislature votes in favour of the Bill, with proposed amendments and mandates the Permanent Delegate to the NCOP to negotiate in favour of the Bill.

### **Proposed Amendments:**

#### **1. Clause 22 Page 13 line 11**

To delete the words **[three years]** and insert the words six months in section 41A (b) as follows:

“41A. (1) A contracting authority may enter into a stopgap contract which—

...

(b) is a contract with a duration of not more than **[three years]** six months.”

#### **2. Clause 40 Page 18 lines 29 to 35**

To delete section 66A (2).

**3. Clause 40 Page 18 lines 55 to 56.**

The implementation of these regulations pertaining to special markings should be suspended pending resolution of the targeted attacks directed at e-hailing drivers.

**4. Clause 13 Page 9 lines 40 to 52**

Non-executive members should be defined.

It is not clear what constitutes a "non-executive member" under clause 13(1A). In Boards a non-executive director is a director who is not full-time. If the non-executive member is not a full-time member, then subsection (2) contradicts subsection (1A) as it provides that the non-executive members may be appointed on full time basis.

**5. Clause 15. Page 10. Lines 50 to 58 and Page 11. Lines 1 to 19**

Clarify who is a non-executive member.

Subsection (2E) makes it plain that members of a Provincial Regulatory Entity are non-executive members as their payment is determined by the MEC in concurrence with MEC responsible for finance. Subsection (2A) therefore contradicts subsection (2E).

**6. Clause 21. Page 12. Lines 26 to 60**

- Section 41 is inconsistent with sections 217 of the Constitution and 38(1)(a)(iii) of the Public Finance Management Act (PFMA) which requires the state to procure goods or services through a tender process;
- Regulation 16.A6.4 of the Treasury Regulations read with the Treasury Practice note defines circumstances in which one may deviate from tender process;
- It is clear that one may deviate from the tender process in case of emergency or where there is only one supplier who can provide the goods or services;
- The reasons for the deviation must be recorded and approved by the Accounting Officer which must show why it was impossible to ask for competitive bids;
- Section 41 is also inconsistent with section 112(1) of the Municipal Finance Management Act. Section 3(2) provides that in case of inconsistency with any other legislation the Municipal Finance Management Act prevails.

**7. Clause 32 (a). Page 16 Lines 25 to 29**

There must be clarity as to what will happen if there is no Municipal Regulatory Entity whereas the proposed subsection (2) makes it peremptory that an application must be made to a Municipal Regulatory Entity.

**8. Clause 35 (b). Page 17. Lines 12 to 22**

The publication for an application of an operating licence is an expensive exercise. It is proposed that it is not necessary to publish applications for renewals under subsection (1).

**9. Clause 36 (c). Page 17. Lines 39 to 40**

The power to delegate in the proposed section 60 (10) must not be overbroad but should rather be clearly circumscribed.

**10. Transitional Provisions. Clause 54. Page 22**

On the day the Act comes into force, new applicants will be able to apply for an e-hailing Operating Licence. However, there will be many partner - drivers who hold an existing Operating Licence issued for one of the categories under the current principal Act (metered taxi or charter service) have an application which has been submitted but where a decision has not yet been made. It would be unfair and improper for either category to be required to submit new applications.

The Bill must make clear provision for these situations.

**11. Administration of the Bill**

The Bill should include a requirement that Regulatory Entities must, within 60 days of receipt of a fully compliant and complete application, finalise their decision on the application and communicate the decision to the applicant.



**HON. M MGCINA**

Chairperson of Roads and Transport Portfolio Committee  
**GAUTENG PROVINCIAL LEGISLATURE**

Date: 28<sup>th</sup> January 2019