

BRIEFING BY THE NRCS TO THE SUBCOMMITTEE OF THE PORTFOLIO COMMITTEE ON TRANSPORT ON THE PUBLIC PROTECTOR REPORT No. 37 OF 2018-19

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17 February 2021**

NRCS Delegation

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Scope of Presentation

- ❑ Purpose
- ❑ Strategic Overview of the NRCS
 - ❑ Legislative mandate
- ❑ NRCS Act
- ❑ Powers of the Inspectors
- ❑ Mandate of the NRCS
- ❑ Approval of Motor vehicles
- ❑ Conversion of Panel Vans

Purpose

To brief the Subcommittee of the Portfolio Committee on Transport on the Public Protector Report No. 37 OF 2018-19 on a systemic investigation into allegations of illegal conversion of goods-carrying Toyota Quantum panel vans into passenger-carrying mini bus taxis to transport members of the public for reward by the DTI, NRCS and SABS.

NRCS Mandate



Legislative Mandate

Mandate of the NRCS is derived from the following Acts.

**National Regulator for Compulsory Specifications Act
(Act No. 5 of 2008 as amended)**

**Legal Metrology Act
(Act No. 9 of 2014)**

The National Road Traffic Act, Act No. 93 of 1996 as amended

**National Building Regulations and Building Standards Act
(Act No. 103 of 1977)**

**The Foodstuffs, Cosmetics and Disinfectants Act
(Act 54 of 1972)**

NRCS Mandate within Automotive

- NRCS is appointed as an Inspectorate for Manufacturers, Importers and Builders of Motor vehicles (MIBs) in terms of the National Road Traffic Act, 93 of 1996 (NRTA) (Section 7 of NRTA).
- Duties include, inter alia:
 - Evaluate and **recommend** MIBs applicants for registration with the Department Of Transport
 - Inspections of registered MIBs at least once a year
 - Recommend for suspension and cancellation of registered MIBs that do not comply with legislation
 - Issue **Model numbers** (Natis model number) to vehicle models being manufactured, Built or Imported if they comply with all relevant legislation
 - Issue **certificate of compliance** for minibus and minibus models approved for operating for reward (Operating in terms National Land Transport Act 5 of 2009)
 - Issue a Letter of Authority for vehicles manufactured, imported or built for private use (MIBs not required to be registered in terms of NLTA)

Approval of motor vehicles

- All motor vehicles covered by a compulsory specification (VC) shall be manufactured in accordance with that VC
- MIBs shall have each vehicle model and variant approved by NRCS before registration
- Approved motor vehicle models shall be issued with a homologation/ compliance certificate and a Natis model number which allows registration of individual vehicles under the model so approved (Section 5 (5) of the NRTA).
- Minibuses are covered under VC 8023 which specifies minimum safety requirements for passenger carrying vehicles with total carrying capacity of more than 9 persons including the driver, categorized as M2/M3 motor vehicles
- Ongoing compliance in terms of new vehicles is monitored through market surveillance inspections activities
- Vehicles already operating on public road must be dealt with in terms of sections 44, 87 and 89 of the NRTA, which vests powers on the law enforcement authorities such as RTMC to impound such vehicles that are not roadworthy.

Minibus Requirements

Requirements for New Taxi Vehicles (NTV) under the Taxi Recapitalisation Program (TRP)

- In around October 2006, the National Department of Transport introduced the Taxi Recapitalisation Program (TRP) in order to replace the existing taxis with NTVs.
- The implementation date for issuing model numbers to NTVs was 1 January 2008
- Applicable for 9 to 35 seater NTVs
- Not applicable for private and touring vehicles
- The NTVs' enhanced safety requirements included compliance with:
 - The compulsory specification VC 8023 "Safety requirements for motor vehicles of category M2 and M3 – vehicles designed or adapted for carrying more than 10 vehicle occupants"
 - Additional requirements, not covered by VC 8023 were introduced in the Road Traffic Regulations as per government notice no. R871 of 2 September 2005 and repealed by government notice no. R895 of 4 September 2006.

Additional Requirements for New Taxi Vehicles (NTV)

- The additional requirements included:
- Strength of seats and seat anchorages, prohibition of fold-up seats and middle front seat
- Seats dimensions, Driver seat partitioning,
- Sideways tilt test of the vehicle at an angle of at least 28 degrees in either direction from the upright position without overturning while each seat is loaded with a mass of 68 kilograms
- Restraining devices - Safety belts and their anchorages
- Safety glass fitted for windows
- Emergency exits, entrance and exits, passage ways
- Side and Rear reflective marking and 100 km/h speed limit sticker
- Notice of Load – Number of passengers
- Strength of Superstructure – Roll-over protection device
- Braking system – Type II test.

Registration process of NTVs Where NRCS is Involved

- **Manufacturer, Importer or Builder (MIB) shall**
 - Manufacture, Import or modify a vehicle
 - Ensure compliance to the applicable legislation, regulations and compulsory specification/s
 - Present a sample vehicle and certification documents to the NRCS for approval purposes
- **NRCS shall**
 - Verify compliance of the sample vehicle
 - Issue Approval/compliance certificate and NaTis model number specific to the model design
- The NRCS mandate and responsibility ends with the issuance of the Approval/compliance certificate and NaTis model number specific to the model design. The registration process and ensuring compliance of vehicles on public road is the responsibility of MIB, Dot, RTMC and Law Enforcement Authorities

Illegal Panel Van Conversion

Illegally Converted Panel Vans into taxis

- When did the NRCS become aware of the problem:
 - The NRCS became aware of illegal Toyota Quantum panel vans conversion in June 2008
- In order to deal with illegal activities regarding import and export of motor vehicles, International Trade Administration Commission (ITAC) commissioned a working group which comprised of stakeholders, amongst others: South African Bureau of Standards (SABS) (regulatory division) Now NRCS, South African Revenue Services (SARS), South African Police Services (SAPS), Department of Transport (DOT), Special Investigation Unit (SIU), International Vehicle Identification Desk (IVID)
- The problems as identified required a focused task team (Modified taxis subgroup) because of the fact that such problems were outside the main mandate of the working group
- The Modified taxis subgroup started their engagements from mid August 2008.
- How many illegally converted panel vans is NRCS Aware of: 2353 as reported by DOT

Inspections in order to verify illegal activities by registered builders/modifiers

- Following the DOT media release, the NRCS embarked on a two week inspection Blitz across all provinces to inspect all known MIBs, dealerships and Taxi ranks. A total of 43 dealerships, 11 registered MIBs, 2 unregistered MIBs and 50 taxi ranks were inspected within a period of two weeks representing a total of 212 vehicles.
 - Some registered builders for minibus category were found to be involved in illegal conversion of panel vans.
 - Most dealerships were found to be in partnership with either registered or non registered builders who carry out illegal conversions.
 - Non-complying Toyota Quantums which were converted were predominantly registered in the eNaTIS system as panel vans.
 - Most converted Toyota Quantum panel vans could be registered without valid eNaTIS model numbers.
 - None of the registered builders converting Toyota Quantum panel vans were TRP certified by NRCS except Toyota SA as an importer of Quantum minibuses.
 - Unregistered builders operating in the backyards were also involved in illegal conversion of Toyota Quantum panel vans.

Illegally Converted Panel Vans into taxis - Background

- SIU undertook to further investigate the alleged corruption in relation to registration of illegally modified taxis at the Vereeniging licensing office. The SIU reported that they found poor administration and incomplete documents at the Vereeniging licensing office
- National Regulator for Compulsory Specifications (NRCS) (Previously SABS Regulatory Division) suggested that the definition of modify as it appeared in the Road Traffic Act should be changed in order to include other categories of motor vehicles and not just busses. The suggestion was an attempt to close the “loop-hole” where taxi operators, were using taxi vehicles under the banner of “long-distance”/“group touring” vehicles although operated as taxis.
- NRCS conducted a number of inspections focused on taxis during 2008. These led to:
 - NRCS delinking the model numbers of one of the biggest converters of panel vans being Umngeni Auto trimmers, into taxis as they did not have compliance certificate for Taxi Recapitalisation Program (TRP) compliant vehicles
 - Two other MIBs, being Taxis R-US and Petersen’s Taxiworld that, were inspected did not have model numbers for converted Taxis operating under TRP, however they had model numbers issued for converted 16 seater minibus not intended for use as Taxi Recapitalisation vehicles. Further efforts to de-link their model numbers were legally challenged because these two MIBs converted the vehicles legally within the requirements of the compulsory specification and such vehicles also fell outside the requirements of the TRP.

Illegally Converted Panel Vans into taxis - Background

- In January 2009, the industry reported that some of the modified taxis which were involved in accidents were examined and found to be unsafe with regards to seats ripping out from the floor and collapsed roofs. For that reason, all conversions that were registered during January 2009 were admin-marked as a means to prohibit them from operating as their licenses could not be renewed.
- This task was assigned to the DOT as the custodian of the road safety legislation whilst the NRCS and industry were requested to provide assistance. It was also requested that all modified panel vans that were at the dealers' floors should also be admin-marked and all information regarding such vehicles should be sent to the DOT.
- In November 2008, the KZN DOT withdrew the operating licenses and demanded that the inspected taxis that were seized by SAPS in Richards Bay in November 2008 should be modified and brought to be compliant with the legislation before reinstatement of the operating licenses

Implementation of the corrective action in respect of illegally converted Quantum panel vans into taxis. (testing of converted vehicles)

- The requirements for corrections of the illegally converted quantum panel vans were finalised and approved by DOT in September 2009, followed by the required testing which was to be conducted by SABS test services and Gerotek for the tests that were required.
- The project to retrofit/correct the illegally converted taxis was announced by DOT and started on 1 March 2010.
- TFM Manufacturing an MIB (TFM) who was involved with the preparation of the test samples then made an application for approval to the NRCS using the required application forms and supported by the test reports.
 - NRCS then granted an approval and the two NaTis model numbers were issued for the modified Toyota Quantum taxis that met the requirements pronounced and approved by DOT.
- NRCS did not conduct tests as it falls outside the mandate of the NRCS act.

Implementation of the corrective action in respect of illegally converted Quantum panel vans into taxis. (testing of converted vehicles)

- The process outlined that each illegally converted Quantum panel van:
 - Would be taken to TFM who would then do the modifications as per the approved requirements.
 - Once the modifications were completed, NRCS would inspect each modified/converted taxi and then issue a letter of authority (for each taxi).
 - The details such as contact numbers, names, VIN and year model of the illegally converted quantum panel vans into taxis identified were kept within the DOT helpdesk.
 - Each owner had the responsibility of contacting the DOT helpdesk and delivering their vehicle to TFM for retro-fitment/modification.
 - NRCS would be called in to inspect the completed vehicle and thus issue a certificate (LOA), thereafter the vehicle would go through the registration process.
 - During the period 2010 until 2014, according to our LOA database, 331 LOAs were issued for vehicles that were presented to the NRCS.
 - This implies that about 2 022 of the identified illegally converted Quantum panel vans into minibus taxis did not receive LOAs from the NRCS

Public Protector Findings

The Public Protector Findings:

- Throughout the investigation of the Public Protector, the NRCS attended to all the meetings and responded to all enquiries received from the office of the Public Protector until the final report was issued.
- The report highlighted problems such as:
 - Toyota's refusal to have their Quantum panel vans converted,
 - Illegal issuing of permits,
 - Financing of illegally converted taxis,
 - Corruption in issuing operating permits and
 - Selling of illegally converted taxis.

The Public Protector Findings:

- NRCS failed to take effective and efficient measures to ensure that all MIBs comply with the compulsory specifications as envisaged by the NRCS Act in order to restrict the illegal conversion of goods carrying Toyota Quantum panel vans into passenger carrying minibus taxis.
 - NRCS conducts annual inspections on registered MIB based on risk identified due to limited resources
 - On average, over 1000 MIBs are inspected annually (1117 in 2018 and 1337 in 2019)
- Where non-compliance with the relevant requirements have been identified, NRCS has de-linked model numbers.

The Public Protector Findings:

- Finding 1 – Letter of authorization not required from Toyota in respect of retro-fitment process of the illegally converted panel vans into taxis
 - At the time of identifying the illegally converted panel vans, they were already registered and operating on the roads without the required approval in respect of safety regulations for vehicles operating for reward.
 - DOT approved the process to rectify the illegality of the process and modifications to make the identified taxis compliant
 - The process identified safety critical parts and systems of the vehicle that had to be modified in order to meet the safety requirements
 - The taxis were then tested according to the safety requirements identified and the test reports showed that with the modifications, the modified taxis met the safety requirements
 - But this applies to the vehicles that were retrofitted and applied for the NRCS LOA
 - Whilst the process to rectify the illegally modified panel van was approved by the DOT, SANS 10267 was not considered in the process. SANS 10267 is also not mandated by any legislation and remains a National voluntary standard unless called in by an act or regulations.

The Public Protector Fundings:

- Finding 2 – Why did NRCS not identify the 1986 vehicles despite empowerment through section 17 of the NRCS act
 - There were 2353 illegally converted taxis already identified
 - Only DOT and RTMC have access to the vehicle registration system which imply that they were able to detect the vehicles that were re-registered and those that were not yet re-registered. NRCS could not have individually detected these vehicles since it does not keep records of each individual registered or de-registered vehicle.
 - NRCS could not invoke its powers in terms of section 17 to deal with vehicles already operating on a public road as those must be dealt with in terms of sections 44, 87 and 89 of the NRTA, which vests powers on the law enforcement authorities such as RTMC to impound such vehicles.

The Public Protector Findings:

- Finding 3 – Impact of illegally converted Quantum panel vans into minibus taxis on the lives of commuters using these vehicles.
 - NRCS have no control over individual vehicle registration process
 - It is the view of NRCS that all the illegally converted quantum panel vans into minibus taxis were also illegally registered as they did not have the necessary approval (compliance certificate).
 - NRCS has always been responsive and inspected all the legalized modified Quantum taxis and issued Letters of Authority.
 - The LOAs issued were to confirm that the modified Quantum taxis met the safety requirements in order to protect the lives of users of these vehicles
 - It is recommended that those illegally converted quantum panel vans into minibus taxis be removed from operating on the roads until they are legalized and meet safety requirements. However NRCS does not have legislative powers to implement this. This is the responsibility of RTMS and DoT, as per sections 44, 87 and 89 of the NRTA.

The Public Protector Findings:

- Finding 4 – NRCS allowed the conversion of Toyota Quantum panel vans into a passenger carrying vehicle if it was to be used for private purposes and not for reward. How did NRCS differentiate that it was for private use:
 - All vehicles shall meet the requirements of the compulsory specification and relevant sections of the National Road Traffic act and Regulations,
 - Vehicles that are not designed to operate for reward such as those used for private purposes and as exempted by DOT, the touring vehicle need not comply with additional TRP requirements.
 - Any converted vehicle which satisfies the requirements of the compulsory specification and supported by the homologation support document issued by the original vehicle manufacturer (OEM) may be approved and issued with a model number upon confirmation by the NRCS
 - Toyota had in the past, provided the homologation support document in support of the modified Quantum panel vans

The Public Protector Findings:

- Finding 5 – Model numbers issued to Peterson's Taxi World and Phillips motors were for private use and not for taxi-type approval
 - NRCS conducted inspection at Petern's Taxi World in 2008, our attempt to de-link their model number was challenged as they stated that they do not convert vehicles for TRP purposes, this argument was supported by the DOT letter which confirmed that private vehicles were exempted from complying with the new taxi vehicles requirements.
 - The NRCS has suggested to the DOT to remove exemption in relation to vehicles that are not operated for reward under the National Land Transport Act.
 - Furthermore, NRCS is currently reviewing the compulsory specifications – TRP requirements will be included in the compulsory specification as well.

Public Protector Remedial Action

- Remedial action as per paragraph 8.3 of the report is for the Minister of the dtic to take urgent and effective steps to harness and foster good, effective and efficient working relationships between NRCS and SABS. The NRCS proactively concluded an MOU with the SABS on 29 October 2019. The purpose being to:
 - Strengthen relationship between the NRCS and SABS.
 - Establish the manner in which parties interact with each other in dealing with matters of mutual interest pertaining to services offered by each other and information sharing
- Strengthen relationship between NRCS and DOT through renewal of the MOU that seeks to set out roles and responsibilities of each party and promote ongoing engagement through meetings where exchange of information of mutual benefit will take place. The process of the renewal of the MOU is at an advanced stage and the contents of the draft were finalized by both parties.

Market Surveillance Activities

- NRCS has dedicated a team of inspectors whose focus is on
 - complaints handling
 - Investigations of alleged non-compliance of products
 - Investigations on misuse of NaTis model numbers
 - Audit of registered MIBs who are classified as high risk.
 - Over 90 Trailer manufacturers were inspected in 2019 with findings raised against the alleged misuse of registration papers
 - One modifier of panel vans into passenger carrying vehicles is currently being investigated
 - All vehicle builders/modifiers have been identified for purposes of inspections during the current and next financial year

Other improvements currently taking place

- As was recommended, the requirements for passenger carrying vehicles should be standardised, regardless of whether the vehicle is operated for reward or private purposes.
- All modifications of motor vehicles are now required to have the homologation support documents from the OEMs which authorise the modifiers/builders to carry on with a second tier of vehicle approval.
- NRCS is busy with the revision of the registration of MIB standard SANS 10319 which addresses requirements for manufacturers, importers and builders of motor vehicles. In particular requirements in relation to requirements of the MIB facilities and equipment, records management and continuous monitoring of compliance with registration requirements.
- The review of compulsory specifications
 - To introduce conformity of production requirements in our Compulsory Specifications to ensure continuous compliance of products with safety requirements,
 - Level the requirements with the National Road Traffic Act by including requirements safety requirements that are only required in terms of the National Road Traffic act
 - Mandate the requirements of both the national standards, SANS 10319 (Registration of MIBs) and SANS 10267 (Homologation of motor vehicle)
 - To include mandatory product recall requirements in the case of any defects has already commenced and stakeholders have been accordingly engaged.

Thank You