

**BRIEFING BY THE NRCS TO THE PORTFOLIO
COMMITTEE ON TRADE AND INDUSTRY ON THE
PUBLIC PROTECTOR'S REPORT REGARDING THE
ILLEGAL CONVERSION OF GOODS CARRYING
TOYOTA QUANTUM VANS INTO PASSENGER
CARRYING MINIBUS TAXIS**

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Scope of Presentation

- Purpose
- Mandate of the NRCS
- Minibus Requirements
- Approval Process of Motor Vehicles
- Conversion of Panel Vans
- Public Protector Findings
- Public Protector Remedial Action
- NRCS Progress Report
- Recommendations

Purpose

To brief the Portfolio on Trade and Industry 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.

Background

- Vehicle conversions/modifications are allowed in law as long as the conversion follows the defined process and must be through a registered body builder and if its for private use or any other vehicle other than taxis each vehicle converted must obtain a letter of authority from the NRCS
 - Challenge is some conversions are not approved by the relevant Entities.
- In the case of illegal panel vans conversion, the NRCS became aware in June 2008, whilst part of the SABS. However the NRCS is taking full accountability of all transferred responsibilities from the SABS.

Background

- 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), National Department of Transport (NDOT), Special Investigation Unit (SIU), International Vehicle Identification Desk (IVID)
- The problems as identified required a focused task team (Modified taxis subgroup) because the identified problems were outside the main mandate of the working group. The Modified taxis subgroup started their engagements from mid August 2008.
- NRCS was made aware of 2 353 illegally converted panel vans as part of the task team.

Illegally Converted Panel Vans into taxis - Background

- The NRCS proposed 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.
 - **Note:** TRP requirements are only applicable to minibuses/midibus designed to carry 9-35 passengers for reward and exclude any minibus/midibus designed for private use, group touring and long-distance.
- SIU as part of the task team 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.



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 to the respective Provincial Department of Transport
 - 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 NRTA)

NRCS 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 prior to registration of the respective motor vehicles on NaTIS
- 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 by the OEM in terms of new vehicles is monitored through market surveillance inspections activities of the NRCS

Status of the Public Protector (PP) Report

- NRCS is of the view that the Public Protector failed to fully appreciate the mandate of the NRCS and separate the roles of the different government entities involved in this matter.
- Although the NRCS could have taken the PP report on review, after consultation with **the dtic**, the NRCS decided not to and try assist government to implement remedial actions that will ensure that we address the identified problem. This decision was also based on the following.
 - The PP did not direct any remedial action at the NRCS.
 - Promotion of Intergovernmental cooperation.

Misunderstanding of the NRCS Mandate

- The NRCS **does not** have mandate and inspection powers for vehicles operating on the public road.
- 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.
- 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 the respective MIB, Provincial DoT, NDoT, RTMC and Law Enforcement Authorities
- This implies that the NRCS does not have access and will not be aware of any conversion after initial registration or issuance of the approval or compliance certificate.

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

Illegal Panel Van Conversion



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

- After being made aware of the illegal conversion, 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 NaTIS system as panel vans.
 - Most converted Toyota Quantum panel vans could be registered without valid NaTIS 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

- Due to the targeted inspections on taxis during 2008 & 2009 by NRCS and the work done by DoT KZN:
 - NRCS delinked the model numbers of one of the biggest converters of panel vans into taxis, being Umngeni Auto trimmers, as they did not have Taxi Recapitalisation Program (TRP) compliance certificate
 - 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 as they were not intended for use as Taxis as per TRP requirements and such vehicles fell outside the scope of TRP.
 - 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 NDOT 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 NDOT 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 NDOT.
- NRCS did not conduct tests as it falls outside the mandate of the NRCS Act nor set the requirements of TRP.

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

- The agreed process entailed 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).
 - Each owner had the responsibility of contacting the NDOT 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, 348 LOAs were issued for vehicles that were presented to the NRCS.
 - This implies that about 2 005 of the identified illegally converted Quantum panel vans into minibus taxis did not receive LOAs from the NRCS nor were they legally retrofitted as per NRCS records.

Public Protector Findings



The Public Protector Finding 1:

- 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 for reward.
- **Our response**
 - The NRCS does not agree with the finding.
 - The NRCS has a market surveillance strategy which it is implementing to regulate the respective industries
 - Focus is on high risk areas in a bid to ensure that the regulated companies comply with the regulations.
 - NRCS on average conducts, over 1300 MIBs inspections annually to ensure compliance however there remains a risk of unscrupulous MIBS as the regulator can not have a resident inspectors per each MIB.
 - Where non-compliance/s to the relevant requirements have been identified, NRCS suspends/ de-link NaTIS model numbers.

The Public Protector Findings:

Issue 1 – Letter of authorization not required from Toyota in respect of retro-fitment process of the illegally converted panel vans into taxis

- There is no legal requirement for letter of authorisation by the OEM.
- Whilst SANS 10267 requires a letter of authorization, it was not considered in this process. SANS 10267 is not mandated by any legislation and remains a National voluntary standard unless called in by an Act or regulations.
- In this case the NRCS followed the approved retro fitment requirements as approved by NDOT
- The process involved identifying safety critical parts and systems of the vehicle that had to be modified in order to meet the TRP 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 TRP requirements
 - But this applies to the vehicles that were retrofitted and applied for the NRCS LOA
- TFM applied and were granted approval for these respective models
- The converted panel vans, were already registered and operating on the roads without the required approval in respect of TRP regulations and the retro-fitment was to enhance safety of these vehicles.

The Public Protector Findings:

Issue 2 – Why did NRCS not identify the 1986 vehicles despite empowerment through section 17 of the NRCS act

- The NRCS Act came in to effect on the 1st of September 2008 and these vehicles were already illegally converted. By implication Section 17 of the NRCS Act was not in effect at the point when these vehicles were converted
- There were 2353 illegally converted taxis already identified
- NRCS does not have mandate nor inspection powers on vehicles that have been sold to individuals and for re-registration process. Continued compliance is the responsibility of registering authority which must ensure that the person registering or re-registering the vehicle obtain all the required approvals
- Only DOT and RTMC have access to the vehicle registration system and are able to detect the vehicles that were re-registered.

The Public Protector Findings:

Issue 2 continued:

- NRCS could not have individually detected these vehicles since it is not the registering authority of motor vehicles.
- 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 NRCS Act applies to the Manufacturers, Importers(/Exporters) and Builders of motor vehicles who are the sellers of the vehicles and is therefore limited. NRCS does not have enforcement powers to confiscate vehicles from individuals who are not involved in the business of selling or converting motor vehicles, the continued compliance of registered motor vehicles is the responsibility of the owner and road traffic law enforcement agencies.
- The Law imposes an obligation on the MIBs and vehicle owner to ensure that the vehicle complies with the Road Traffic Act, failure to comply does not mean that the Regulators failed in their responsibility as they work on risk based approach and can not inspect each registered vehicle.

The Public Protector Findings:

Issue 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
- The illegally converted quantum panel vans into minibus taxis were illegally registered through the registering authorities as they did not have the necessary approval (compliance certificate or LOA).
- NRCS has always been responsive and inspected all the legally 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 remaining illegally converted quantum panel vans into minibus taxis be deregistered/removed from operating on the roads. However the NRCS does not have legislative powers to implement this. This is the responsibility of RTMC and DoT, as per sections 44, 87 and 89 of the NRTA.

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.**
- There is no relationship between the remedial action and the findings in so far as it applies to the NRCS.
- The NRCS proactively concluded an MOU with the SABS on 29 October 2019.

Illegal Conversion of Panel Vans Progress Report

Progress report

- NRCS has renewed its MOU with SABS which supports the recommendations of the PP. The MOU 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.
- NRCS and the NDOT concluded an MOU which came in to effective on 1 August 2021. SLA aim to strengthen relationship between NRCS and DOT, setting out roles and responsibilities of each party, promote ongoing engagement and exchange of information of mutual benefit will take place.
- Created a platform for discussion on matters relating to vehicle safety through a project under the leadership of Taxi Recapitalisation South Africa (TRSA) regarding the determination of Taxi Age limit requirements and providing input with regards to safety requirements.

Current Market Surveillance Activities

- NRCS has dedicated a team of inspectors to inspect all registered MIBs especially those involved in converting goods carrying vehicles into passenger carrying vehicles in order to gather information and where non-compliances are identified, enforce sanctions as per the relevant legislation.
- Focus is on
 - Complaints handling.
 - Investigations of alleged non-compliance of products.
 - Investigations on misuse of NaTIS model numbers.
 - On going Audit of registered MIBs.
 - All Registered bodybuilders of motor vehicles have been categorised into small, medium and large companies. These companies deal with all types of vehicle conversions.

Illegal Conversion of panel Vans Progress Report

- 100 high risk companies identified and inspected during 2020/21 FY.
- Preliminary outcomes of phase one of the project were:
 - There were no active companies identified that were found to be illegally converting minibuses vehicles.
- The NRCS as part of its market surveillance activities is inspecting MIBs with taking in to consideration the level of risk associated with these vehicles and the MIB risk as well.
- Phase two is targeted to conclude at the end of February 2022, to satisfy the Regulator that the market surveillance activities are addressing some of the identified challenges.

Other improvements currently taking place

- All modifications of motor vehicles are now required to have the homologation support documents from the OEMs which authorises the modifiers/builders to carry on with a second tier vehicle approval.
- NRCS made a proposal to the SABS technical committee on SANS 10319 to review and incorporate requirements for MIB facilities and equipment, records management and continuous monitoring of compliance with registration requirements. This proposal was accepted and is work in progress.
- The NRCS has initiated a project to review Automotive regulations as part of the safer vehicles 2025 project. This is to ensure that the regulations incorporate technological advancement including self driving cars, electric cars, etc and will also incorporate findings of the vehicle fires, panel vans conversion and conversion of motor vehicles including ambulances.

Recommendations by NRCS

- The requirements for all vehicle modifications should be reviewed.
- Standardization of vehicle modifications for passenger carrying vehicles regardless of the purpose for example vehicle operated for reward or private use.
- Review legislation and clearly articulate the responsibility of different government entities.
- Review legislation and address cross cutting mandates.

Acronyms

- DoT - Department of Transport
- LOA – Letter of Authority
- MOU – Memorandum of Understanding
- NRCS – National Regulator for Compulsory Specifications
- NTV – New Taxi Vehicles
- PP – Public Protector
- RTMC – Road Traffic Management Corporation
- SABS – South African Bureau of Standards
- SANS – South African National Standard
- SLA – Service Level Agreement
- TRP - Taxi Recapitalisation Program
- TFM – TFM Manufacturing an MIB
- TRSA - Taxi Recapitalisation South Africa
- VC – Compulsory Specification (Verpligtend Compulsory)
- FY – Financial Year
- MIB – Manufacturers Importers and Builders
- NDOT – National Department of Transport
- NRTA – National Road Traffic Act
- OEM – Original Equipment Manufacturer

Thank You