**REPORT 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 AND MATTERS RELATED THERETO, DATED 21 FEBRUARY 2023**The Portfolio Committee on Transport (“the Committee”), having considered 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 and matters related thereto, as well as stakeholder presentations related thereto and the subsequent adopted Sub-Committee reports, reports as follows:

1. **INTRODUCTION**

The prime mandate of the Committee is governed by the Constitution of the Republic of South Africa, 1996 (“the Constitution”), in respect of its legislative and oversight responsibilities as public representatives. It is required to consider legislation referred to it and consider all matters referred to it in terms of the Constitution, the Rules of the National Assembly (NA) or resolutions of the House. It is also required to respond to matters referred to it by Government within its mandate.

In order to thoroughly consider the findings and recommendations made by the Public Protector in the report, in addition to the additional allegations of other illegal conversions, as well as assess the progress made by the Department of Transport (“the Department” or “the DoT”) in addressing these recommendations and findings since the report was released or deal with the additional allegations, the committee established the Sub-Committee on 6 October 2020 to explore the findings and additional allegations through engaging the relevant stakeholders with the purpose of developing Committee recommendations that would seek to address the entire value chain involved in ensuring safe and reliable transport through ensuring accountability for the actions of the entire value chain including manufacturers, regulators, financial institutions, operators and the Department that registers these vehicles for consideration and reporting by the Portfolio Committee on Transport.

The Sub-Committee received presentations on 18 and 25 November 2020, 1 and 2 December 2020, 17 and 24 February 2021, 3 and 10 March 2021 and reported on these presentations and the Public Protector report as per this report.

The Sub-Committee, having considered the presentations received, sought to submit an initial report and was of the view that further engagements may be required to determine the full extent of illegally converted vehicles on South African roads and propose possible remedial steps that should be taken to remedy any further gaps that were identified in the current legislation and regulations linked to vehicle conversions. The Sub-Committee obtained permission to expand its mandate to cover these areas on 17 August 2021, when the Portfolio Committee adopted the initial report.

Unfortunately, due to programming limitations and other urgent commitments of members of the Sub-Committee, there were no further meeting engagements on the expanded areas. The Sub-Committee members did, however, receive various allegations and reports of vehicles, other than the mini-bus taxi vehicles identified in the report of the Public Protector, that had been illegally converted or vehicles that were clearly intended to transport cargo and no level of conversion would truly be safe for purposes of transporting passengers within what would normally serve as a cargo hold. This report incorporates the initial report content, observations and has the additional recommendations linked to vehicles other than converted mini-bus taxi vehicles.

The Committee adopted the final Sub-Committee report on 29 November 2022 and made additional recommendations to the report which were adopted on 21 February 2023 as part of the Committee report.

**2. ANALYSIS OF 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 AND MATTERS RELATED THERETO**

**2.1 Introduction**

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 was the outcome of an investigation into the matter by the Public Protector following a complaint lodged on 9 March 2012. The report was referred to the Committee, as well as the Portfolio Committee on Trade and Industry, on 7 May 2019 by the House for consideration and report.

In the report, the Public Protector’s investigation focussed on the following 3 issues and listed the following findings per issue: —

* Issue 1 - Whether the Department failed to take effective and efficient action to ensure the safety of commuters travelling in and to protect taxi owners from the consequences of purchasing Toyota Quantum Panel Vans that have illegally been converted into minibus taxis.
	+ (aa) The allegation that the Department failed to take effective and efficient steps to ensure the safety of commuters using the Toyota Quantum panel vans that have been illegally converted into minibus taxis for transport and whether it failed to protect taxi owners from the consequences of purchasing Toyota Quantum Panel Vans that have been illegally converted into minibus is substantiated;
	+ (bb) The Department was warned about the practice and the existence of these vehicles in 2009 but failed to timeously ensure that all vehicles that were illegally converted and not brought in to be corrected were impounded and thus taken off the road as envisaged in section 87 of the National Land Transport Act;
	+ (cc) Toyota South Africa (“Toyota SA”) became aware of the practice as far back as 2005. Other than warning its motor vehicle dealership through written correspondence and in one particular instance allowing conversions under certain conditions, it does not appear to have taken any severe steps to ensure that its product is not tempered with. This is despite the fact that all parties are in unison that these vehicles are dangerous and many collisions that they were involved in had been fatal;
	+ (dd) The evidence and information obtained during the investigation demonstrates that, although the Department took some action, it was ultimately not efficient and effective to ensure the safety of commuters from injuries sustained when these vehicles are involved in motor vehicle collisions and to protect taxi owners from purchasing these vehicles and the effects thereof;
	+ (ee) However, the Department took a progressive step and removed the 1986 illegal converted panel vans off the roads as they were not rectified through the approved retro fitment process. With regard to the illegal converted Toyota Quantum panel vans, the Department delayed to rectify the matter despite having known about it in 2009. It was only in March 2018 that steps were taken to remove these hazardous vehicles from the South African roads;
	+ (ff) It was unlawful for these illegal converted vehicles that were not rectified through the approved retro fitment process to be licensed and be registered in the eNaTIS system as minibus taxis that are used to carry up to sixteen (16) passengers for reward whilst these vehicles are registered and should be licensed as panel vans by the Department;
	+ (gg) There are gaps when these illegal converted vehicles are captured in the eNaTIS as the information, identity (ID) numbers and Vehicle Identification Number (VIN)-numbers are captured in the Registering Authority and there are chances that fraud could take place where these illegal conversions can be licenced and registered to up to 16 seaters instead of three (3) seaters in the eNaTIS systems;
	+ (hh) The Department conceded that the possibility is that the front-line staff at the licensing offices altered information on the eNaTIS system, thus opening the system to manipulation and fraudulent activities.
* Issue 2 - Whether the National Regulator of Compulsory Standards (NRCS) in its official capacity as a National Regulator responsible for the maintenance of compulsory specifications, failed to take effective and efficient steps to ensure that all Manufacturers/Importers/Builders (MIB's) comply with the compulsory specifications as envisaged by the NRCS Act so as to restrict the illegal conversions of these vehicles into minibus taxis.
	+ (aa) The allegation that the NRCS failed to take effective and efficient steps to ensure that all MIBs comply with the compulsory specifications as envisaged by the NRCS Act in order to restrict the illegal conversion of these vehicles into passenger carrying minibus taxis for reward is substantiated;
	+ (bb) It is the primary role and function of the NRCS to administer and maintain compulsory specifications in the interests of public safety and health as well as promoting the rights and obligations of government to protect the health and safety of the public;
	+ (cc) In its capacity as the Regulator for compulsory specifications, the NRCS is also responsible amongst others, for the implementation of a regulatory and compliance system for compulsory specifications for market surveillance by the National Regulator in order to ensure compliance with the compulsory specifications. The NRCS therefore serves as the inspectorate of MIBs;
	+ (dd) The NRCS was advised by Toyota SA of the practice of the conversion of Toyota Quantum Panel Vans and the manufacturer's disapproval of the practice. As the national regulator, the NRCS failed to take steps to stop the practice resulting in vehicle collisions which had severe consequences to commuters who were using these vehicles as their daily mode of transport. It is admitted that four hundred and thirty six (436) vehicles were retrofitted to make them safer but the NRCS failed to conduct surveillance to ensure the safety of the public;
	+ (ee) Therefore, the NRCS failed to ensure that there are no MIBs who are illegally converting these vehicles for use as passenger carrying minibus taxis. This is despite the provisions of section 17 of the NRCS Act which bestows upon the NRCS, powers to inspect, search and seize;
	+ (ff) The Department and Road Traffic Management Corporation (RTMC) established that there are 1986 illegally converted panel vans that did not follow the correct process of retro- fitment through TFM Industries (PTY) Ltd (TFM).
* Issue 3 - Whether the South African Bureau of Standards (SABS) conducted adequate quality assurance tests when it was requested to do so by the Department in 2009 so as to make a determination whether or not the Toyota Quantum Panel Vans that have been illegally converted into mini bus taxis could be retrofitted to ensure the safety of commuters using these vehicles.
	+ (aa) The allegation that the SABS failed to conduct adequate quality assurance tests on these vehicles as requested by the Department in 2009 with a view to making a determination whether the illegal converted vehicles could be retrofitted so as to ensure safety of the commuters using them is substantiated;
	+ (bb) The SABS is a national standardisation entity in the Republic that is responsible for the development and maintenance of national standards. They are experts in the field and government and any other applicant relies on the SABS to advise them with regard to the quality of a commodity, product and/or service;
	+ (cc) The SABS failed to conduct adequate quality assurance tests in respect of the vehicles to ensure that they are safe as commuter vehicles. The tests that were agreed upon between the Department’s technical task team and the SABS were roll over tests, tilt test, the "type 2" brake test and the seat and seat belt anchorage test;
	+ (dd) The tests were conducted on a static vehicle (stationery) and could not therefore produce conclusive evidence of the state of these vehicles, in particular structural deficiencies which may be caused by among others, cutting of side panels to put in windows and the anchorage of the safety belts on vehicle seats rather than the chassis to ensure that they are not ripped off during motor vehicle collisions;
	+ (ee) It would have been prudent for the SABS to conduct high speed crash tests on these vehicles so as to induce conclusive reports on how safe would the passengers be when the vehicle has rolled and what happens to the body of the vehicle when it turns on a curve or brakes suddenly and any other tests which they could have considered necessary in the interests of the members of the public who were using these vehicles as a mode of transportation and mostly on a daily basis.

The Public Protector listed the following as remedial actions required or instructions given to the Departments:

* The Minister of Transport to take urgent and appropriate steps to:
	+ (aa) Ensure that the Department has an extensive updated record of a number of vehicles (illegally converted Toyota Panel Vans into passenger carrying mini bus taxis) that have been retrofitted as part of the identified two thousand three hundred and fifty three (2353) vehicles, as well as the status of all others so as to establish with certainty, the remaining number of vehicles that would still need to be attended to;
	+ (bb) Reconcile a database of vehicles that were originally admin marked and the current value of those vehicles so as to consider the number of vehicles that will be due for scrapping and such vehicles should with the consent of its owners be duly scrapped and the owners offered scrapping allowances to enable them to acquire roadworthy and authorized vehicles;
	+ (cc) Verify operator validity by inspecting Operating Licensing Administration System (OLAS) to determine the number of vehicles attached to Operating Licenses and consider making it a prerequisite that a vehicle should be linked to an operating license for it to qualify for a scrapping allowance;
	+ (dd) Facilitate a stakeholder engagement by all relevant parties such as Toyota South Africa Motors (TSAM), South African National Taxi Council (SANTACO), National Taxi Alliance (NTA), National Association of Automobile Manufacturers of South Africa (NAAMSA), NRCS, SABS, Financial Institutions and Taxi Owner representatives so as to make a determination on details of vehicles that will be eligible for scrapping based on the latest statistics; and
	+ (ee) Ensure that there is an investigation conducted into the eNaTIS systems manipulation which resulted in the fraudulent registration of these vehicles with a view to identifying perpetrators of these criminal conduct for arrest and prosecution by the Prosecution Authorities.
* The Director-General of the Department of Transport to take urgent and appropriate steps to:
	+ (aa) Ensure that the measures taken and agreed to with the Minister are implemented;
	+ (bb) Through surveillance and monitoring, ensure that there is no Toyota panel van that has been converted into a mini bus taxi to carry passengers that is on the South African Roads.
* The Minister of Trade and Industry to take urgent and appropriate steps to:
	+ (aa) Harness and foster good, effective and efficient working relations between the NRCS and the SABS with one being the National Regulator responsible for the maintenance of compulsory specifications and the implementation of a regulatory and compliance system for compulsory specifications and the other being a national standardization institution mandated to maintain national standards and ensure quality of commodities, products and services in the interests of the consumers and the people of South Africa;
	+ (bb) This will ensure that the two entities complement each other in the interests of the members of the public, the people of South Africa and any other applicant who may be in need of their services.
* The Chief Executive Officer of Toyota South Africa to take urgent and appropriate steps to:
	+ (aa) To consult with the Minister of Transport with a view to participating in stakeholder engagements aimed at addressing the problem and where possible assist in the identification and removal of these vehicles from the South African roads and cooperate with the Department in its endeavours.
* The President and Executive Councils of SANTACO, NTA and all other Taxi formations who were affected by the illegal conversions of Toyota Quantum Panel Vans into passenger carrying minibus taxis to take urgent and appropriate steps:
	+ (aa) To ensure maximum cooperation with the Department in its quest to resolve the problem and ensure that all its members cooperate and assist in finding a lasting solution to the problem to minimize further loss of lives.

Departments/institutions/bodies/associations were required to affect remedial action in terms of the report and had been given 30 days from the date of publication of the report (27 March 2019) to submit action plans to implement the remedial action (mid May 2019). This remedial action in turn would have had to be implemented within 90 days from the publication of the report (by the second week in August 2019).

The following issues or matters were not disputed at the time of the release of the Public Protector’s report:

* During or about the year 2005, Toyota Quantum Panel Vans were converted into minibus-taxis illegally. These vehicles did not comply with the requisite safety standards for passenger carrying vehicles;
* The conversions were in the public domain since 2005 and the Department attempted to stop the practice in 2009 by appointing a Technical Task Team Committee whose purpose was to investigate the illegal conversions and financing of these vehicles.
* The Task Team also included representatives of financial institutions, the SABS, NRCS and the taxi industry represented by the South African Taxi Association Council. The Task Team was also tasked to investigate whether the said converted panel vans could be made safer, if it was possible;
* The Deputy-Director-General: TRA&II of the Department submitted a Memorandum to the Minister of Transport on 31 December 2009, recommending that all Toyota Quantum Panel Vans that were converted into minibus taxis should be recalled and that the Department should completely prohibit the conversion of goods carrying vehicles into passenger vehicles. This Memorandum was not approved by the then Director-General;
* The Department also appointed a Data Gathering Committee and a Law Enforcement Committee relating to the illegally converted panel vans. The Data Gathering Committee established that (in January 2010) 2353 vehicles had been identified as possible illegally converted Toyota Quantum Panel Vans;
* On 5 February 2010, the Acting Director-General of the Department submitted a Memorandum to the Minister of Transport recommending, on the basis of the work conducted by the Technical Task Team Committee inter alia that:
	+ Approval of a process to legalise the illegally converted Toyota Quantum Panel Vans;
	+ Approve a media briefing on the process to legalise the illegally converted Toyota Panel Vans;
	+ The Memorandum was approved by the then Minister of Transport on 11 February 2010;
* The Department officials confirmed that vehicle dealerships and financial institutions do have access to the eNaTIS system to determine whether the vehicle was originally registered as a panel van or passenger carrier type vehicle. The Official also indicated that the DoT or vehicle owner did not require specific buy-in or approval from the original Manufacturer in order to affect a conversion or retrofitting to what can be regarded as a second-hand vehicle, however, the National Road Traffic Act, 93 of 1996 (NRTA) requires that this can only be done by MIBs and if it is in line with SABS and NRCS specifications;
* In 2010 there was an undertaking by the Department to assist taxi owners with illegally converted vehicles to retrofit these vehicles in a manner that will ensure they are safety compliant for passenger carriage and/or to comply at least with the taxi recapitalisation requirements which would enable them to be scrapped according to the programme. These operators were given 6 months to come forward, should they not make use of this window of opportunity they would face a complete impound and/or scrapping of the vehicle which would not assist them in obtaining a scrapping allowance to reduce the financial loss;
* Admin marking appears to have been affected only from 2016 engagements onwards and more specifically in 2018 – admin marking would allow officials to see on the system that the vehicle is an illegally converted vehicle and should therefore be blocked from renewing a licence for such a vehicle.

The Department has implemented a Revised Taxi Recapitalisation Programme (RTRP) in order to address the issues raised in the report in as far as it would assist the Taxi industry in recovering some losses where these converted vehicles are not suitable for retro fitment and need to be scrapped.

In a presentation made to the Committee by the Department on 4 September 2020, the DoT indicated that there are still a number of these vehicles on the roads. Reconciliation by the Department was completed and it was confirmed that a total of 1916 vehicles still qualify for scrapping provided that they are linked to a valid operating licence. However, only 1226 still have operating licences attached to the vehicles. An operating licence is a pre-requisite to qualify for scrapping in terms of the RTRP. Once approved the vehicle is scrapped with the permission of the operator and a scrapping allowance initially of R124 000.00 was paid - the Scrapping allowance has since increased to R129 700.00. A total of 478 vehicles have been received by the Taxi Recapitalisation South Africa (TRSA) for scrapping and 382 operators have been paid. The balance is still in the process of being finalised.

In addition to the above, the Committee has received allegations of various other alleged illegally converted vehicles which may be used for purposes of ambulance services as well as transportation of workers. The Sub-Committee was therefore also granted leave to consider and receive presentations on these allegations despite the fact that the Public Protector’s Report did not investigate these allegations as a part of the report on illegal conversions of panel vans.

# 2.2 Public Protector Report Investigation

The investigation by the Public Protector was conducted through correspondence and interviews with the complainant and the relevant stakeholders; meetings with relevant officials from the Department, SANTACO, Toyota SA, SABS, NRCS, NTA, NAAMSA, Financial institutions such as: ABSA, Nedbank, Standard Bank, Wesbank, SA Taxi Finance and Toyota Financial Services and the RTMC. All relevant documents were analysed and approximately, all relevant laws, and related prescripts applied.

Key laws taken into account to help the Public Protector determine if there had been maladministration by the organs of state who were involved in the matter were principally those imposing administrative standards that should have been upheld by the Department, the Department of Trade, Industry and Competition (DTIC), the SABS, the NRCS, the RTMC and perhaps the Provincial Traffic and Licensing departments in the Republic. Those are the following:

* 1. **The National Road Traffic Act, 1996** which provides for road traffic matters which shall apply uniformly throughout the Republic.
	2. **The National Road Traffic Regulations, 2000** which provides guidelines for the implementation of the provisions of the National Road Act.
	3. **The National Land Transport Act, 2009** which furthers the process of transformation and restructuring the national land transport system.
	4. **The National Regulator for Compulsory Specifications Act, 2008** which provides for the administration and maintenance of the compulsory specifications in the interests of public safety and health as well as promoting the rights and obligations of government to protect the health and safety of the public.
	5. The legislation also seeks to establish a Regulator for compulsory specifications who will be responsible for the administration and maintenance of compulsory specifications and the implementation of a regulatory and compliance system for compulsory specifications for market surveillance by the National Regulator in order to ensure compliance with the compulsory specifications.
	6. **The Standards Act 24 of 1945, 2008** which seeks to provide for the development, promotion and maintenance of standardisation and quality as well as render conformity assessment services and provide for the continued existence of the SABS as the peak national standardisation entity in the Republic for the development and maintenance of national standards. The SABS is a statutory body that was established in terms of the Standards Act, 1945 (Act No. 24 of 1945) and continues to operate in terms of the Standards Act, 2008 (Act No. 8 of 2008) as the national standardization institution in South Africa which is mandated to develop, promote and maintain South African National Standards as well as promote quality in connection with commodities, products and services.
	7. **The Road Traffic Management Corporation Act, 1999** which *inter alia* seek to provide in the public interest, facilitation and law enforcement in respect of road traffic matters by all spheres of government and to promote safety, security, order, discipline and mobility on the South African roads as the public transport and road traffic regulation are of vital importance to the development, safety and quality of life of the citizens of the Republic.
	8. The Constitution of the Republic of South Africa, 1996.
	9. The Public Protector Act, 23 of 1994.
	10. Compulsory Specifications for Motor Vehicles of Category M2 and M3 Gazetted in Government Gazette No 33059 of 1 April 2010.
	11. South African National Standard - Homologation of vehicle models (SANS 10267:2006).

## 2.3 Reports and/or Events that occurred prior to the Public Protector Investigation related to this issue

(i) Report of the Working Committee of the Standing Committee on Community Safety and the Standing Committee on Finance, Economic Development and 2010 World Cup on the investigation of Toyota Quantum Panel vans into taxis, dated 03 December 2010.

(ii) Department of Transport Memorandum to Minister: Recalling of converted Toyota Quantum Panel Vans.

(iii) MINMEC Meeting Progress Report on Illegal Panel Van Conversions.

(iv) International Vehicle Identification Desk (IVID) Panel Van to Taxi conversion report.

## 2.4 Other alleged illegal vehicle conversions

Following the release of the Public Protectors report, various allegations were made in the media that it emerged that 70 new Ford Ranger vehicles had been blocked by a roadworthy testing station in Durban, KwaZulu-Natal, as they had allegedly been converted into passenger-carrying trucks. Further thereto, allegations were also made that Toyota Quantum panel vans were also illegally converted for purposes of being used as ambulances. Concerns were raised that these alleged illegally converted vehicles were being “registered” on the Department’s eNaTIS system in what were to appear to be a legitimate “over-the-counter” process. These contraventions were alleged to have been taking place over a period dating back to 2005.

The same complainant to the Public Protector, Mr Hennie de Beer, revealed to the City Press in February 2020 that many local ambulances have been converted from three-seater Toyota panel vans and that many of them have already resulted in deaths on South African roads. Toyota South Africa on the other hand denied that its panel vans are dangerous and told the City Press that ambulance conversions were approved by the National Regulator for Compulsory Specifications, adding that this practice was conducted around the world.

These allegations needed to be put to the Department, as well as other possible role players and/or stakeholders, during the course of the work conducted by the Sub-Committee in order to obtain a report from the Department on this matter and develop recommendations regarding these types of alleged illegal conversions.

## 2.5 Sub-Committee Objectives

The objectives of the Sub-Committee on the Public Protector Report on Illegally converted panel vans and other related matters are to:

* consider viable relief measures that the Department could implement in order to assist taxi operators who made bona fide purchases and discovered they purchased illegally converted vehicles;
* unpack policy and legal challenges related to the proposed use of the taxi recapitalisation programme to address illegal vehicle conversions while other vehicle owners who are not public transport operators do not receive any state assistance when their vehicles are found to have been illegally converted;
* invite expert comment on the entire value chain involved in the life cycle of a vehicle from manufacturing or retro fitment, to financing, to registration by the Department, as well as how all these aspects are regulated or monitored;
* invite expert comment on how the entire eNaTIS system works, who all has access to the data on the system, to what extent each user has access, as well as how the system is secured from manipulation or fraudulent data capturing and/or transactions;
* invite comments from stakeholders on the allegations of illegally converted vehicles used to transport paying passengers, patients in converted Ambulances as well as converted vehicles used for the transportation of people while the original design is for transportation of cargo;
* determine from the Department whether it has plans to address these additional allegations or determine what progress it has made to date to identify these vehicles and whether a process is underway to remove these from the roads;
* identify and motivate criteria applicable to improve the manner in which the Department keeps track of all vehicles used in the public transport sphere in order to improve the safety of passengers and road users; and
* make recommendations to the Portfolio Committee on Transport in this regard.

The Sub-Committee was intended to be active until the finalisation and adoption of the Committee Report on the Public Protector’s Report and matters related thereto. However, through the limited engagements on the matters above with stakeholders, the Sub-Committee appealed in its initial report to the Portfolio Committee to allow it to continue with further engagements outside of the limited scope of the confines of the Public Protector’s Report. As indicated above, the permission was granted but limitations in availability to meet impacted further engagements on these issues. The Committee considered the recommendations made by the Sub-Committee on these extended matters in its report that was adopted on 29 November 2022.

## 2.6 Sub-Committee Areas of Work

The following key areas of work for the Sub-Committee were identified:

* Consulting with experts on the manufacturing, financing and registration of vehicles and relevant stakeholders;
* Taking into account the Public Protector Report as well as any other submissions or presentation regarding the additional allegations of illegally converted ambulances and people mover trucks, consider whether the measures implemented and proposed for implementation by the Department are sufficient to prevent future incidents of this nature;
* In respect of the obligations by each stakeholder in the value chain of public transport vehicles as well as ambulances and other people mover trucks, unpack policy and legal challenges that may arise should the measures proposed by the Department be implemented;
* Having considered the relevant policy and legal challenges, identify and motivate criteria applicable to each such vehicle used for public transport, ambulance services or people moving trucks, in the application to register such a vehicle and obligations expected from each of the players within the value chain, including:
	+ The target group of vehicle owners;
	+ The vehicle registration requirements pre-and post-sale;
	+ The vehicle financing requirements;
	+ The vehicle modification and manufacturing specification requirements;
	+ The manner in which the Department seeks to assist taxi operators to limit their loss in scrapping these illegally modified vehicles identified in the report; and
	+ The manner in which the Department will deal with other vehicle owners who may have illegally converted ambulances or people moving trucks in order to either ensure safe retro-fitment if possible or scrap these vehicles.
* Having identified said criteria, develop reporting timeframes for the Department in which to respond to the recommendations;
* Make recommendations to the Portfolio Committee on Transport in this regard.

The Committee would continue to engage with the Department on matters pointed out in the Public Protector Report as well as other forms of vehicles that may have undergone similar modifications that could leave them unsafe for operation on our national roadways.

# PRESENTATIONS RECEIVED

The Sub-Committee received presentations on 18 and 25 November 2020, 1 and 2 December 2020, 17 and 24 February 2021, 3 and 10 March 2021.

## 3.1 18 November 2020 - Presentation by the Department of Transport on update and progress on the scrapping of illegally converted Toyota Quantum Panel Vans in compliance with the Public Protector’s Remedial Action

The Department’s briefing on the update and progress of the scrapping of the illegally converted panel vans focused on the following aspects:

* Purpose;
* Background;
* Progress and update;
* Update and breakdown per Province;
* Draft Proclamation;
* Update on other Issues in the Report;
* Update of System Redesign; and
* Recommendations.

The presentation sought to provide an update and progress on the scrapping of illegally converted Toyota Quantum Panel Vans in compliance with the Public Protector’s Remedial Action as contained in the report.

The Department reported that it became aware of the issue in 2009. The Taxi Industry approached the then Minister seeking intervention to assist the industry. On 11 February 2010 the Minister approved a process of rectification through retro fitment. A data filtration was conducted and 2353 vehicles were identified as illegally converted panel van vehicles. Of this 2353, only 436 were retrofitted and the balance of the identified panel vans continued operating illegally. The Public Protector issued the report and remedial action on 27 March 2019. In their understanding thereof, the remedial action for the Department was that these panel vans must be scrapped through the Taxi Recapitalisation Programme. Data extrapolated by the RTMC and the TRSA (service provider appointed for scrapping) identified 1916 panel vans that could possibly qualify for scrapping. Only 1226 of these vehicles had operating licences and were eligible for scrapping since an operating licence is a pre-requisite to qualify for scrapping. Of the 1226 only 503 submitted applications for scrapping since April 2019 implying that 723 are still outstanding.

In reporting an update on matters referred to Special Investigations Unit (SIU) regarding the illegal vehicle conversions, the Department indicated that no report was received from the SIU with regard to compliance with matters related to the Proclamation.

In reporting on an update on progress made in addressing issues referred to the Director-General (DG) in the Public Protector report, the Department indicated that on ensuring that measures taken and agreed to with the Minister are implemented: The Department has commenced with the redesign of the National Land Transport Information System (NLTIS) to close gaps that may have been exploited. It engaged with the SIU to investigate the irregularities and manipulation of the system. It is in the process of issuing a Proclamation announcing the cut-off date for the grace period to qualify for the scrapping process. It further indicated that on ensuring that there is no Toyota Panel Van that has been illegally converted into a minibus that is on the South African roads: All identified panel vans have been admin marked on the eNaTIS system and their licences cannot be renewed.

In reporting on the updates they have made to the NLTIS system and other licencing systems, the Department indicated that the following scope of work was undertaken:

* + To integrate the system with the Geographical Information System (GIS);
	+ Ensure interoperability with eNaTIS;
	+ Liaise with the relevant national, provincial and municipal stakeholders to gather functional requirements;
	+ Interface as far as possible with provincial systems kept at provinces;
	+ Migrate data from historical systems like the Land Transport Permit System (LTPS) into the new OLAS.

The following was reported on the progress to date on the redesign on the system:

* Inclusion of the new modules for National Public Transport Regulator (NPTR), Transport Appeals Tribunal, etc.;
* System design alignment to User Requirements Specifications;
* NPTR Testing and User Acceptance Testing;
* Legitimate data migration and system testing.

The following are still outstanding activities related to the redesign:

* Migrating data from historical systems like the LTPS into the new OLAS;
* Ensuring interoperability with other systems i.e. eNaTIS (NLTA Requirement);
* Interface with other systems such as
	+ South African Revenue Services (SARS) – tax compliance vetting;
	+ Home Affairs – validation of Identity Number and status;
	+ South African Police Services (SAPS) – Criminal Activity checks;
* Full System testing and Implementation.

In terms of the way forward, the Department indicated that the Minister committed to the following:

* + Engage with the Technical Committee;
	+ Meet with Toyota SA to lobby for their contribution on resolving the challenge;
	+ Meet with the SIU to expand their mandate on the current R37 Proclamation investing NLTIS irregularities;
	+ Issue a proclamation setting a deadline for the discontinuation of use of the illegally converted panel vans.

## 3.2 25 November 2020 - Meeting with the Road Traffic Management Corporation (RTMC) and the Department of Transport on the Public Protector Report on a systematic investigation into the illegal conversion of goods carrying Toyota Quantum Panel Vans into Passenger carrying Mini-Bus Taxis to transport members of the public for reward.

The RTMC’s presentations focused on the following aspects:

* eNaTIS and related areas;
* Disciplinary action and work done with other law enforcement agencies;
* Impoundment and Notice to Discontinue; and
* Illegally converted minibus vehicles.

There are 11 318 active eNaTIS users. The system makes provision for supervisors across all functions and a segregation of duties exist both laterally (different users to conclude a process) and vertically (users and supervisor to conclude a process). No information has been lost on the system since the RTMC took control on 5 April 2017 and the information is backed up to two sites in near real-time as per the business continuity plan for eNaTIS.

In terms of access to information on the system, the RTMC indicates the following related to Non-state institutions:

•**Registered Manufacturers, Importers and Builders –** approved by the Province concerned has access to introduce vehicle records and also can update records before they are sold and registered;

•**Motor Vehicle Finance Institutions and Insurance Companies -** have access to confirm vehicle and ownership particulars (i.e. cannot update records) and Latest Model number of the vehicle is supplied;

•**New services –** envisaged but are subject to publication of legislation in this regard;

•Matter is currently under discussion with Departments of Transport and Finance;

In terms of access to information on the system, the RTMC indicates the following related to Vehicle Testing Stations:

* Vehicle Testing Stations have access to the minimum vehicle information to determine the minimum standards for the testing of a vehicle;
* Proposal to enhance information to display multiple model numbers is currently underway
	+ Engagement with NRCS and related stakeholders on the information to be captured;

In terms of the system’s ability to flag vehicles, the RTMC indicated the following:

* The system caters for administration marks that restrict the ability to transact on person or vehicle records;
* Administration marks can be set at registering authority (local), Provincial and National Level
	+ Only a Provincial entity can modify administration marks loaded at Provincial level;
	+ Only the Critical Transaction Centre (CTC) can modify administration marks loaded at National level;
	+ Administration marks were not used for illegal modifications until 2017 where the Department requested RTMC to updated the vehicles identified in the Public Protector Report.

The RTMC indicated the following minimum requirements to record a change to Make, Model and Series of vehicles:

- The required documents are contained in the Minimum Requirements for Sensitive Transactions:

* + Appropriate identification of the applicant;
	+ Change/Notice of Particulars in respect of Vehicle form;
	+ Copy of Manufacturer, Importer or Builder (MIB) Certificate;
	+ Copy of Request for Police Clearance (If modified by non MIB);
	+ Letter of Authority (LOA) if modified by non MIB;
	+ Mass Measuring Certificate;
	+ Confirmation letter from Examiner of Vehicles;
	+ Sensitive Transactions are reserved for Provincial and National Helpdesk.

On the Disciplinary action and work done with other law enforcement agencies, the RTMC reported on investigations of numerous officials done in Mpumalanga (Standerton, Nelspruit), Eastern Cape, Limpopo and Free State.

On the law enforcement steps undertaken to scrap and/or impound vehicles identified as illegally converted vehicles, the RTMC reported the following. In terms of impounding vehicles, the following offences can get a vehicle impounded:

- parking offence causing an obstruction;

- any vehicle deemed to be abandoned on a public road;

 - a vehicle not displaying any form of identification;

- buses and taxis can also be impounded for not having a permit or operating contrary to a permit.

The national government has a number of traffic laws that govern the country’s roads, but each Province is able to create their own regulations for their regions, which may sometimes differ from the rest of the country. For example, the Western Cape Government put forward a proposal to repeal the National Road Safety Act of 1972 and replace it with their own traffic

laws for impounding cars, which allowed the provincial Member of the Executive Council (MEC) to set new regulations and penalties for serious traffic offences.

Offences that may cause a vehicle to be towed include:

- Parking in a tow away zone, ambulance or emergency service area;

- Parking on a red line or no-parking area;

- Vehicles impounded at roadblocks;

- Unroadworthy vehicles;

- Drunk driving;

- Illegal street racing;

- Vehicles with missing or false number plates;

- Driving a motor vehicle without a valid driver’s licence.

In terms of scrapping vehicles, they indicated that the National Road Traffic Act, Act 93 of 1996 provides for a particular procedure to follow if a motor vehicle becomes permanently unfit for use:

a) Notify the vehicle’s titleholder;

b) At an appropriate registering authority, complete form CNP or MVR 1A, within

3-months, to indicate that the motor vehicle has become permanently unfit for use;

c) Submit the vehicle’s registration certificate, to the relevant registering authority.

The act is, however, not clear on scrapping of vehicles due to illegal conversions.

Regarding illegal converted Taxi Recapitalisation Programme Administration Marks and other Conversion issues, the RTMC indicated that administration marks were placed on 2168 vehicles for illegal conversions and these marks restricts all transactions except licensing, however, when the vehicle is licensed a disc is not printed. Over 42 000 vehicles are in the live vehicle population that were introduced to the eNaTIS system as panel vans, however, it is not possible to determine which conversions are illegal as model certificates are provided for the vehicles.

## 3.3 1 December 2020 - Meeting with the Office of the Public Protector on the Public Protector Report on a systematic investigation into the illegal conversion of goods carrying Toyota Quantum Panel Vans into Passenger carrying Mini-Bus Taxis to transport members of the public for reward.

The Public Protector gave the Committee an overview of the report in terms of the scope and limitations of the report as well as the allegations made that led to the investigation and findings emanating from the investigation.

The Public Protector responded to questions from members. Due to time constraints the Public Protector could not respond to all the questions of clarity from members and undertook to provide written responses as well as the evidence relied on during the investigation.

**3.4 2 December 2020 - Meeting with the National Regulator for Compulsory Specifications (NRCS) on the Public Protector Report on a systematic investigation into the illegal conversion of goods carrying Toyota Quantum Panel Vans into Passenger carrying Mini-Bus Taxis to transport members of the public for reward**

The NRCS’s presentation focused on the following aspects:

* Purpose;
* Strategic Overview of the NRCS;
* Legislative mandate;
* Regulated industries;
* NRCS Act;
* Powers of the Inspectors;
* Mandate of the NRCS;
* Approval of Motor vehicles; and
* Conversion of Panel Vans.

In terms of the NRCS Act, the NRCS should seek to achieve the following objectives:

* Make recommendations to the Minister of trade and industry with regard to compulsory specifications;
* Administration and maintenance of compulsory specifications;
* Implementation of the regulatory and compliance systems;
* Carry out market surveillance activities to monitor compliance with compulsory specifications;
* Enforce compliance with compulsory specifications.

The NRCS gave an overview of the powers of inspection granted to them in terms of section 17 of the NRCS Act.

They presented on their mandate within the automotive market and stated that they are appointed as an Inspectorate for MIBs in terms of the NRTA. Their duties include, inter alia:

* Evaluate and recommend MIBs applicants for registration with the Department;
* 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 (eNaTIS 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 and Transition Act);
* Issue a LOA for vehicles manufactured, imported or built for private use (MIBs not required to be registered in terms of NRTA).

With regard to the conversion of panel vans, the NRCS indicated that all motor vehicles that are covered by a compulsory specification (VC) shall be manufactured in accordance with that VC. MIBs shall have their motor vehicles approved by NRCS before registration on eNaTIS. Approved motor vehicle models shall be issued with a homologation/compliance certificate and an eNaTIS model number which allow registration of individual vehicles under the model so approved. 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 motor vehicles. Ongoing compliance is monitored through market surveillance inspection activities.

In terms of the compliance test requirements for panel van conversions, the NRCS indicated that evidence of compliance is required and that the test requirements are:

* The converter must conduct tests as required in terms of VC 8023 before making an application for approval;
* Additional safety tests to be conducted:
	+ Strength of seats and seat anchorages;
	+ Restraining devices - Safety belts;
	+ Strength of Superstructure – Roll-over protection device;
	+ Braking system – Type II test;
	+ Safety glass fitted for windows;
	+ NRCS then verifies:
		- Seat arrangements and dimensions;
		- Load distribution calculations;
		- Emergency exits and their dimensions.

The approval process for panel van conversions is indicated as follows:

* NRCS Approves/Homologates vehicles by issuing the Model/eNaTIS number to be used for registration.
	+ Vehicles are approved on confirmation that they comply to VC8023.

The process which NRCS goes through to confirm compliance is presented as follows:

* MIB submits sample vehicle to the NRCS for inspection;
* NRCS evaluates all the test reports in relation to the tests done on the vehicle;
* If the NRCS is satisfied with the compliance documents, the vehicle conversion is approved and approval documents are issued to the MIB;
* The eNaTIS/Model numbers are then issued on approval.

The NRCS indicated the following with regard to the powers they have in an instance where the conversion of a motor vehicle does not meet the required specifications or where an MIB is not registered to do a conversion of that specific model of a vehicle:

* According to the NRCS Act, they have the right to withdraw certificates issued should the approved vehicle models deviate from these requirements. They also recommend to the Department of Transport to “Admin Mark” the vehicle, this makes it impossible for any transaction to be done on the vehicle;
* In cases where the MIB are not registered, NRCS always recommend that they register in order to be able to introduce vehicles legally into the system.

In terms of the remedial action taken following the Public Protector’s report, the NRCS indicated that there is a need to strengthen the relationship between the NRCS and the Department through renewal of the Memorandum of Understanding/Agreement (MOU/MOA) 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 NRCS issues a TRP Certificate to all compliant vehicle models to be used as Taxis. A list of these models is issued to the Department and other stakeholders whenever there is an update. The Department will only register vehicles whose eNaTIS (and NLTIS) number are listed on the TRP List as Taxis. If the vehicle model is not listed, it cannot be registered as a Taxi.

For panel van conversion control measures, the NRCS indicated that despite the challenge of NRCS being at the source where conversions of each individual panel van take place, the NRCS has implemented the following interim control measures:

* Any registered MIB converting a panel van must first obtain support in the form of homologation support documents from the original equipment manufacturer (OEM);
* Enforce the prohibition of conversion of panel vans to Taxis by non-registered MIBs as stipulated in the NRTA Regulations (Regulation 44). No LOA shall be issued for a minibus Taxi converted from a panel van by an unregistered MIB;
* All registered MIBs identified as specializing in the conversions of panel vans are now classified as High Risk, which implies high inspection frequency and effort to ensure ongoing compliance as per NRTA Reg. 44.

Members of the Sub-Committee were of the view that the presentation was generic and did not speak specifically to the illegal conversions in question and the role and functions of the NRCS as it related to these vehicles.

**3.5 17 February 2021 - Meeting on the Public Protector Report on a systematic investigation into the illegal conversion of goods carrying Toyota Quantum Panel Vans into Passenger carrying Mini-Bus Taxis to transport members of the public for reward: National Regulator for Compulsory Specifications (NRCS), South African Bureau of Standards (SABS), Department of Trade, Industry and Competition (DTIC)**

After the introduction by the DTIC, the officials of the SABS and the NRCS gave overviews of their presentations as tabled before the Committee.

The DTIC indicated the policy perspective as follows. The SABS and the NRCS report to the DTIC. Government set up these entities with a mandate to assist local industry production, export of local products as well the protection of the public from unsafe products that may be placed in the national market. In many instances the entities are directed by the policy owning department in carrying out their work. As the Public Protector recommended, there is scope to improve how delegated work is carried out by these entities.

The DoT is the policy owner for safety of vehicles in terms of the National Road Traffic Act 93 of 1996. The NRCS is Mandated by the Department to be the Inspectorate of MIBs and has specific compulsory specifications (Technical regulations), that are promulgated under the NRCS Act 8 of 2008 that relate to different categories of vehicles. These compulsory specifications are used to implement the mandate from the Department. The SABS, through the Standards Act 5 of 2008, develops the standards that set out the technical requirements for the vehicles to adhere to. These standards become mandatory when referenced in a regulation, in this instance the relevant compulsory specifications from the NRCS. The SABS is also an accredited service provider to both industry and regulators in terms of testing compliance of a product against certain standards, where SABS has the capability to test. This is a contractual arrangement between the SABS and its clients.

The SABS presented on their legislative mandate, how they work alongside the NRCS as well as the differences between the two entities, and indicated that the South African National Standards (SANS) are voluntary standards.

The services of the SABS, except for the development, promotion and maintenance of South African National Standards, are commercial in nature and the SABS competes with other commercial entities to render Testing and Certification Services or conformity assessment services. In practice, the NRCS relies on independent third-party conformity assessment service providers, such as the SABS or any other accredited facility, to render conformity assessment services. There is not an exclusive relationship between the SABS and the NRCS with regards

for the purpose of rendering conformity assessment services.

The role played by the SABS in the retro-fitment process of illegally converted vehicles following the request by the Department is indicated as follows:

* The role of the SABS could only have been limited to offering testing services;
* The SABS tested vehicle samples received from SA Taxi Finance, a subsidiary of SA Taxi Development Finance (Pty) Ltd;
* This appears to be the extent of the SABS’ involvement in the matter.

On the question of at the time of the tests conducted by SABS regarding these vehicles, what was the minimum requirements for the safety tests and could more or different stringent tests have been requested by the Department:

* SABS’ testing services are underpinned by official SANS Compulsory Specifications and Regulations Tests are conducted as per the customer’s request.
* It is important to note that the SABS is not a Regulator. Therefore, it remains the responsibility of the relevant Regulator to ensure that any test report is sufficient or that the tests conducted are sufficient for the approval which is being sought.
* In this case the SABS conducted tests as per the following SANS and Regulations:
	+ SANS 1563 2005 (The strength of large passenger vehicles superstructures (roll-over protection));
	+ SANS 1430 2007 (Anchorages for restraining devices in motor vehicles);
	+ 28 Degree Tilt Test, Regulation 262 National Road Traffic Act, No 93 of 1996.

The exact date of when the SABS became aware that Toyota condemned the conversions is not clear, however, such condemnation would not have been of any consequence to the SABS for the following reasons:

* The SABS does not possess any legal authority to regulate the conversion of vehicles;
* The SABS could not exercise any power in relation to the decision to or not to convert vehicles.

The Department has submitted, as per the Public Protector’s report, that the process of retro fitment did not require authorisation by the original manufacturer as the process of modifying a second-hand vehicle was legal in terms of the NRTA (Page37, par 5.1.33 and Page42, par 5.1.49 of the report).

Without expressing any opinion on the submission by the Department, the view held by DoT explains why the retro-fitment of conversions were done without the approval of Toyota SA.

The SABS, as per its mandate, develops, promotes and maintains SANS. The SABS does not set safety specifications for specific brands. The SABS does not have powers to issue minimum safety specifications for vehicle conversions from panel vans to people carriers. The SABS is not a Regulator and as such does not have any legal powers to enforce a recall of vehicles. The retro fitment of vehicles does not fall within the mandate of the SABS, as such the SABS has no power to regulate this practice.

The NRCS sought to clarify concerns raised in the previous meeting by improving their presentation for this follow-up meeting. In addition to the information previously presented they also indicated that vehicles already operating on public roads 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.

On the requirements for new taxi vehicles (NTV) under the TRP, the NRCS indicated that in around October 2006, the DoT introduced the TRP in order to replace the existing taxis with NTVs. The implementation date for issuing model numbers to NTVs was 1 January 2008. This was 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 M 2 and M 3 - 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 R 871 of 2 September 2005 and repealed by government notice no. R 895 of 4 September 2006.

The additional requirements for NTVs 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 exists, 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.

NRCS indicates where it becomes involved in the registration process of NTVs and MIBs:

* 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 eNaTIS model number specific to the model design;
* The NRCS mandate and responsibility ends with the issuance of the Approval/compliance certificate and eNaTIS model number specific to the model design. The registration process and ensuring compliance of vehicles on public road is the responsibility of MIB, the Department, RTMC and Law Enforcement Authorities.

The NRCS became aware of illegal Toyota Quantum panel van conversions in June 2008. In order to deal with illegal activities regarding import and export of motor vehicles, International Trade Administration Commission commissioned a working group which comprised of stakeholders, amongst others: SABS (regulatory division) now NRCS, SARS, South African Police Services (SAPS), Department of Transport, SIU, 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. The NRCS is aware of 2353 illegally converted panel vans as reported by DoT.

Following the Department 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.

SIU undertook to further investigate the alleged corruption in relation to the 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. The 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 minibus 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 into taxis, being Umngeni Auto trimmers, as they did not have a compliance certificate for TRP compliant vehicles;
* Two other MIBs, being Taxis R-US and Petersen’s Taxi World, 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.

In January 2009 the industry reported that some of the modified taxis which were involved in crashes 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 Department 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 Department. In November 2008 the Kwa-Zulu Natal Department of Transport 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.

The requirements for corrections of the illegally converted quantum panel vans were finalised and approved by the Department 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 the Department 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 eNaTIS model numbers were issued for the modified Toyota Quantum taxis that met the requirements pronounced and approved by the Department. NRCS did not conduct tests as it falls outside the mandate of the NRCS Act.

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 LOA (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 Department helpdesk;
* Each owner had the responsibility of contacting the Department 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.

In a response to the Public Protector findings regarding the NRCS, the NRCS wanted to indicate that the 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.

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. The Department 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 Department, 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.

There were 2353 illegally converted taxis already identified. Only the Department 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 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.

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 LOA. 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.

Vehicles that are not designed to operate for reward such as those used for private purposes and as exempted by the Department, the touring vehicle for example 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 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.

NRCS conducted an inspection at Petersen’s Taxi World in 2008, but their attempt to de-link the model number was challenged as they stated that they do not convert vehicles for TRP purposes, this argument was supported by the Department letter which confirmed that private vehicles were exempted from complying with the new taxi vehicles requirements. The NRCS has suggested to the Department 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 and TRP requirements will be included in the compulsory specification as well.

Remedial action as per paragraph 8.3 of the Public Protector’s 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 the relationship between the NRCS and SABS, as well as 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 indicated that they also sought to strengthen the relationship between NRCS and the Department 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.

NRCS has dedicated a team of inspectors whose focus is on:

* complaints handling;
* Investigations of alleged non-compliance of products;
* Investigations on misuse of eNaTIS 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.

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. The 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 is:

* 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.

**3.6 24 February 2021 - Meeting on the Public Protector Report on a systematic investigation into the illegal conversion of goods carrying Toyota Quantum Panel Vans into Passenger carrying Mini-Bus Taxis to transport members of the public for reward: Toyota South Africa Motors (TSAM)**

After the introduction by the CEO, the Company Secretary gave overviews of the presentations as tabled before the Committee.

The first Toyota Quantum Panel Van was imported into South Africa in March 2005 and to date 16 735 of these vehicles have been imported and manufactured on the market in South Africa. The recommended retail price of these panel vans ranged from R546 100 in 2020 (at the highest priced model rate) to R213 000 in 2005 (at the highest priced model rate). The retail price for the Taxi vehicles ranged from R463 000 in 2020 (at the highest priced model rate) to R142 334 in 2005 (the only model they had on the market at the time). The retail prices for the Bus vehicles ranged from R571 900 in 2020 (at the highest priced model rate) to R245 000 in 2005 (at the highest priced model rate). The retail prices for the Crew Cab vehicles ranged from R472 300 in 2020 (at the highest priced model rate) to R361 200 in 2014 (at the highest priced model rate).

The NRCS recognises conversions by Body Builders and Toyota has no control or influence over the applicable regulatory compliance process between Body Builders and the NRCS. Toyota has approved panel van conversion to an Ambulance for the Department of Health. The approval process is rigid and is as follows:

* Ambulance conversion specification is given to TSAM via the RT57, the specification defines the ambulance requirements (Oxygen tanks/stretcher/cabinets etc.). Once this specification is received TSAM will appoint a service provider (accredited Body Builder) to convert a panel van to ambulance as specified on the RT57;
* TSAM will conduct verification tests to confirm the conversion quality and to ensure that the conversion does not impact base vehicle strength;
* Parallel to the activity mentioned above in TSAM verification, the Body Builder will conduct regulatory tests as stipulated in the NRCS standards for passenger safety (seat belt anchorage/seat strength etc.);
* In terms of certification, they indicate that the body builder will then submit the Manufacturers test reports together with the Regulatory test reports to the NRCS and apply for the vehicle classification to be changed from goods carrying to passenger carrying. Once NRCS has approved the conversion a new eNaTIS code will be issued to the body builder which enables the converted ambulance to be classified as a passenger carrying model. The eNaTIS code that is issued to change the classification of the Panel Van to Ambulance is applicable to only that specific conversion by that specific converter and not a general use eNaTIS Code. Once all the above steps are completed, Toyota can sell a converted ambulance to the Department of Health. Currently, Toyota has only 1 (one) approved ambulance conversion and only 1 (one) accredited body builder to do the conversion for the Department of Health.

Toyota SA indicated that they first became aware of the illegal conversion of panel vans in 2005. Toyota SA indicated the following steps/actions were taken by them since becoming aware of these conversions:

* On 20 May 2009, TSAM issued a directive to the SABS, NRCS and the Department clearly confirming that “TSAM has not and will not issue letters of authority for: Conversions of Toyota Quantum Panel Vans into Toyota Quantum Ses’fikile or other passenger carrying variants. This is due to the fact that the Panel Van is a Commercial vehicle and designed to carry goods”;
* On October 2009, Toyota informed its Dealers and other role players, namely the SABS, NRCS and IVID, that it did not in any way support any illegal conversions;
* Toyota continued to reiterate its stance from the period 2005 to 2009 that it condemned the practice of illegal modifications;
* Press Release was issued on 08 March 2010, wherein Toyota again confirmed that it in no way condones the conversion of Panel Vans into taxis;
* It is submitted that Toyota’s position has always been clearly communicated since the first incidents of illegal conversions being detected in 2005;
* Toyota’s actions within its control pursuant to becoming aware of illegal conversions confirms that it strongly condemned such practice;
* Toyota took steps that were necessary and within what it was legally allowed to address. Toyota is not a Regulator for the purposes of Registrations and this view was acknowledged by the Public Protector;
* The onus is on the Department and NRCS to monitor and check that the registration of these vehicles are in accordance with the classification of the vehicle. Regulatory and other primary loopholes identified were also submitted to the Public Protector at the time of the investigation;
* The above was included in Toyota’s submission to the Public Protector in 2012 wherein Toyota further identified certain Regulatory deficiencies that needed to be investigated to ensure that adequate guidelines and systems are in place to prevent illegal conversions.

Steps taken by Toyota after learning that some of the converted vehicles were approved for retro-fitment were indicated as follows:

* Firstly, a communication was issued to TSAM Dealers dated 12 December 2005 wherein it was clearly stated that “This modification is not acceptable to TSAM and therefore the warranty terms will be cancelled on all vehicles modified…”;
* TSAM issued a further notice on 09 October 2008 confirming an extensive investigation being conducted and that illegal conversions shall not be condoned;
* Toyota highlighted to all stakeholders that the illegal conversions did not comply with standard homologation and/or registration requirements for the vehicle to be used as a commercial taxi;
* Toyota further communicated to all stakeholders that it did not endorse the sale of Quantum Panel Vans to companies or operators that seek to convert panel vans into taxis by non-approved MIB’s - All Toyota dealers were also alerted to this practice;
* In the interest of safety, Toyota offered engineering support for vehicles that could be converted according to TRP specifications.

The measures put in place by Toyota SA to mitigate illegal conversions were indicated as follows:

* Toyota, from 2005 to 2009, specifically communicated and actioned what was reasonably expected at the time. The expectation to “do better” in informing the public during that period was acknowledged to the Public Protector;
* Toyota is not in a position to consent to the general conversion of goods carrying vehicles into passenger carrying vehicles unless approval from our parent company is obtained - such approval was never obtained;
* In support of mitigating illegal conversions, Toyota ensured that it did not provide the Manufacturers approval documentation (LOA) to the NRCS to facilitate and enable the registration of the conversion of the vehicles in question;
* Toyota ensured that Dealers were fully aware of their obligations and are evaluated by the terms and conditions of the Dealer Agreement between the parties in place to ensure compliance;
* The Dealers were also made aware that breach of their obligations in terms of the Dealer Agreement resulted in disciplinary action which may lead to termination of the Dealer Agreement;
* In general, Toyota continued to support the Department and NRCS with any queries raised;
* Toyota has taken every precaution and is committed to ensuring compliance with the Legislation and Regulations applicable in ensuring safe and reliable transport;
* Toyota continues to make every effort in ensuring that the Dealers do not participate in illegal conversions and are continuously evaluated to ensure compliance.

The President and CEO of Toyota responded to questions and comments from members and undertook to provide the Sub-Committee with written responses to the additional questions as well as indicated that they would be open to future engagements.

**3.7 3 March 2021 - Follow-up meeting on the Public Protector Report on a systematic investigation into the illegal conversion of goods carrying Toyota Quantum Panel Vans into Passenger carrying Mini-Bus Taxis to transport members of the public for reward: National Regulator for Compulsory Specifications (NRCS), South African Bureau of Standards (SABS), Department of Trade, Industry and Competition (DTIC)**

After the introduction by the DTIC, the officials of the SABS and the NRCS responded to questions of clarity and comments from members on their presentations as tabled before the Committee om 17 February 2021.

After discussions the SABS undertook to provide the Committee with the test reports of the tests alleged to have been done for the retro fitment process as indicated in the Public Protector Report.

**3.8 10 March 2021 - Meeting on the Public Protector Report on a systematic investigation into the illegal conversion of goods carrying Toyota Quantum Panel Vans into Passenger carrying Mini-Bus Taxis to transport members of the public for reward: National Association of Automobile Manufacturers of South Africa (NAAMSA), Banking Association of South Africa (BASA)**

The CEO of NAAMSA provided an overview of the presentation as tabled before the Committee. This also covered the history of the organisation and their membership.

NAAMSA was informed about the “illegal” conversion of panel vans during the stakeholder technical task team meetings facilitated by the Department in 2009. This matter was raised with Toyota by the Department’s Compliance Office at the time. NAAMSA represents 13 manufacturers, importers and distributors of panel vans in South Africa. However, the “illegal” conversion of panel vans into minibus taxis was canvassed only with Toyota and not with any of the other manufacturers. Toyota does not approve nor support the “illegal” conversion of panel vans in South Africa.

The proper and legal conversion of panel vans is part of the manufacturing processes, provided that such conversions have passed the necessary homologation testing requirements as prescribed by the NRCS. They listed some of the compulsory homologation testing requirements:

▪ the rollover reinforcement bars;

▪ seat anchorage;

▪ seat belt requirement;

▪ inside headroom (VC 8023 - M2/M3 as set by the NRCS).

All NAAMSA members who have registered with RT57 have worked with the Department of Health to convert panel vans into ambulances.

NAAMSA members participated in all Stakeholder Technical Task Team Committee meetings since 2009. There were no stakeholder engagement sessions in the past 4 years. The last stakeholder meeting was held in 2016. They don’t have the statistics of the number of meetings attended by NAAMSA and its members with the Department.

All legal conversions are homologated through the NRCS as people carriers, and these would reflect as such on eNaTIS once the vehicle is registered. NAAMSA members do not have access to vehicle owner’s personal information as captured on eNaTIS. NAAMSA is not aware of the admin mark placed on specific vehicles.

NAAMSA members do not sell illegally converted vehicles and NAAMSA was unaware of any of their member’s MIBs doing illegal conversions. There were many comments from the press in respect of clients who have bought illegal vehicles elsewhere, however, no claim has been brought forward by customers to any NAAMSA member thus far.

1. **OBSERVATIONS**

Members made the following observations during discussions:

4.1 The Department was asked to respond in writing to the following matters:

4.1.1 The number of vehicles identified as illegal conversions that have been impounded, including the breakdown per province. The Department was asked to verify the numbers that were provided by the Director-General in the committee meeting on 4 September 2020 and the numbers presented in the meeting with the Sub-Committee;

4.1.2 The publication was noted of the Proclamation (published on 31 October 2022) calling for owners of these illegally converted vehicles to apply for scrapping and noted the closing date of 31 January 2023;

4.1.3 In terms of the Proclamation, the Department was asked to further elaborate on the matters that it expected the taxi industry to implement, whether it was done, and whether there was an enforcement plan in place;

4.1.4 The timeframes by when the targets on the redesign of the NLTIS project would be reached;

4.1.5 The Department was asked to expand on how and when it became aware of the illegal conversions;

4.1.6 The Department was asked to provide the Committee with a full update on the SIU feedback as it wanted updated information on the investigations;

4.1.7 The Department should supply written information on what their retro-fitment process involved;

4.1.8 The Committee was of the view that the Department was not alarmed or shocked about learning of the vehicle conversions and confined itself to the Public Protector Recommendations. This made one conclude that it was merely a tick-box exercise for the Department. This was of concern as there was no sense of urgency to resolve this matter;

4.1.9 There was a need to hold regular meetings with the Department to resolve this issue and protect the users of public transport.

4.2 With regard to the RTMC:

4.2.1 The Committee agreed to engage with the RTMC again going forward, after it held meetings with the other relevant stakeholders;

4.2.2 There were concerns raised on whether it would be possible to determine the extent of illegal panel van conversions currently by looking at the information on eNaTIS, as well as whether the eNaTIS system remains open to manipulation of vehicle data;

4.2.3 RTMC was questioned about the ability to determine from the eNaTIS data, whether vehicles are illegally converted or legally converted and how the entity and the Department are working together to remove illegal conversions from the roads;

4.2.4 RTMC would be required to report back on progress on investigations of fraudulent transactions on the eNaTIS system;

4.2.5 There seems to be dissenting views on where the power and function reside to perform physical inspections of converted vehicles in order to determine whether these are legal or illegal conversions and whether this resides with the RTMC or the NRCS;

4.2.6 The RTMC was asked to indicate whether they are working with SARS to reduce Value Added Tax losses through incorrect vehicle registration;

4.2.7 RTMC was requested to provide more information on the access and powers for Municipal and Provincial administrations to eNaTIS.

4.3 With regard to the engagement with the Public Protector:

4.3.1 The Committee noted that the jurisdiction of the Public Protector was limited to investigate government departments and organs of state and the office could therefore not investigate private companies which is why there were no findings regarding the financing houses or the vehicle manufacturers;

4.3.2 It was noted that the Public Protector suggested the Committee collect information from the SIU regarding the progress on the fraudulent registration of vehicles investigation;

4.3.3 The Committee welcomed the undertaking by the Public Protector to provide replies in writing, as well as copies on evidence relied upon during the investigation that the office conducted to assist in the Committee’s consultations and investigation.

4.4 With regard to the NRCS, SABS and DTIC:

4.4.1 The Committee agreed to schedule follow-up meetings with the NRCS. The SABS and the DTIC would also be invited to these meetings.

4.4.2 NRCS:

4.4.2.1 During the first engagement with the Sub-Committee, the members found that the presentation by the NRCS was very generic and did not speak to the illegal panel van conversions in question and what the NRCS did to remedy this;

4.4.2.2 It was noted that at the time this issue was highlighted in 2009, the NRCS was not established when the illegal conversions took place from 2005 or prior to the issue being highlighted, as it was only established in 2008 and was a division under the SABS;

4.4.2.3 The limited capacity indicated by the NRCS was noted, as well as the alleged regulatory shortcomings that led to the illegally converted vehicles being on the road;

4.4.2.4 The retro-fitment conversions were done according to the safety standards in place at the time;

4.4.2.5 There was a task team created with the Department, NRCS, Banks and the vehicle industry. The NRCS took proactive steps to review the process for homologation of converted vehicles. Also taking steps to rectify the issues with their MOA with the Department and the challenge that there is no formal letter of appointment of the NRCS but only one for SABS. They also recommended and initiated the process for revision of standards administered in the SANS 10319 on registration of MIBs in order to close the identified gaps and introduce conformity of protection;

4.4.2.6 The number of vehicles identified in the process by the Department of 2 353 were already on the road, whereas the NRCS used legislation applicable at the time of the vehicles coming into the market. The NRCS work ends when they issue model numbers to the vehicles. The process to convert or legalise conversion is approved by the Department in terms of their requirements in regulations to the Act. The NRCS will inspect the vehicles and issue Letters of Authorisation if they are converted to the requirements and specifications as well as the taxi recapitalisation programme regulations. This is done irrespective of the manufacturer objection thereto as the legislation at the time did not require their approvals of conversions.

4.4.3 SABS:

4.4.3.1 The SABS followed the tests for the standards linked to the vehicles in place at the time. The setting of these standards is by consensus. SABS indicated that the tests for the retrofitted vehicles were requested by SA Taxi Finance, not the Department. The vehicles tested complied to the requirements in place at the time.

4.4.4 DTIC:

4.4.4.1 The initial presentation fell short of what was expected by the members. The DTIC was requested to submit a more comprehensive presentation;

4.4.4.2 It was noted that the DTIC was working on identifying and filling the gaps in the regulatory space along with the Department. They are undergoing a technical infrastructure integration process as the entities (NRCS and SABS) must mutually reinforce each other in the work they perform;

4.4.4.3 The DTIC support the areas identified by the Public Protector for them to work on and engage on with the Department in order to ensure their policies align. The NRCS and SABS reviewed their MOA with the Department;

4.4.4.4 At a technical level, it was noted that they have a new project (Safer vehicles 2025) involving all stakeholders including the Department and other role players;

4.4.4.5 There is currently no mechanism in place to close the gap to ensure that illegally converted vehicles or vehicles converted for private use do not make it on the market for use as public transport vehicles, and this is an area that needs to be revisited. This will also require additional resources in order to allow the NRCS to perform sufficient inspections;

4.4.4.6 The Committee noted with concern that the DTIC, NRCS and SABS indicated that at the time of their engagements with the Sub-Committee they were not aware of the National Road Traffic Amendment Bill that was before the Portfolio Committee which, in part, sought to improve MIB regulation;

4.4.4.7 The DTIC indicated that the lead department responsible for addressing the concerns over illegal vehicle conversions, was the Department of Transport. Since 2009, the DTIC and the Department engaged on a number of issues, including the retro-fitment and conversions. Currently, the policy still states that there is a two-pronged approach which allows some MIBs to be monitored and inspected and others not to be registered;

4.4.4.8 The Committee was of the view that the DTIC failed in its oversight role to ensure that the MOA gaps were closed. They agreed with the presenters that the system is broken. There is a lot to be done in the policy space and there is a need to see whether the National Road Transport Amendment Bill, once enacted, could assist in resolving these issues.

4.5 With regard to NAAMSA and BASA:

4.5.1 BASA was not available for the scheduled meeting;

4.5.2 NAAMSA:

4.5.2.1 NAAMSA indicated that the industry is working to improve the standards used for homologation in terms of the Safer Cars 2025 project. They do not condone illegal conversions of panel vans;

4.5.2.2 They have acted on recommendations made in the report to ensure they get to a better place without overstepping their mandate;

4.5.2.3 It was noted that NAAMSA was of the view that consumers should perform their own due diligence in making vehicle purchases, but the Committee was of the view that they should consider how they can assist consumers to be protected when they purchase vehicles from NAAMSA member companies;

4.5.2.4 NAAMSA does not have access to eNaTIS and this was an inadequacy to the system as access thereto may assist in building safeguards to ensure information is shared with buyers and that the information is correct;

4.5.2.5 NAAMSA indicated that the Western Cape Government is currently not allowing converted vehicles to be issued with Operating Licences. But if conversions are to be banned, this would require a change in the legislation allowing for this.

4.6 With regard to Toyota SA:

4.6.1 It was noted that they had a meeting with the Department in February 2021 and that they are in the process of working on a way in which Toyota SA can assist the Department per the Public Protector remedial action;

4.6.2 Toyota SA was adamant that panel van chassis were not adequate to take anchor points for seats and seatbelts to be modified into passenger vehicles and this would cost far more than the R18 000 indicated. They did not agree to further modifications. They did provide engineering assistance to the Department once they called for retro-fitments, but this offer was not taken up. These conversions in their view were not adequate. In their view, scrapping of the vehicles remains the best solution as retro-fitment would not be safely possible;

4.6.3 With regard to ambulance conversions, there was a rigorous process undergone for those supplied by Toyota SA, but it must also be noted that these vehicles would also only carry 3 people.

4.7 With regard to the additional information requested by the Sub-Committee, it had to be noted that the requested test report for retro-fitment from SABS was not supplied, as well as the requested written responses and evidence relied upon for the report from the Public Protector were not submitted. These replies were intended to be included in the final report by the Portfolio Committee.

4.8 The Committee members have received reports of illegal conversions of cargo vehicles for purposes of being used as ambulances, security officer transport vehicles, tourism bus/shuttle services or vehicles used for scholar transport. At its core, cargo vehicles were never designed to carry more than 2 or 3 persons safely and the members were of the view that cargo vehicles should be for the exclusive use of transporting cargo and not be allowed to be converted to carrying passengers, legally or otherwise. The members were of the view that these practices should be seized, if they cannot be seized, there must be a clear improvement in regulation of the industry performing cargo vehicle conversions. There was an expression of hope that once the National Road Traffic Amendment Bill [B7-2020] is finalised and sent to the President for assent, this would go a long way towards the improved regulation of manufacturers, importers and bodybuilders of vehicles.

1. **RECOMMENDATIONS**

From the engagements, there appears to be a number of linkages of issues identified to the National Road Traffic Act and the National Road Traffic Amendment Bill [B7-2020] which is currently before the National Council of Provinces prior to being adopted by the National Assembly and sent to the President for assent. The Committee members were able to raise their concerns in the consideration of the Bill in order to propose amendments that could address the issues identified (not being clear on scrapping of vehicles due to illegal conversions, as well as an improved regulation of MIBs and stricter provisions or requirements for vehicle conversions). Following the engagements on the Bill, members were also alerted to notices being issued to taxi operators that by 31 January 2023, none of the thousands of outstanding illegally converted mini-bus taxis would be allowed to transport passengers and that if the operators did not present the vehicles for scrapping under the Revised Taxi Recapitalisation Programme (RTRP), these vehicles will be impounded at roadblocks from February 2023 and if found to be illegal conversions, these vehicles will be scrapped without compensation per the RTRP.

The Committee, having considered the presentations received and the two Sub-Committee reports, seeks to submit this report as a final report and is of the view that further engagements may be required with the Department and the Committee to determine the full extent of illegally converted vehicles on South African roads and propose possible remedial steps that should be taken to close any further gaps that may be identified in the current legislation and regulations linked to vehicle conversions.

The Portfolio Committee, through the adoption of this report, will programme further stakeholder engagements with regard to other vehicle conversions as indicated above and submit supplementary reports on its engagements and findings.

The Committee was also of the view that future vehicle conversions should only be allowed if the vehicle manufacturer indicates that the vehicle can be converted for the new proposed use and that the vehicle safety specifications, for especially public transport vehicles, must be updated and brought in line with current requirements. Further to this, the Committee is of the view that vehicles used for scholar transport must in no way be cargo vehicles or converted cargo vehicles.

The Committee further recommends that the Minister of Transport ensure that:

5.1 The Department report in writing by 15 March 2023 on progress to scrap vehicles per the gazetted proclamation dated 31 October 2022 which had the clear deadline for scrapping of illegally converted vehicles by 31 January 2023;

5.2 The Department improve its communication with NRCS, SABS and DTIC and strengthen and finalise the MOA to ensure MIBs and vehicle testing stations comply with legal conversions and are regularly inspected for compliance;

5.3 The Department should work towards specific regulations that prevent the conversion of cargo vehicles into people carriers, especially when used for scholar transport, also bearing in mind the economic and industry impact that would result from the Committee proposal to prevent future vehicle conversions if the vehicle manufacturers do not agree to the specific vehicle conversion. This must also take into account the economic impact due to the loss of lives in public transport road collisions resulting from un-road worthy vehicles or illegally converted vehicles. The Department should submit a report on these considerations to the Committee within 15 days of adoption of this report [Note that the Department did not submit this report following the adoption of the initial Sub-Committee report of August 2021];

5.4 The Department must investigate allegations of other types of illegally converted vehicles other than mini-bus taxi vehicles and submit a report on the number of these vehicles registered on the eNaTIS system to the Committee within one month of adoption of this report;

5.5 The Department must submit a report to the Committee on a framework on possible legislative amendments to remedy the concerns raised in this report, within one month of adoption of this report;

5.6 The Department must institute an investigation into what the impact would be if the homologation function is moved from DTIC to the DoT and report back on its findings to the Committee, within one month of adoption of this report;

5.7 The Department must review the RTRP cap on remuneration, as well as the requirements to participate or benefit from the RTRP compensation in order to assist operators that may have been unaware of the conversion of these vehicles and seek to improve the uptake of operators to scrap old vehicles, while recovering some funds that would assist in purchasing replacement vehicles. In addition to the recommendation to review the programme, continued progress reports on the RTRP must be submitted to the Committee by the Department, as requested in the Budget Reports and Budget Review and Recommendation Reports.

The Committee recommends that the Minister of DTIC ensure that:

5.8 The DTIC, as well as the Department on Transport, work with the NRCS and SABS to improve and/or update compulsory specifications for the automotive industry, with specific reference to public transport vehicles for purposes of this report;

5.9 The NRCS improve the regulatory and compliance systems and increase market surveillance activities and inspections to monitor compliance with compulsory specifications and improve the enforcement thereof.

The Committee recommends that the taxi-industry ensure that:

5.10 The industry alert their members of the fact that illegal vehicle conversions are a safety risk and a risky investment;

5.11 The industry must work with the Department on improving the uptake of the RTRP and call on their members who own illegally converted vehicles to work or cooperate with relevant authorities or submit these for scrapping even if they have not yet done so by the gazetted deadline of 31 January 2023;

5.12 The industry must work with the Department, DTIC, NRCS and SABS in the setting of the compulsory specifications for vehicles used for the transportation of passengers as used by the industry, to ensure improved safety of their passengers, drivers and the vehicles they invested in.

 **Report to be considered.**

**ANNEXURE A: LIST OF ABBREVIATIONS/ACRONYMS**

|  |  |
| --- | --- |
| **Abbreviation/Acronym** | **Meaning** |
| ABSA | Amalgamated Banks of Southern Africa |
| BASA | Banking Association of South Africa |
| CEO | Chief Executive Officer  |
| CFO | Chief Financial Officer |
| Constitution | The Constitution of the Republic of South Africa, 1996 |
| CTC | Critical Transaction Centre |
| DG | Director-General |
| DoT/DOT | Department of Transport |
| DTI/DTIC | Department of Trade and Industry/Department of Trade, Industry and Competition |
| eNaTIS | Electronic National Traffic Information System |
| FNB | First National Bank |
| GIS | Geographical Information System |
| ID | Identity/Identity Document |
| IVID | International Vehicle Identification Desk |
| LOA | Letter of Authority |
| LTPS | Land Transport Permit System |
| MEC | Member of the Executive Council  |
| MIBs | Manufacturers/Importers/Builders |
| MOA | Memorandum of Agreement |
| MOU | Memorandum of Understanding |
| NA | National Assembly |
| NAAMSA | National Association of Automobile Manufacturers of South Africa |
| NCOP | National Council of Provinces |
| NLTA | National Land Transport Act 5 of 2009 |
| NLTIS | National Land Transport Information System |
| NPTR | National Public Transport Regulator |
| NRCS | National Regulator of Compulsory Standards |
| NRTA | National Road Traffic Act 93 of 1996 |
| NRTR | National Road Traffic Regulations, 2000 |
| NTA | National Taxi Alliance |
| NTV | New Taxi Vehicles |
| OEM | Original Equipment Manufacturer |
| OLAS | Operating Licensing Administration System |
| PPA | Public Protector Act 23 of 1994 |
| PPSA | Public Protector South Africa |
| RSA | Republic of South Africa |
| RTMC | Road Traffic Management Corporation |
| RTRP | Revised Taxi Recapitalisation Programme |
| SA | South Africa |
| SABS | South African Bureau of Standards |
| SANS | South African National Standards |
| SANTACO | South African National Taxi Council |
| SAPS | South African Police Services |
| SARS | South African Revenue Service |
| SIU | Special Investigations Unit |
| TFM | TFM Industries (PTY) Ltd |
| TFS | Toyota Financial Services |
| ToR | Terms of Reference |
| TRIPS | Trade Related Aspects of Intellectual Property Rights |
| TRP | Taxi Recapitalisation Programme |
| TRSA | Taxi Recapitalisation South Africa |
| TSAM | Toyota South Africa Motors |
| VIN | Vehicle Identification Number |