

COMMITTEE REPORTS

National Assembly

PLEASE NOTE: The following report replaces the report of the Portfolio Committee on Transport which was published on page 9 of ATC No 41 dated 12 April 2018.

- 1. Report of the Portfolio Committee on Transport on the National Land Transport Amendment Bill [B 7 – 2016] (National Assembly – sec 76), dated 27 March 2018**

The Portfolio Committee on Transport, having considered the subject of the National *Land Transport Amendment Bill [B 7 – 2016]* (National Assembly – sec 76), referred to it and classified by the Joint Tagging Mechanism as a section 76 Bill, reports the Bill with amendments [B 7A – 2016], as follows:

CLAUSE 1

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

“**‘electronic hailing service’ or ‘e-hailing service’** means a public transport service operated by means of a motor vehicle, which—

 - (a) is available for hire by hailing while roaming;
 - (b) may stand for hire at a rank, and
 - (c) is equipped with an electronic e-hailing technology-enabled application, as contemplated in section 66A;”.
2. On page 3, in line 13, to omit “have”, and to substitute “and may or may not have a”.
3. On page 3, from line 13, to omit “if road based”.
4. On page 3, from line 22, to omit “or is equipped with an electronic hailing application or similar technology that complies with requirements so prescribed, or both such meter and application or technology;”
5. On page 3, in line 35, after “motorised”, to insert “or non-motorised”.
6. On page 3, in line 56, to omit “(i)”, and to substitute “(i)”.

CLAUSE 3

1. On page 4, in line 27, to omit “requirements and timeframes”, and to substitute, “guidelines and desired outcomes”.
2. On page 4, after line 33, to insert the following:
 - (f) by the insertion in subsection (1) after paragraph (bb) of the following paragraph:

“(bbA) administrative or procedural matters necessary to enable public transport operators to obtain the required operating licences; and”; and
 - (g) by the insertion after subsection (1) of the following subsection:

“(1A) The regulations contemplated in subsection (1)(bbA) may differ in respect of different types of public transport or different categories of operators, and may include, but shall not be limited to—

 - (a) the imposition of a moratorium on applications for operating licences or the issuing of such licences for specified periods; and
 - (b) the criteria that must be met or considered by the regulatory entities in order for such applicants to qualify for an operating licence.”.

CLAUSE 5

1. On page 4, in line 41, after “amended”, to insert “—”.
2. On page 4, from line 41, to omit “by the insertion in subsection (1) after paragraph (e) of the following paragraph:”, and to substitute:
 - (a) by the insertion in subsection (1) after paragraph (e) of the following paragraph:”;
3. On page 4, after line 45, to insert the following:
 - “(b) by the substitution in subsection (1) for paragraph (f) of the following paragraph:
 - “(f) the composition, powers and duties of Provincial Regulatory Entities, and”; and
 - (c) by the addition of the following subsection:

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

CLAUSE 7

1. On page 6, after line 4, to insert the following:
 - (i) by the insertion after subsection (1) of the following subsection:

“(1A) (a) A municipality may, in writing, apply to the Minister for exemption from the proviso in subparagraph (xxvi) of subsection (1)(c), and must furnish the Minister with reasons for such application.

(b) In order to enable the Minister to make a decision on such an application, the Minister may call for further information from such municipality.

(c) The Minister may, in writing and within a period of not more than 60 days of receipt of the application, refuse to grant exemption with reasons or grant exemption, subject to such conditions as he or she may deem fit.

(d) If any such condition is not complied with, the Minister may, in writing, withdraw the exemption concerned or determine new conditions.

(e) The Minister may, from time to time, review any exemption granted or condition determined in terms of this subsection, and if he or she deems it necessary, withdraw such exemption or delete or amend such condition.”.
2. On page 6, in line 26, after “(8)”, to insert “(a)”.
3. On page 6, in line 33, to omit “to”, and to substitute “and must”.
4. On page 6, in line 35, after “contracts”, to insert “and where appropriate, the Minister must intervene or issue a directive to the province or municipality under section 5(6)”.
5. On page 6, after line 36, to insert the following:

“(b) The proviso to paragraph (a) does not apply to municipalities that have been exempted in terms of subsection (1A).”.
6. On page 6, in line 48, to omit “and”, and to substitute “₂”

7. On page 6, in line 48, to omit “2” and to substitute “and (8)”.
8. On page 6, in line 61, after “but”, to insert “are”.

NEW CLAUSE

1. That the following be a new clause:

“Amendment of section 12 of Act 5 of 2009

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

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

“(1) A province may pass legislation or enter into an agreement with one or more municipalities in the province to provide for the joint exercise or performance of their respective powers and functions contemplated in this Act and may establish a provincial entity or similar body in this regard, subject to the Constitution and this section.”; and

- (b) by the addition of the following subsections:

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

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

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

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

(5) A provincial entity contemplated in subsection (1) may perform its functions in a municipality outside of or adjacent to the province, in agreement with—

- (a) the relevant municipalities, and
- (b) the other relevant province or provinces, after consultation with the Minister.

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

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

CLAUSE 9

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

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

CLAUSE 11

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

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

“(3) [Such] Subject to section 39, such a municipality

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

CLAUSE 13

1. On page 9, in line 6, to omit “directive”, and to substitute “written request”.
2. On page 9, in line 11, to omit “a directive”, and to substitute “request”.

CLAUSE 18

1. On page 10, from line 20, to omit the following:
 - “(a) by the substitution in subsection (4) for paragraph (c) of the following paragraph:
 - “(c) seeing that the planning authority and other organs of state involved in or affected by provincial planning followed the correct procedures and otherwise complied with the prescribed requirements;”;

CLAUSE 19

1. On page 10, in line 37, after “operators”, to insert “and after undertaking other prescribed public participation procedures”.
2. On page 10, in line 47, after “appropriate,” to insert, “the regulatory entity must on request of the planning authority”.

CLAUSE 22

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

CLAUSE 26

1. On page 12, from line 51, to omit “[seven] five”, and to substitute “seven”.
2. On page 13, in line 1 to omit “2016”, and to substitute “2018”.
3. On page 13, in line 1, after “converted”, to insert “to an operating licence”.
4. On page 13, in line 2, after “renewed”, to insert “for a period not longer than seven years”.
5. On page 13, in line 2, after “date”, to insert “, and such applications for conversion or renewal must be made to the regulatory entity that is responsible for receiving applications for operating licences for the relevant services”.
6. On page 13, in line 4, to omit “[seven] five”, and to substitute “seven”.

7. On page 13, in line 6 to omit “2016”, and to substitute “2018”.
8. On page 13, in line 7, after “licence”, to insert “valid for a period not exceeding seven years”.
9. On page 13, in line 8, after “renewal”, to insert “for a period not exceeding seven years”.

CLAUSE 31

1. On page 14, in line 43, after “amended”, to insert “—”.
2. On page 14, from line 43, to omit “by the substitution for subsection (2) of the following subsection:”, and to substitute:
 - (a) by the substitution for subsection (2) of the following subsection:”.
3. On page 14, after line 46, to insert the following:
 - (b) by the substitution in subsection (5) for paragraph (e) of the following paragraph:

“(e) specify the vehicle or **[exact type]** category of vehicle to be used for providing the services concerned; and”.

CLAUSE 38

1. On page 16, from line 20, to omit paragraph (cA), and to substitute the following:

“(cA) standards or requirements for meters to be installed in metered taxis, including the following:

 - (i) The manner in which the meter must be calibrated and sealed after calibration;
 - (ii) measures to ensure accurate readings of meters; and
 - (iii) information that the meter must provide to passengers; and”.
2. On page 16, in line 34, to omit “subsections”, and to substitute “subsection”.
3. On page 16, from line 35, to omit subsections (5) and (6), and to substitute the following:

“(5) Meters must have the facility to—

 - (a) estimate distances and fares, taking into account distance and time, and must communicate such estimate to passengers in advance, and
 - (b) communicate the fare to passengers at the conclusion of the journey.”

NEW CLAUSES

1. That the following be the new clauses:

“Insertion of section 66A in Act 5 of 2009

40. The following section is hereby inserted in the principal Act after section 66:

Electronic hailing services

- 66A.** (1) In the case of electronic hailing services—
- (a) vehicles are hailed or pre-booked electronically using an e-hailing or technology-enabled application; and
 - (b) the regulatory entity granting an operating licence for such service may specify the area for picking up of passengers, subject to section 57(5).
- (2) If the operating licence specifies the area as envisaged in subsection (1)(b)—
- (a) the vehicle may leave the area if, on the return journey, it is to carry the same passengers that it carried on the outward journey or if the vehicle is to return empty; and
 - (b) the vehicle may pick up passengers outside of that area, if the fare is pre-booked and the passengers will return to such area.
- (3) The vehicle may not operate an e-hailing service where the application for the vehicle is not working properly.
- (4) The e-hailing or technology-enabled application must—
- (a) have the facility to estimate fares and distances, taking into account distance and time, and must communicate the estimate to passengers in advance electronically;
 - (b) communicate the final fare to the passenger or passengers at the conclusion of the trip electronically, and
 - (c) provide the prescribed details of the driver of the vehicle to the passenger or passengers electronically.
- (5) (a) The Minister or the MEC may make regulations prescribing—
- (i) measures to ensure accurate readings of the e-hailing or technology-enabled application;
 - (ii) information regarding the driver and the vehicle that must be communicated to passengers;
 - (iii) other information that the e-hailing or technology-enabled application must provide to passengers, and
 - (iv) any other matter affecting the standard or quality of operation of e-hailing services.
- (b) The Minister must make regulations prescribing special markings or other requirements for vehicles used for e-hailing services.
- (6) The operating licence may authorise the use of more than one service or type of service as contemplated in section 50(2): Provided that the operator and the vehicle comply with the requirements of this Act relating to such services.
- (7) Where a person conducts a business providing an e-hailing software application, that person—
- (a) may not permit an operator to use that application for a vehicle for which the operator does not hold a valid operating licence or permit for the vehicle, or whose operating licence or permit has lapsed or been cancelled, and
 - (b) must disconnect the e-hailing application forthwith and keep it disconnected until a valid operating licence has been obtained for the vehicle.
- (8) A person who fails to comply with subsection (7) commits an offence.”.

Amendment of section 90 of Act 5 of 2009

48. Section 90 of the principal Act is hereby amended—

- (a) by the insertion in subsection (1) of the following paragraph after paragraph (l):

“(lA) if the person provides an e-hailing software application and permits the operator to use that application for a vehicle for which the operator does not hold a valid operating licence or permit, or where the operating licence or permit for the vehicle has lapsed or been cancelled, without disconnecting the e-hailing application and keeping it disconnected until a valid operating licence has been obtained for the vehicle, in contravention of section 66A(7);”;

- (b) by substituting the following in subsection (2) for paragraph (a) of the following paragraph:

“(a) paragraphs (a), (b), (d), (e), (lA) or (o) of subsection (1), a term of imprisonment not exceeding two years, or a fine not exceeding R100 000, may be imposed;”.

Transitional provision

51. All the existing contracts concluded in terms of section 11(1)(c)(xxvi) immediately prior to the commencement of the amendments to that subsection by the National Land Transport Amendment Act, 2018, remain valid until they are cancelled or lapse.”.

CLAUSE 51

1. Clause rejected.

CLAUSE 52

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

“Amendment of laws

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

CLAUSE 53

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

Short title and commencement

56. (1) This Act is called the National Land Transport Amendment Act, 2018, and comes into operation on a date to be determined by

the President by proclamation in the *Gazette*.

(2) Different commencement dates may be made in respect of different provisions of this Act.

SCHEDULE

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

Schedule

Amendment of laws

(Section 53)

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

Report to be considered.