



WES-KAAPSE PROVINSIALE PARLEMENT
WESTERN CAPE PROVINCIAL PARLIAMENT
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NEGOTIATING MANDATE

WESTERN CAPE PROVINCIAL PARLIAMENT

COMMITTEE REPORT:

Report of the Standing Committee on Finance and Economic Development on the *National Land Transport Transition Amendment Bill [B38 - 2005]* NCOP, dated 17 May 2006, as follows:

The Standing Committee on Finance and Economic Development, having considered the subject of the *National Land Transport Transition Amendment Bill [B38 - 2005]* NCOP, referred to the Provincial Parliament in terms of the Rules of the National Council of Provinces, (NCOP), begs to report that it confers on the Western Cape's delegation in the NCOP the authority to support the Bill with the attached recommendations:

GARTH STRACHAN
CHAIRPERSON



Reference section number in the Amendment Bill	Comment and considerations	Recommendations
Clause 1(a)	<p><i>Definition of "association"</i></p> <p>It is assumed that the amendment proposed will allow other types of operators beyond minibus-taxi operators to form associations, with the view that at some later stage a registration process will be required. This is currently provided for (in the case of minibus-taxi operations) in Parts 12 and 17 of the Act.</p> <p>However, the proposed amendment of the Act through this new definition will make no sense until the new wider registration system (which the Department considers questionable in any case – see later comments under discussion on overhaul of Act). In addition, the new wording is ambiguous in that it can be read as requiring the <i>association</i> to operate the service, whereas it is the <i>operator</i> who is a member of the association that has the responsibility to operate the service.</p>	<p>It is <u>recommended</u> that the current definition in the Act be left as is until the wider system of registration of public transport operators (being different types of associations of public transport services) is considered, and a more comprehensive overhaul of the Act is contemplated.</p>
Clause 1(b), (c) and (d)	<p><i>Definitions of vehicle sizes</i></p> <p>It is <u>noted</u> that there now appear new definitions for the seating capacity for minibus, midibus and bus, given in Section 31(1) and referred to in the definitions. These now define the person capacity (including driver) as:</p>	

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	<ul style="list-style-type: none"> • Minibus: 11 to 16 seated persons • Midibus: 17 to 34 seated persons • Bus: more than 34 persons <p>These are accepted and there are no recommendations for an alteration of the Bill. However, it is noted that the definitions are in conflict with those in the Road Traffic Act, 93 of 1996 and the Road Traffic Regulations to this Act.</p> <p>The Road Traffic Act defines passenger carrying capacity as "Bus": more than 16 persons (including driver)</p> <p>The Road Traffic Regulations define the passenger carrying capacity for "Minibus": not more than 16 persons (including driver) and "Midibus": more than 16 and less than 35 persons (including driver).</p> <p>The current wording of the Act (not proposed to be amended by the Bill) defines metered taxi as a vehicle "...., to carry fewer than nine seated persons, including the driver," This definition means that metered taxi vehicles must carry fewer than 8 passengers, i.e. 7 passengers or less, whereas it is proposed that a metered taxi should be allowed to carry 9 passengers or less if the definition of minibus above is read in context.</p>	<p>It is <u>recommended</u> that the capacity definitions of bus, minibus and midibus in the Road Traffic Act and its regulations be removed from that Act and instead the definitions of these vehicles be lodged in the NLTTA with the necessary cross-reference. This will obviate the problem of inconsistency now present and allow any amendments to be made only in one Act.</p> <p>It is <u>recommended</u> that the definition of metered-taxi should be amended in the Bill to read consistently with definitions of the other vehicle types, as follows:</p> <div data-bbox="1249 1146 2121 1343" style="border: 1px solid black; padding: 5px;"> <p><i>'metered taxi service' means a public transport service operated by means of a motor vehicle which is designed, or lawfully [adapted] modified, in compliance with the Road Traffic Act, [1989 (Act 29 of 1989)] 1996 (Act 93 of 1996), to carry [fewer than nine] ten seated persons or less, including the driver, where</i></p> </div>

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		<p>that vehicle-</p> <ul style="list-style-type: none"> (a) is available for hire by hailing, by telephone or otherwise; (b) may stand for hire at a rank; and (c) is equipped with a sealed meter, in good working order, for the purpose of determining the fare payable;
Clause 1(e)	<p><i>Definition of municipal public transport</i></p> <p>The proposed definition of municipal public transport given in the Bill appears to more accurately allude to a municipal public transport service, which does not carry the same meaning. According to the definition in the Municipal Demarcation Board: Local Government Powers and Functions – Definitions Norms and Standards Report, 2003 the following definition is given for municipal public transport:</p> <p><i>In relation to a local municipality:</i></p> <p><i>“Municipal public transport” means the regulation and control, and where applicable:</i></p> <ul style="list-style-type: none"> • <i>the provision of services for the carriage of passengers, whether scheduled or unscheduled, operated on demand along a specific route or routes, where applicable, within a particular area;</i> 	

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	<p><i>where applicable, within a particular area;</i></p> <ul style="list-style-type: none"> <i>• scheduled services for the carriage of passengers, owned and operated by the municipality, or specific routes.</i> <p><i>In relation to a district municipality:</i></p> <p><i>"Municipal public transport" means the regulation of passenger services.</i></p> <p>This would suggest that municipal public transport, as a function, goes wider than the provision of a municipal public transport service, and that it would be more appropriate to rather attempt to define the latter in the Bill.</p> <p>The introduction of the new definition as recommended above would then give clear meaning to the use of the term "municipal public transport service" in Section 49(4) of the Act, which states:</p>	<p>It is <u>recommended</u> that the following definition should be in the Bill:</p> <div data-bbox="1258 827 2123 996" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><i>"Municipal public transport service" means any public transport service that is rendered for a consideration within the area of a planning authority.</i></p> </div> <p>It is also <u>recommended</u> that the definition "Municipal public transport" should be left undefined in the Act, as has "public transport" been left undefined in the Act.</p>

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	<i>"(4) Subsections (2) and (3) do not preclude any municipality from operating a municipal public transport service at its own cost."</i>	
Clause 1(f), (g) and (h)	<i>Definitions of registered builder, importer and manufacturer respectively</i> No comments	The proposed amendments are supported.
Clause 2(a) and (b)	<i>Transformation and skills training</i> No comments	The proposed amendments are supported.
Clause 3	<i>Preferential procurement policy</i> No comments	The proposed amendments are supported.
Clause 4(a), (b) and (c)	<i>General principles for transport planning</i> No comments	The proposed amendments are supported.
Clause 5(a) – (c) and (e) – (f)	<i>Types of plans required by the Act</i> CPTR = Current public transport record OLS = Operating licensing strategy Ratplan = Rationalisation plan PTP – Public transport plan	

Reference number in the Amendment E	Comments	Recommendations
	<p>ITP – Ir</p> <p>A major^s unquestionably the deletion^h, OLS, Ratplan and PTP) ^e a single ITP. The timeframe^u submission of the ITP for appⁱanges that will help in reducing^r resources that would otherwise^w the plans up to date.</p> <p>However^r current statutory plans (CPTRⁱ guidelines for these plans ^ed from the statutes and wil</p>	It is <u>recom</u> transport pla the Bill.
(see 5(d))	<p>Types^h – preparation of plans</p> <p>It is co^hhorities must prepare integra^h only those planning authori^h do.</p>	<p>It is <u>recomr</u></p> <p>"(d) [tra municipal must prep</p>
(see 6(a))	Planni	

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	No comments	The proposed amendments are supported.
Clause 6(b)	<p><i>Planning authorities</i></p> <p>It is considered that although only planning authorities designated by the MEC to do so must provide their transport plans, all planning authorities must comment on applications for operating licenses and be ready to make recommendations, and not only certain planning authorities as the proposed amendment suggests.</p>	<p>It is <u>recommended</u> that the subsection be retained with the current wording of the Act as below:</p> <p><i>“(3) Every planning authority must supply [relevant] its integrated transport plan[s] to the board, and make recommendations to that board”</i></p>
Clause 6(c)	<p><i>Planning authorities</i></p> <p>No comments</p>	The proposed amendments are supported.
Clause 7(a) and (b)	<p><i>National Land Transport Strategic Framework</i></p> <p>No comments</p>	The proposed amendments are supported.
Clause 8(a) and (b)	<p><i>Provincial Land Transport Framework</i></p> <p>No comments</p>	The proposed amendments are supported.
Clause 9	<i>CPTR, OLS, Ratplan, and PTP provisions</i>	

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	See comments under Bill Section 5(a) to (f) above	The proposed amendments are supported.
Clause 10(a)	<p><i>Integrated transport plans</i></p> <p>It is submitted that all planning authorities are to be required to prepare an ITP at some degree of detail (to be defined in regulations still to be prepared), and not only certain municipalities required by the MEC as suggested by the wording as given in 10(a).</p>	<p>It is <u>recommended</u> that the wording of subsection (1) be amended as follows:</p> <p><i>“(1) Transport authorities, core cities and other municipalities required by the MEC to do so, must”</i></p> <p>be replaced by the wording:</p> <p><i>“(1) All planning authorities must”</i></p>
Clause 10	<p><i>Integrated transport plans</i></p> <p>See comments under Clause 5(a) to (f) above</p>	The proposed amendments are supported.
Clause 11	<p><i>Approval of commuter rail components</i></p> <p>No comments</p>	The proposed amendments are supported.

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Clause 12	<p><i>Publication of plans</i></p> <p>No comments</p>	The proposed amendments are supported.
Clause 13(a)	<p><i>Types of vehicles which may be used for public transport services</i></p> <p>There is no provision for vehicle types having a passenger capacity of less than seated 11 persons, including driver, thus eliminating metered-taxis and certain other categories such as smaller tourism vehicles from being able to obtain operating licenses.</p>	<p>It is <u>recommended</u> that a category be introduced preceding (a) to allow for vehicles with up to 10 persons, including driver, by amending the Bill as follows:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><i>“(a) [fewer than nine] 10 seated persons or less, [excluding] including the driver; or”</i></p> </div> <p>Existing subsection (a) becomes subsection (b), Existing subsection (b) becomes subsection (c), Existing subsection (c) becomes subsection (d), and Existing subsection (d) becomes subsection (e),</p>
Clause 13(b)	<p><i>Types of vehicles which may be used for public transport services</i></p> <p>This amendment (to exclude minibus) will mean that as of the date of promulgation of the Bill minibuses that</p>	It is <u>recommended</u> that the proposed insertion of the word “minibus” be removed from the Bill, and that the clause remain unchanged.

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	<p>operate on routes where scheduled services operate will no longer be allowed to do so. The Act provides for transport plans to allow this, but until such plans are published that specifically allow such services, minibuses will be so prohibited. This will be very problematic.</p>	
<p>Clause 13(b)</p>	<p><i>Types of vehicles which may be used for public transport services – taxi recapitalization</i></p> <p>It is considered that the administration of the minibuses-taxi re-cap process requires better-defined legislation and linkage with transport plans.</p> <p>Little appears in the NLTTA besides the provisions of Section 31, which only provides the definition of vehicle sizes. It is considered that a programme likely to cost in the order of R 7 billion or more and will occur over a period of some years should have detailed legislation of how it is to be administered.</p> <p>There are complex administrative processes (such as the administration of the taxi recap agency) to roll out the recap that will also involve the provinces, requiring consistency of approach and properly financially managed procedures.</p>	<p>It is <u>recommended</u> that urgent consideration be given to drafting provisions for administering the re-cap process, to be included in this Bill.</p>
<p>Clause 13(c)</p>	<p><i>Types of vehicles which may be used for public</i></p>	

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	<p><i>transport services</i></p> <p>The term "public passenger transport services" in Section 31(1)(c) is not consistent with the definitions and terminology used elsewhere in the Act, and if used it should be defined in Section 1 of the Act. Possibly the term "public transport service" is a better option to use, as it is defined and covers most modes. It does not however include learner transport and tourism services.</p>	<p>In the context of the use of LDV's for conveying passengers it is <u>recommended</u> that the term "public transport services" be used instead of "public passenger transport services".</p>
Clause 14	<p><i>Disqualifications</i></p> <p>No comments</p>	<p>The proposed amendments are supported.</p>
Clause 15(a)	<p><i>Duties of holder of operating licence</i></p> <p>While there are no comments on the wording of the subsection in the Bill, it is considered that the explanation in the Memorandum of Objects is misleading, and should be corrected. This suggests that the problem the subsection rectifies is that it "will prevent the situation where more than one operating licence exists for the same vehicle". The explanation should be expanded to clarify that the vehicle being replaced <u>and</u> the new vehicle that comes into operation currently operate illegally using two operating licences – the original one in the old vehicle and the new operating licence issued by</p>	<p>The proposed amendments are supported, subject to the explanation in the Memorandum being clarified.</p>

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	the board for the new vehicle.	
Clause 15(b)	<p><i>Duties of holder of operating licence</i></p> <p>This subsection is not strictly needed as the new owner of the vehicle will be without an operating licence, and will have to apply for a new operating licence in the normal way. However, there is no harm or conflict in reinforcing this requirement by adding the subsection. If it is retained it is considered that the new owner of the vehicle may acquire (buy) the vehicle, but he should be prohibited from operating it for public transport until the operating licence has been approved and obtained.</p>	It is <u>recommended</u> that the word "acquired" be deleted and substituted by the word "operation".
Clause 16	<p><i>Subsidised service contracts</i></p> <p>No comments</p>	The proposed amendments are supported.
Clause 17	<p><i>Powers and duties of the board</i></p> <p>No comments</p>	The proposed amendments are supported.
Clause 18	<p><i>Use of same vehicle for long distance</i></p> <p>This Section is meant to impose technical standards for braking on vehicles used for long distance public transport operations. Information received from SABOA</p>	

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	<p>suggests the Type IIA braking requirements are designed for application to inter-urban motor coaches. Most of the minibus vehicles used for long distance operations do not comply, and nor are they required to do so in terms of the Road Traffic Regulations promulgated in GG 27999 on 2 September 2005. (These are the regulations that set specifications for new minibus and midibus vehicles.)</p> <p>It is considered in any case that the setting of such specifications should be lodged in the Road Traffic Regulations.</p> <p>The term "long distance operations" is not consistent with the definitions of the service being referred to here.</p>	<p>It is <u>recommended</u> that the Section be deleted and such specifications that require vehicle manufacture or braking compliance be included in the Road Traffic Act and its Regulations.</p> <p>It is <u>recommended</u> that should it be decided that the Section be retained in the Bill, the word "operations" be substituted by the word "services".</p>
Clause 19	<p><i>Amendment of operating licence: Replacement of specified vehicle</i></p> <p>It is agreed that any vehicle primarily used for regular planned public transport should be replaced by a vehicle of the same passenger capacity specified on the operating licence. However, this does not apply to tourism vehicles, which are produced in different seating capacities depending on the manufacturer's specifications. A tour bus being replaced may be replaced by a slightly smaller or larger vehicle, which should be allowed for at the discretion of the vehicle</p>	<p>It is <u>recommended</u> that Section 90(2) should read as follows:</p> <div data-bbox="1258 1125 2135 1323" style="border: 1px solid black; padding: 5px;"> <p><i>"(2) Subject to subsection (d), the authorised member or official of the board must allow the replacement and issue of an amended operating licence to the holder, if [satisfied that] the replacing vehicle –"</i></p> </div>

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	operator. Thus it is considered that latitude of 20% smaller or larger in relation to the vehicle being replaced should be provided for.	<p>And the addition of subsection (d) as follows:</p> <p><i>"(d) In the case where the vehicle to be replaced has an operating licence for a charter service or a tourism service the passenger capacity of the replacing vehicle may deviate by twenty percent more, the same or less than the capacity of the vehicle to be replaced."</i></p>
Clause 20	<p><i>Special conditions relating to metered taxi and staff services</i></p> <p>The MEC would in terms of the wording in subsection (4) be entitled to set fares after only consulting with the board. It is considered that consultation should be extended to the municipalities concerned, as these being planning authorities may have policies in their transport plans with regard to the fares and pricing of public transport services.</p>	<p>It is <u>recommended</u> that subsection (4) be amended as proposed below:</p> <p><i>"(4) The MEC, in consultation with the board and the municipality or municipalities concerned, may determine a fare"</i></p>
Clause 21	<p><i>Tourist services</i></p> <p>Further to consultations held between the Department and representatives of SATSA, it is considered that no benefit will be gained by requiring a tourism board or similar body to give recommendations to the board on</p>	<p>It is <u>recommended</u> that Section 21 be omitted from the Bill altogether.</p>

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	operating licence applications. Tourism bodies are concerned with tourism marketing and have little knowledge of supply and demand of tourism transport vehicles. It is therefore considered that the entire Section 21 be omitted from the Bill.	
Clause 22	<p><i>Temporary replacement of vehicle</i></p> <p>As in the case of Section 19, it is considered that any vehicle primarily used for regular planned public transport should be replaced by a vehicle of the same passenger capacity specified on the operating licence. However, this rule should not apply to tourism transport vehicles.</p> <p>Thus, using the same principles as discussed above under Bill 19, it is considered that latitude of 20% smaller or larger in relation to the vehicle being replaced should be provided for.</p> <p>There is no allowance for the replacement of buses having a passenger capacity larger than 33 seats.</p>	<p>It is <u>recommended</u> that Section 94(3)(a) should be amended as follows:</p> <p><i>“(3)(a) Subject to subsection (iv), the passenger capacity</i>”</p> <p>It is <u>recommended</u> that a new subsection (iii) be added to provide for buses, as follows:</p> <p><i>“(iii) bus, exceed the capacity by not more than three seats.”</i></p> <p>A further subsection (iv) be added, as follows:</p>

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		<p><i>"(iv) In the case where the vehicle to be replaced has an operating licence for a charter service or a tourism service the passenger capacity of the replacing vehicle may deviate by twenty percent more, the same or less than the capacity of the vehicle to be replaced."</i></p>
Clause 23	<p><i>Offences and penalties</i></p> <p>No comments.</p>	<p>The proposed amendments are supported.</p>
Clause 24	<p><i>Short title and commencement</i></p> <p>No comments.</p>	<p>The proposed amendments are supported.</p>