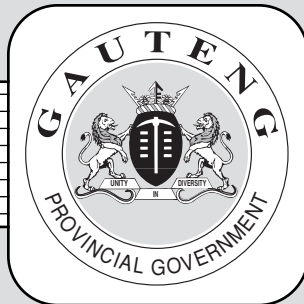


**THE PROVINCE OF
GAUTENG**



**DIE PROVINSIE
GAUTENG**

Provincial Gazette Extraordinary Buitengewone Provinsiale Koerant

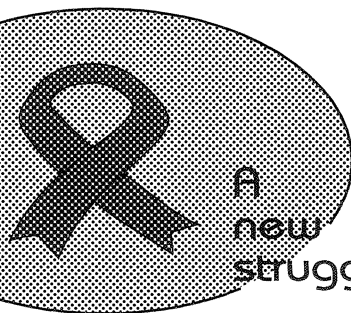
Vol. 18

PRETORIA, 30 AUGUST
AUGUSTUS 2012

No. 259

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affects
us all



A
new
struggle

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DEPARTMENT OF HEALTH

Prevention is the cure

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GENERAL NOTICE

NOTICE 2253 OF 2012



GAUTENG LEGISLATURE

THE GAUTENG PROVINCIAL GOVERNMENT INTENDS TO INTRODUCE THE GAUTENG TRANSPORT LAWS RATIONALISATION BILL 2012 IN THE GAUTENG LEGISLATURE

The above mentioned Bill was published in English in the Gauteng Provincial Extraordinary Gazette No. 259 on , 30 August 2012 for public comments and general information.

The Bill seeks to amend and repeal certain provisions of the Gauteng Public Passenger Road Transport Act, 2001 (Act No. 7 of 2001), to repeal the Gauteng Transport Framework Revision Amendment Act, 2008 (Act No. 3 of 2008), to repeal the Urban Transport Act, 1977 (Act No. 78 of 1977), and to provide for matters connected therewith.

People, who wish to comment on the Bill, may send their written comments to:

Office of the Secretary
Committee Coordinator (Ms Minah Mojapelo)
Gauteng Provincial Legislature
Private Bag X52
Johannesburg
2000

Tel: (011) 498 5789
Mobile: (0795248611
Fax: (011) 498 5719

Comments must reach the above office on or before Friday, 05 October 2012.

Copies of the *Gazette* may be obtained from Government Printers, Publications Section, Vermeulen and Bosman Streets, Pretoria at R2.50 per copy

GAUTENG TRANSPORT LAWS RATIONALISATION BILL 2012

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicates omissions from existing enactments

_____ Words underlined with a solid line indicate insertions in existing enactments

BILL

To amend and repeal certain provision for the Gauteng Public Passenger Road Transport Act 7 of 2001; to repeal the Gauteng Transport Framework Revision Amendment Act 3 of 2008; to repeal Urban Transport Act 78 of 1977, and to provide for matters connected therewith.

BE IT ENACTED by Gauteng Legislature as follows:-

Amendment of table of contents of Act 7 of 2001

1. The table of contents of the Gauteng Passenger Road Transport Act, 2001 (herein after referred to as principal Act) is hereby deleted.

Substitution of Part 1 of the Act 7 of 2001

2. The following Part is hereby substituted for Part 1 of the principal Act:

"PART 1

INTRODUCTORY PROVISIONS

(ss 1-2)

1. Purpose and Objects of this Act

(1) The purpose of this Act is to promote and provide for an effective public passenger road transport system in Gauteng. This can be achieved by fulfilling the primary objects of the Act, which are to:-

- (a) implement provincial and national government policy relating to public passenger road transport services and facilities, monitor the implementation of such provincial policy, conduct investigations into such issues arising from implementation of such policy and make the necessary policy adjustments;
- (b) provide for the registration of association of operators; and
- (c) establish institutional structures to support the objectives of this Act.

2. Definitions

In this Act, unless the context indicates otherwise-

“**Association**” means a grouping of persons operating public passenger road transport services-

- (a) whose object is to make profit;
- (b) whose object is to promote the interest of its members; and
- (c) whose funds are to be applied in promoting those interest;

“**core city**” means a municipality designated as the core city of a metropolitan transport area, and includes any municipality which, after the commencement of this Act is so designated;

“**MEC**” means member of the Executive Council responsible for transport in the Province;

“**metropolitan authority**” includes a metropolitan municipality or district municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“**National Act**” means the National Land Transport Act, 2009 (Act No. 5 of 2009);

“**Non-member**” means any person, whether a natural person or a juristic person, who is not a member of an association;

“**Province**” means the Province of Gauteng;

"PRE" means a Provincial Regulatory Entity as contemplated in section 23(1) of the National Act;

"Registrar" means the Registrar appointed in terms of section 60;

"this Act" includes the regulations." and

"Transport Appeal Tribunal" means the Transport Appeal Tribunal as defined in the National Act."

Repeal of sections 3-4 of Act 7 of 2001

3. Sections 3 and 4 of the principal Act are hereby repealed.

Repeal of sections 6-18 of Part 2 of Act 7 of 2001

4. Sections 6-18 of Part 2 of the principal Act are hereby repealed, both sections included.

Amendment of section 21 of Act 7 of 2001

5. Subsection 21 of the principal Act is hereby amended by the deletion of paragraph (g) of subsection (1).

Repeal of sections 22-59 of Part 3 of Act 7 of 2001

6. Sections 22-59 of Part 3 of the principal Act are hereby repealed, both sections included.

Amendment of section 60 of Act 7 of 2001

7. Section 60 of the principal Act is hereby amended-

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

“(1) The Provincial Registrar appointed under section 4 of the Gauteng Interim Minibus Taxi-Type Services Act is deemed to be the Gauteng Registrar, being the Registrar referred to in section 53 (1) of National Land Transport Transition Act, 2000 (Act 22 of 2000)”; and

(b) by the deletion of subsection (3).

Repeal of sections 93-100 of Part 13 of Act 7 of 2001

8. Sections 93-100 of Part 13 of the principal Act are hereby repealed both sections included.

Repeal of section 103 of Act 7 of 2001

9. Section 103 of the principal Act is hereby repealed.

General Provision

10. The principal Act is hereby amended-

(a) by the substitution of the word “Board” in the Act of the word “PRE”;
and

(b) by the substitution of the word “Appeal Board” in the Act of the word “Transport Appeal Tribunal.”.

Repeal of Schedule of A, B and C of Act 7 of 2001

11. Schedules A, B and C of the principal Act is hereby repealed.

Repeal of Act 3 of 2008

12. The Gauteng Transport Framework Revision Amendment Act, 2008 (Act 3 of 2008) is hereby repealed.

Repeal of Act 78 of 1977

13. The Urban Transport Act, 1977 (Act 78 of 1977) as amended, and assigned to the Province under Proclamation R90 of 1995 is hereby repealed.

Short title and commencement

14. This Act is called the Gauteng Transport Laws Rationalisation Act, 2012, and comes into operation on a date to be determined by the Premier by proclamation in the *Gazette*.

EXPLANATORY MEMORANDUM ON THE OBJECTS OF THE GAUTENG TRANSPORT LAWS RATIONALISATION BILL, 2012

1. BACKGROUND.

The Gauteng Provincial Government took a resolution to re-organize all government institutions in Gauteng particularly, government entities. This re-organisation was necessitated in the main by the proliferation of Funds managed by Departments and agencies in the Province and also the need to bring all these Funds under the control and management of a single agency.

As a consequence of inadequate and limited resources, overlap and duplication of functions, a need to reorganise state institutions was announced by the Premier during the course of 2009/10 financial year to ensure effective and efficient service delivery for the people of Gauteng.

The decision to re-organize government institutions included the creation of new departments, rationalization of provincial public entities, incorporating best practices on transformation of government to deliver on services and build on existing success and deal with challenges. The rationalisation process unfortunately led to the demise of certain entities, and as a result of such demise, legislation will have to be enacted to disestablish and dissolve these entities legally.

2. PURPOSE OF THE BILL.

The proposed rationalisation Bill is meant to amend, repeal and exclude laws that created some of the entities that have since become redundant due to the rationalisation process. The laws need to be amended, repealed and excluded

from the Statute book so as avoid unnecessary legal contestations that may arise due to these laws still being kept in the Statutes.

The Gauteng laws meant for amendment, and repeal to the extent necessary are the Gauteng Transport Framework Revision Act, 2008 (Act No. 3 of 2008), Gauteng Public Passenger Road Transport Act, 2002 (Act No. 8 of 2002) and Urban Transport Act, 1977 (Act No.78 of 1977).

3. DISCUSSION.

3.1 Amendment of the Gauteng Public Passenger Road Transport Act, 2001 (Act No. 7 of 2001)

The National Land Transport Transition Act, 2000 (Act No. 22 of 2000), (NLTTA) which provided for the regulation of public passenger transport operations in the country was repealed after many years in operation. The implementation of the NLTTA has always presented some challenges, which could not be rectified through piece meal amendments of the said Act.

A detailed study into the shortcomings and challenges in the implementation of the NLTTA was commissioned and the most prominent recommendation from that study was that the NLTTA must be repealed in its entirety.

The new Act, National Land Transport Act, 2009 (Act No. 5 of 2009), was drafted and completed in 2008 and published for comments and inputs in the same year. After all the parliamentary processes were completed, the NLTA was then brought into operation on the 8 of April 2009.

The Act provides for the regulation of public passenger road transport generally and also provides for principles of transport planning nationally and therefore, there is very little scope for provinces to legislate except for the MEC's to make

regulations on any matter(s) that they deem necessary to make regulations on. Therefore, it is logical that this piece of legislation be amended to the necessary extent.

3.2 **Repeal of the Gauteng Transport Framework Revision Act, 2008 (Act No. 3 of 2008).**

The Gauteng Transport Framework Revision Act came into operation on the 1st of March 2004 after it was promulgated by the Premier by the Proclamation in the government in the Provincial Gazette of Gauteng. The Act provides for the establishment of Transport Authorities by local government and creation of intergovernmental structures to deal with certain transport related functions that commonly affect both provincial and local government.

In the drafting of the Act, however no provision was made for the establishment of a Provincial Authority or a structure of a similar kind to deal with issues of transport in a more vigorous manner to ensure that we attract the necessary skills and investment on transport matters.

The principal Act was then amended in 2008 and the Gauteng Transport Framework Revision Amendment Act, Act No 3 of 2008 came into effect on the 27 of February 2009. The amendment of the Act provided for the insertion of chapters 3A and 3B respectively. Chapter 3A provides for the creation of the Gauteng Transport Management Authority (GTMA) a juristic person to be listed as a Schedule 3 entity in terms of the relevant provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999). Chapter 3B provides for proper management of Assets and Finances of the GTMA.

The main thrust for the creation of the GTMA was among other things to ensure that there is an accountable structure whose mandate will be to determine transportation planning needs, setting standards of performance, coordinating all policy initiatives and projects and lastly, setting implementation parameters. However, the entity was never listed as Provincial entity and was not functional in the Province.

The decision to re-organise government institutions in Gauteng, unfortunately led to the demise of the GTMA. As a result of the demise of the GTMA, the enabling legislation will have to be repealed in its entirety to ensure that this entity is disestablished or dissolved legally. As the entity was not functional in the Province, no consequential transitional consequences arise.

3.3 **Repeal of the Urban Transport Act, 1997 (No. 78 of 1997)**

Section 8A of the Urban Transport Act, provides for the establishment of a Fund for each province to be known as the Provincial Urban Transport Fund. The Fund is supposed to receive moneys appropriated by the Legislature, interest on investments or any other money. Under the current economic environment and limited resources at the disposal of government, funds such as these, are not sustainable.

Notwithstanding the limited resources, the National Treasury also failed to list the Fund in terms of the relevant provisions of the Public Finance Management Act, (1999) Act No. 1 of 1999; and this clearly has a limiting effect upon the Fund's ability to raise money from other sources if it desires to do so. Therefore, it is logical that this Fund must be dissolved so as to avoid the said Fund becoming a liability to the Provincial Fiscus.

4. CONSULTATION.

Consultations have been held with the following institutions concerning the Bill;

- Chief State Law Adviser in the Office of the Premier
- National Department of Transport
- Provincial Treasury
- National Treasury
- Metropolitan and District Municipalities in Gauteng.

5. FINANCIAL IMPLICATIONS.

There are no major financial implications for the Bill save to say that money will be spent on the publication process through the Gazette, newspapers, public hearings and other public participation initiatives.

6. SOCIAL IMPLICATIONS

None

7. ENVIRONMENTAL IMPLICATIONS

None

8. CLAUSE BY CLAUSE EXPLANATION OF THE BILL

Clause 1 provides for the amendment of table of contents of the Gauteng Passenger Road Transport Act, 2001(Act 7 of 2001)

Clause 2 provides for the substitution of Part 1 of Act 7 of 2001.

Clause 3 provides for repeal of sections 3-4 of Act 7 of 2001.

Clause 4 provides for repeal of Sections 6-18 of Part A of Act 7 of 2001.

Clause 5 provides for amendment of section 21 of Act 7 of 2001.

Clause 6 provides for repeal of Sections 22-59 of Part 3 of Act 7 of 2001.

Clause 7 provides for amendment of Section 60 of Act 7 of 2001.

Clause 8 provides for repeal of sections 93-100 of Part 13 of Act 7 of 2001.

Clause 9 provides for repeal of section 103 of Act 7 of 2001.

Clause 10 provides for general provision.

Clause 11 provides for repeal of Schedule of A, B and C of Act 7 of 2001.

Clause 12 provides repeal of Gauteng Transport Framework Revision Amendment Act, 2008 (Act 3 of 2008).

Clause 13 provides repeal of Urban Transport Act, 1977 (Act 78 of 1977).

Clause 14 provides Short title and commencement.
