



The role of urban mobility in  
(re)shaping cities  
22 to 26 October 2012 in Addis Ababa  
(Ethiopia)



# **CODATU XV: ADDIS ABABA**

## **23 October 2012**

Sub theme 1: What form of governance is required for promoting sustainable mobility?

The South African National Land Transport Act, Act No 5 of 2009

A possible good practice example for other countries of the  
Developing World

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# Structure of this discussion

1. The Founding Provisions provided by the SA Constitution, Act 108 of 1996
2. Public Transport Law Reform in South Africa – a decade of grappling with large scale and complex changes
3. The Purpose and Scope of the National Land Transport Act (NLTA)
4. Responsibilities of the three spheres of government
5. Planning, Regulation and Contracting
6. Funding arrangements for public transport
7. Rationalization as a legislative imperative
8. Law Enforcement
9. Concluding comments

# Founding provisions of the SA Constitution

1. The RSA is **one sovereign democratic state** (9 provinces and more than 250 municipalities, 8 cities with metropolitan status)
2. **Supremacy of the Constitution**
3. A **Bill of Rights** enshrining the classical freedoms associated with a constitutional democracy
4. **Three spheres of government** underpinned by principles of **Cooperative Government** and a system of **Inter- Governmental Relations**
5. Allocation of **exclusive and concurrent legislative powers** (Public Transport, Road Traffic Regulation & Vehicle Licensing)

# Public Transport Law Reform in South Africa

## a decade of grappling with large scale and complex changes

1. The legacy of Apartheid – the abolition of pass laws, **rapid urbanization in the 80 s**, and the emergence of a **fast growing unregulated minibus taxi or para-transit industry** in urban and peri –urban environments.
2. **1994** First Democratic Elections
3. **1996** A new Constitutional Dispensation
4. **1997** A huge law reform program kicks off
5. **2000** A new Local Government Dispensation
6. **1 December 2000** The **NLTTA**, Act No 22 of 2000 is signed into law
7. What did it set out to do?
8. Why did it take so long to move from Transition Act to Final Act?

# The NLTTA: What did the Transition Act attempt to achieve?

1. National Land Transport **Principles and Policy**
2. A first stab at **an appropriate division of powers and functions** between National, Provincial and Local Government
3. The establishment of **Transport Authorities**
4. **Interim Funding Arrangements** for Land Transport
5. A logical **transport planning** system
6. Clear roles and responsibilities regarding the **Regulation of Operating Licences and competition**
7. A national system for **regulating the** minibus taxi (para-transit) industry
8. A national system of land transport **law enforcement**

# Why did it take so long to move from Transition Act to Final Act?

1. **Transport Authorities** – changes to municipal laws that impacted on the NLTTA
2. Changes to **Funding Arrangements** for Land Transport
3. Need to **consolidate fragmented functions** and assign them to the municipal sphere
4. **Engagements with existing operators, organized labor and the minibus taxi industry** regarding rationalization and new models for contracting
5. Establishment of the **National Land Transport Information System**
6. The development of provisions for governing **Cross Border Transport**

# The Purpose and Scope of the National Land Transport Act (NLTA)

1. To further the **process of transformation** and restructuring of the national land transport system
2. To give effect to **national policy**
3. To prescribe **national principles, requirements, guidelines, frameworks and national norms and standards**
4. To **consolidate** national land transport **functions** and locate them in the appropriate sphere of government

# Responsibilities of the three spheres of government

1. **National Minister** – national land transport policy, monitoring, enhance public transport use, ensure that money is available for land transport matters, coordinate between spheres , establish and maintain a national information system, regulate interprovincial and tourist transport
2. May delegate or assign and may make regulations in terms of the Act

# Responsibilities of the three spheres of government

- **Provincial Ministers-** must publish a provincial land transport policy, monitor implementation, ensure that funding is applied in a efficient, economic, equitable and transparent manner, improve planning and coordination and promote inter-governmental relations,
- ensure linkages between land use management, environmental issues, population growth, economic development, investment in transport, transport infrastructure and systems
- May make regulations

# Responsibilities of the three spheres of government

- **Municipal sphere-** develop land transport policy within its area, make by –laws as appropriate, ensure coordination between departments & agencies in the municipal sphere, as planning authority prepare transport plans for its area, do financial planning for infrastructure, operations, maintenance, monitoring and administration of land transport in its area

# Planning, Regulation and Contracting

- **Planning** – Municipalities are Planning Authorities in terms of the Act
- National Government provides a **National Land Transport Strategic Framework**
- Provincial Governments provide Provincial Land Transport Frameworks (**PLTF**)
- Municipalities (Cities) prepare an Integrated Transport Plan (**ITP**) underpinned by an Integrated Public Transport Network Plan (**IPTN**)

# Contracting and Regulation

- **Municipalities** may be assigned the Constitutional Power to become a **Contracting Authority**
- **Municipalities** may be delegated the power to perform **Regulatory Functions**
- Currently Contracting Authority functions are being predominantly being performed by Provincial and Local spheres of government
- In most Provinces the **provincial sphere** via its **PRE** fulfills the **Regulatory Function**

# Funding arrangements for public transport

**Every Municipality** (or City) that is establishing an Integrated Public Transport Network, **(IPTN)** must establish a **Municipal Land Transport Fund** for its area, into which are paid;

- money appropriated by the National Minister
- money appropriated by the Provincial Minister
- User charges
- Interest on invested cash balances belonging to that fund, and
- Donations / contributions to that fund

# Contracting:

## Rationalization as a legislative imperative

- 1. Contracting Authorities** (could be national, provincial or municipal) may enter into negotiated contracts with operators with a view to:
  - integrate services
  - promote economic empowerment
  - Facilitate restructuring of para-statal or municipal transport operators to discourage monopolies

# Contracting:

## Rationalization as a legislative imperative

2. **Contracting Authorities** must take steps to (within prescribed period), and before expiry of subsidized contracts, put arrangements in place for such services to be put out to tender

# Regulation

## Who may issue operating licenses?

- The National Public Transport Regulator
- A Provincial Regulatory Entity (PRE)
- A Municipality to whom the Operating Licensing (OL) function has been assigned

# The role of Regulation in rationalization and transformation

- A history of indefinite licenses often with wide ranging “authority” on multiple routes
- Now a seven year time frame for lapsing of OL that was valid at the time of the commencement of the NLTA
- Demand Analysis based OL issuing with definitive route –based “authority” - in most cases still underpinned by municipal recommendation and provincial authorization
- A valuable tool in the process of rationalizing and reforming the services of both existing scheduled (and subsidized) service providers as well as the minibus taxi industry

# Law Enforcement

- Land Transport Law Enforcement is dealt with by “authorized officers” appointed by **provincial government and municipalities** who may:
  - Stop vehicles
  - Inspect vehicles and drivers for licenses
  - Issue fines / penalties for offences ,and
  - Impound vehicles

# Concluding comments

1. No such thing as a perfect law
2. No such thing as a universally applicable law
3. No such thing as a law that will not cause implementation difficulties and legal challenges

*In the complex arena of public transport what should we look for in a legislative framework?*

# Concluding comments

1. Clarity of **purpose** (pursuit)
2. Clarity of **Institutional Arrangements**  
(required to give effect to the law)
3. **Comprehensiveness**, underpinned by  
**Simplicity**