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GOVERNMENT NOTICE

DEPARTMENT OF TRANSPORT

No. R. 544

12 June 2001

NATIONAL LAND TRANSPORT TRANSITION ACT, 2000 (ACT NO. 22 OF 2000)

AMENDMENT OF THE NATIONAL LAND TRANSPORT REGULATIONS ON REGULATED COMPETITION

The Minister of Transport has, after consultation with the MECs, made the regulations in the Schedule under section 7 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000).

SCHEDULE

Definition

1. In this Schedule "the Regulations" means the National Land Transport Regulations on Regulated Competition published in Government Notice No. R.1329 of 6 December 2000.

Amendment of regulation 3 of the Regulations

2. Regulation 3 of the Regulations is amended—

(a) by the replacement of subregulation (1) thereof with the following subregulation:

"(1) (a) An MEC, transport authority or core city wishing to obtain exemption from the requirements of section 47(2) of the Act and enter into a negotiated contract contemplated in section 47(3) thereof, must submit a written application to the Minister in that regard within 180 days after the date of commencement of the Act.

(b) The applicant must also submit to the Minister—

(i) sufficient particulars to enable the Minister to establish whether the requirements of section 47(3)(a), (b)(i), (b)(ii) and (c) of the Act have been complied with and to publish the particulars required by section 47(6) thereof, and

(ii) a commitment by the applicant to comply with section 47(3)(d), (e), (f) and (g) of the Act.

(c) If the MEC, transport authority or core city, as the case may be, fails to comply with paragraphs (a) and (b), the Minister may refuse to grant such an exemption."

(b) by the replacement of subregulation (2) thereof with the following subregulation:

"(2) The Minister must respond to a request under subregulation (1) and grant or refuse the request within 120 days of receipt of the request."

(c) by the replacement of subregulation (4) thereof with the following subregulation:

"(4) The percentage of the total value of subsidised service contracts in the transport area or province in question referred to in section 47(3)(b)(ii) of the Act, in any case may not exceed 50 percent unless the Minister is of the opinion in the specific case that it is necessary to exceed this percentage to achieve the objects of the Act or to promote the principles set out in section 4(1) thereof, or the other objectives of transport policy."

Amendment of regulation 4 of the Regulations

3. Regulation 4 is amended by the replacement thereof with the following regulation:

"Calculation of cost of negotiated contract

4. (1) The estimated cost of a negotiated contract referred to in section 47(3)(b)(iii) of the Act must be calculated by estimating such cost over the proposed period of the contract by, among other things, using best available norms relating to cost items, the information submitted by the proposed contracting authority, including the feasibility analysis, if any, mentioned in sub-regulation (2), and other available information to determine whether the cost of the negotiated contract is substantially higher than would have been the case were the services subjected to competitive tendering under similar terms and conditions.

(2) Where the proposed contract will be operated by a public-private partnership contemplated in regulation 16 of the Treasury Regulations published under the Public Finance Management Act, 1999 (Act No. 1 of 1999) in *Regulation Gazette* No. 6822 of 31 May 2000 under Notice No. R.556 of 2000, the proposed contracting authority must submit with the business plan contemplated in section 47(3)(e) of the Act, the feasibility analysis contemplated in regulation 16.5 of such Treasury Regulations and other relevant documentation submitted to the national or provincial Treasury thereunder."

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