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GOVERNMENT NOTICE

DEPARTMENT OF TRANSPORT

No. R. 674

19 July 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, under section 7 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000) after consultation with the MECs, made the Regulations in the Schedule.

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 hereby amended—

(a) by the substitution for subregulation (1) of 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) an undertaking 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 paragraph (b), the Minister may refuse to grant such an exemption."

(b) by the substitution for subregulation (2) of the following subregulation:

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

- (c) by the substitution of subregulation (4) of 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. The following Regulation is hereby substituted for Regulation 4 of the Regulations:

“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 according to the following formula:

$$x = a - b$$

- x* being the estimated cost of all subsidised services defined in the specifications of the proposed negotiated contract;
a being the estimated total expenditure related to the provision of the proposed negotiated contract service; and
b being the estimated total revenue from the proposed negotiated contract service.

(2) Where the proposed contract will be operated by a public-private partnership contemplated in regulation 16 of the Treasury Regulations published in terms of section 76 of the Public Finance Management Act, 1999 (Act No. 1 of 1999) in Government Notice No. R.345 of 9 April 2001, the proposed contracting authority must submit with the business plan contemplated in section 47(3)(e) of the Act, the feasibility study contemplated in clause 16.4 of such Treasury Regulations and other relevant documentation submitted to the National or Provincial Treasury thereunder.”.

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