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KwAZULU-NATAL PROVINSIE
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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 40 OF 2019

KWAZULU-NATAL LAND TRANSPORT REGULATIONS, 2019

I hereby make the Regulations contained in the Schedule hereto under section 10(1)(a) – (f) and (2) of the National Land Transport Act, 2009 (Act No. 5 of 2009).

Given under my Hand at Pietermaritzburg, this 07th day of MARCH, Two thousand and Nineteenn.

**MR TM KAUNDA**

Member of the Executive Council of the Province of KwaZulu-Natal
responsible for Transport

SCHEDULE

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CHAPTER 1 INTRODUCTORY PROVISIONS (Regulations 1 – 8)

Definitions

1. For the purposes of these Regulations the definitions as contained in the National Land Transport Act, 2009 (Act No. 5 of 2009), apply with the necessary changes and, in these Regulations, unless the context indicates otherwise –

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

“**assessor**” means any assessor appointed in terms of section 103 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000);

“**association**” means any group of persons formed not for gain, primarily in relation to the operation of minibus-taxi type services for the purpose of promoting the interest of its members, and whose funds are to be applied in promoting the interests of its members;

“**authorised officer**” means –

- (a) an inspector contemplated in section 86 of the Act;
- (b) a member of the South African Police Service, including a member of a municipal police service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995);
- (c) a person in the service of a provincial department or a municipality, or the Road Traffic Management Corporation established by the Road Traffic Management

Corporation Act, 1999 (Act No. 20 of 1999), whose duty is to control traffic or inspect motor vehicles or licences for motor vehicles; or

(d) a road transport inspector contemplated in section 37 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998);

“Chairperson of Adjudication” means the person who chairs the adjudication committee which is responsible for adjudication of applications relating to operating licences received by the KwaZulu-Natal Provincial Regulatory Entity;

“Code of Conduct” means the Code of Conduct as contemplated in the Annexure;

“condemned circumstance” means any situation where any driver or operator or any agent of any driver or operator knew or ought reasonably to have known that any condemned outcome would occur or is likely to occur, but failed to take reasonable steps to prevent such condemned outcome;

“condemned outcome” means –

- (a) loss of human life;
- (b) injury to any person;
- (c) intimidation of any person;
- (d) damage to any property; or
- (e) disruption to the provision of public transport services;

“core city” means a municipality designated under section 4 of the Urban Transport Act, 1977 (Act No. 78 of 1977);

“Department” means the KwaZulu-Natal Department of Transport;

“head of the KwaZulu-Natal PRE” means the person or body appointed as the head of the KwaZulu-Natal Provincial Regulatory Entity as contemplated in regulation 9(1);

“inspector” means an inspector designated under regulation 29;

“interprovincial transport” means public transport operating between two or more Provinces;

“MEC” means the Member of the Executive Council for the Province of KwaZulu-Natal responsible for transport;

“member” means any natural or juristic person who is a member of an association and is the holder of an operating licence issued in terms of section 62 of the Act;

“NLTTA” means the National Land Transport Transition Act, 2000 (Act No. 22 of 2000);

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

“operator” means a person carrying on the business of operating a public transport service;

“panel of assessors” means a panel of assessors established in terms of section 102 of the NLTTA;

“PRE” means the KwaZulu-Natal Provincial Regulatory Entity, as contemplated in section 23 of the Act;

“Province” means the Province of KwaZulu-Natal, and **“provincial”** has a corresponding meaning;

“public disorder” means any act or omission that has or may cause a danger to the general public or any section of the general public;

“public transport boycott” means the complete or partial retardation, obstruction or discontinuation of the provision of public transport services by any –

- (a) driver;
- (b) operator;
- (c) association;
- (d) member of association;
- (e) non-member; or
- (f) other person.

“public transport violence” means any act that is, has been, or is being –

- (a) committed;

- (b) caused to be committed;
 - (c) permitted to be committed;
 - (d) threatened to be committed;
 - (e) threatened to be caused to be committed;
 - (f) threatened to be permitted to be committed; or
 - (g) is likely to be committed,
- by any –
- (i) driver;
 - (ii) operator;
 - (iii) association;
 - (iv) member of association;
 - (v) non-member; or
 - (vi) other person,
- with the intention of causing, or having the effect of, a condemned outcome.

"registered constitution" means the constitution of an association as contemplated in regulation 15.

Purpose

2. The purpose of these Regulations are to –

- (a) prescribe the Code of Conduct for operators or drivers of public transport vehicles in terms of section 10(1)(b) of the Act;
- (b) provide for the recognition of associations that were recognised in terms of the NLTTA;
- (c) provide a mechanism for the recognition of associations; and
- (d) authorise the development and implementation of governance and compliance standards and procedures to ensure the effective, efficient and economical conduct of the affairs of the PRE.

Code of Conduct for operators and drivers of public transport vehicles

3.(1) All operators and drivers of public transport vehicles must comply with the Code of Conduct as contemplated in the Annexure.

(2) These Regulations are the material terms and conditions in terms of which any operator and driver of public transport undertakes the operation and driving of public transport.

(3) The Code of Conduct as contemplated in sub-regulation (1) must be considered by the PRE in the execution of its mandate, including determinations relating to the –

- (a) granting;
- (b) renewal;
- (c) suspension; or
- (d) revocation,

of any –

- (i) right;
- (ii) title; or
- (iii) interest,

ordinarily conferred on an operator or driver of public transport in terms of the Act.

Governance and compliance standards and procedures for PRE

4. The Head of Department must ensure that –

- (a) a handbook or other manual is developed and implemented by the PRE in order to ensure effective, efficient and economical conduct of the affairs of the PRE;
- (b) persons entrusted with the responsibility of implementing the handbook or other manual as contemplated in paragraph (a) must undergo training in order to ensure proper implementation thereof;
- (c) stakeholders affected by the PRE are identified and familiarised with the material terms of the handbook or manual as contemplated in paragraph (a);
- (d) ongoing monitoring and evaluation of performance of the handbook or other manual as contemplated in paragraph (a) is undertaken;
- (e) timely and appropriate steps are taken in respect of the unsatisfactory performance in terms of the handbook or other manual as contemplated in paragraph (a);
- (f) regular assessments are undertaken in order to assess the impact of performance in terms of the handbook or other manual as contemplated in paragraph (a);
- (g) appropriate steps are taken to adapt and enhance the quality of the handbook or other manual; and
- (h) any other steps are taken to improve performance and stakeholder satisfaction in respect of the roles and responsibilities of the PRE.

Recognition of associations

5.(1) All associations that were in existence during the term of the NLTTA continue to have the rights conferred, and responsibilities imposed, by the NLTTA.

(2) The procedure for the recognition of any association that was not in existence during the term of the NLTTA must comply with the statutory requirements prescribed by the NLTTA.

(3) All associations recognised in terms of sub-regulation (2) have the same rights and obligations in terms of sub-regulation (1).

(4) All roles and responsibilities of the PRE in relation to associations in terms of the NLTTA are hereby transferred to, and vest in, the Head of the KwaZulu-Natal PRE.

Impact assessment and continuous improvement

6.(1) The Head of the KwaZulu-Natal PRE must, on a quarterly basis, file written reports with the MEC regarding –

- (a) steps undertaken in the execution of its roles and responsibilities in terms of the Act and these Regulations;
- (b) difficulties encountered in undertaking the steps referred to in paragraph (a);
- (c) any proposed interventions in respect of any difficulties encountered in undertaking the steps referred to in paragraph (a);
- (d) the impact of the steps referred to in paragraph (a) on the enhancement of effective, efficient and economical delivery on the mandate of the PRE; and
- (e) any proposed interventions to improve the effective, efficient and economical delivery of the mandate of the PRE.

(2) The MEC must consider the report referred to in sub-regulation (1), and, if necessary, provide the PRE with a directive on actions that may be implemented.

(3) Any directive in terms of sub-regulation (2) must be given effect to by the PRE within 90 days.

(4) A summary of reports, determinations and the implementation of the directives as contemplated in sub-regulations (1), (2) and (3) must be included in the annual report of the Department.

Publication of Regulations in press

7. The MEC must publish these Regulations within 30 days of the Regulations coming into effect in terms of regulation 40(2) in –

- (a) English in a newspaper targeting English-speaking readers, which has a wide circulation in the Province of KwaZulu-Natal; and
- (b) *isiZulu* in a newspaper targeting *isiZulu*-speaking readers, which has a wide circulation in the Province of KwaZulu-Natal.

Functions of MEC

8.(1) The MEC must, in executing functions as contemplated in section 9(2) of the Act –

- (a) on an annual basis, formulate and implement –
 - (i) a provincial land transport policy; and
 - (ii) an investigation plan;
- (b) undertake quarterly reviews on each of the plans set out in paragraph (a) and make any adjustments reasonably necessary for the improved performance against such plans;
- (c) undertake quarterly financial reviews to evaluate budgetary compliance in respect of expenditure regarding transport-related matters;
- (d) take any steps reasonably necessary to deal with any conduct deviating from strict budgetary compliance in respect of land transport matters, and consider any requests relating to adjustments, deviations or the enhancement of the performance in relation to budgetary compliance;
- (e) undertake resource audits in respect of all municipalities in order to determine the nature and extent of equipping the municipalities to meet their responsibilities and perform their functions as contemplated in section 9(2)(c) of the Act;
- (f) conclude and implement, with each municipality, capacity development agreements identifying clear interventions, the terms regulating such interventions, oversight mechanisms and the consequences of deviation from the said interventions;
- (g) undertake, comprehensive research in order to determine appropriate steps for the improvement of the planning, co-ordination and facilitation of the land transport functions of the Province as required in terms of section 9(2)(e) of the Act;
- (h) implement recommendations arising from the comprehensive research as contemplated in paragraph (g) and record, in writing, any decision and reasons for the non-implementation of any recommendation or any part thereof;

- (i) undertake regular consultations with organs of state affected by any action or decision to be taken in the course of executing functions set out in this regulation and as contemplated in section 9(2)(f) of the Act;
- (j) take into account competing interests and needs of affected organs of state prior to taking any action or decision in the course of executing functions set out in this regulation and as contemplated in section 9(2)(f) of the Act;
- (k) conduct, an impact assessment dealing with matters as contemplated in section 9(2)(g) of the Act;
- (l) implement recommendations arising from the impact assessments referred to in paragraph (k) and record, in writing, any decision and reasons for any decision for the non-implementation of any recommendation or any part of any recommendation arising from such impact assessments;
- (m) set standards, performance criteria and related indicators to ensure intermodal and intra-modal co-ordination and efficient management of investment in transport and of transport infrastructure and systems;
- (n) undertake quarterly reviews on performance standards, performance criteria and related indicators as contemplated in section 9(2)(h) of the Act, and make adaptations or adjustments reasonably necessary to improve such standards, performance criteria and related indicators or to improve performance against such standards, performance criteria and related indicators;
- (o) co-ordinate transport initiatives with municipalities, and other stakeholders in the transport field by establishing co-ordinating structures or by other methods; and
- (p) review performance of co-ordinating structures or by other methods in the course of executing functions contemplated in section 9(2)(j) of the Act and to propose any adaptations or adjustments reasonably necessary to improve the performance of such co-ordinating structures and other matters.

(2) In addition to the requirements prescribed by the Minister, the MEC must prescribe the content of the integrated transport plans for different types or categories of municipality.

CHAPTER 2 HEAD OF THE KWAZULU-NATAL PRE AND ASSOCIATIONS (Regulations 9 – 22)

Transfer of roles and responsibilities

9.(1) The MEC hereby appoints the Head of the KwaZulu-Natal PRE as the person who assumes all the roles and responsibilities in terms of sections 24 and 25 of the Act.

(2) The Head of the KwaZulu-Natal PRE assumes all the roles and responsibilities in terms of section 24 of the Act.

(3) The Head of the KwaZulu-Natal PRE is responsible for receiving applications for the registration of associations and their members, and of non-members and related matters, in respect of the minibus taxi industry in terms of sections 23 and 24 of the Act.

(4) The Chairperson of Adjudication is responsible for considering and deciding upon applications relating to operating licenses in terms of sections 23 and 24 of the Act.

Registration of association or non-member in one province only

10.(1) An association and any of its members or any non-member that undertakes intra-provincial services may not –

- (a) at any time be registered or provisionally registered in more than one association in respect of a particular route; and
- (b) operate a similar route with the same starting point or destination with two operating licences.

Provisional registration and full registration of associations and non-members registered under provincial laws

11.(1) Any association and any non-member that, immediately before the commencement of the NLLTA, was registered in terms of any provincial law, is regarded as an association or non-member registered provisionally for a period ending on a date to be determined by the MEC by notice in the *Provincial Gazette*, after consulting the Minister and the other Members of the Executive Council.

(2) The provisional registration of an association or non-member in terms of sub-regulation (1) lapses if one of the following events takes place–

- (a) the period mentioned in sub-regulation (1) expires; or
- (b) the provincial registration is converted to full registration in terms of provincial laws.

(3) The provisional registration of a non-member may not be converted to full registration unless the non-member –

- (a) has had each permit held by that non-member converted into an operating licence;
- (b) holds an operating licence for each vehicle by means of which the non-member operates a public transport service; and
- (c) has subscribed to the Code of Conduct, in terms of regulation 3, applicable in the Province.

Direct full registration of associations

12. Associations qualify for full registration only if –

- (a) every member of the association –
 - (i) holds an appropriate operating licence for each vehicle by means of which the member operates a public transport service;
 - (ii) operates the public transport service to which such an operating licence relates, in compliance with the terms and conditions attached thereto, and the authorisation conferred by the operating licence;
 - (iii) has converted all permits held by that member to operating licences; and
 - (iv) has subscribed to a constitution that complies with these Regulations;
- (b) the association's application for registration has been made –
 - (i) to the PRE of the province where it is based; and
 - (ii) by the association's authorised representatives in the manner provided for in these Regulations and applicable provincial laws; and
- (c) the association complies with the relevant provincial laws.

Registration of members

13.(1) Where an association has been provisionally or fully registered, the Head of the KwaZulu-Natal PRE must register every member in respect of which the required information has been provided in the relevant application form, the application has been approved, and an operating licence has been issued, as a full member of that association.

(2) If an association has been registered, every member of the association must be registered, and comply with the association's constitution, Code of Conduct, these Regulations and provincial laws.

(3) A new member on behalf of whom an application has been made must be registered or provisionally registered as a member if the Head of the KwaZulu-Natal PRE is satisfied that the new member –

- (a) holds an appropriate operating licence for each vehicle by means of which the member operates a public transport service;
- (b) operates the public transport service to which such an operating licence relates, in compliance with the terms and conditions of the operating licence; and
- (c) has subscribed to the constitution of the association concerned and to the Code of Conduct applicable in the province where that association is registered.

Issuing of certificates and distinguishing marks upon registration or provisional registration

14.(1) The Heads of Provincial Regulatory Entities of other provinces must liaise with one another so as to ensure that the registration numbers allocated by each of them to associations, their members and non-members are unique.

(2) The Head of the KwaZulu-Natal PRE must, upon having registered any association, member or non-member, allocate a unique registration number to the association, member or non-member concerned and issue to the association, member or non-member a registration certificate in the manner and form, as determined by the MEC by notice in the *Provincial Gazette*.

(3) Where a member or non-member that is –

(a) registered is engaged in interprovincial transport, the Head of the KwaZulu-Natal PRE must, in addition, issue, in the manner and form prescribed by the Minister, a distinguishing mark for each vehicle of the registered member or non-member that is used under the authority of an appropriate operating licence to operate the interprovincial transport;

(b) provisionally registered is engaged in interprovincial transport, the Head of the KwaZulu-Natal PRE must, in addition, issue, in the manner and form prescribed by the Minister, a distinguishing mark for each vehicle of the provisionally registered member or non-member –

- (i) that is used under the authority of an appropriate operating licence or permit; or
- (ii) in respect of which the provisionally registered member or non-member has made application for an appropriate operating licence in accordance with the Act and the relevant provincial laws.

(4) Where a member or non-member that is registered is engaged in scholar transport, the Head of the KwaZulu-Natal PRE must, in addition, issue, in the manner and form prescribed

by the Minister, a distinguishing mark for each vehicle of the registered member or non-member that is used under the authority of an appropriate operating licence to operate the scholar transport.

(5) Where a registered member or non-member is engaged in any public transport operation the Head of the KwaZulu-Natal PRE must, only issue operating licenses to persons who have vehicles registered and licenced by the appropriate registering authority of the Province.

Requirements for constitutions of associations

15.(1) The constitution of an association must, for the purposes of full registration, comply with the following requirements –

- (a) state the association's full name, postal and physical addresses, and declare that it is an association not for gain;
- (b) set out its aims and objects, and state where it is based;
- (c) prescribe qualifications for, and admission to, membership of the association, and the rights, benefits and duties associated with it, and require the names of all members to be entered on a membership list;
- (d) establish the circumstances in which a member is no longer entitled to the benefits of membership, and provide for the termination of membership and the circumstances in which membership may be terminated;
- (e) stipulate conduct that constitutes misconduct, and that would give rise to disciplinary proceedings against offending members, prescribe the disciplinary steps to be taken against the members and the procedures to be followed in that regard, and establish a standing disciplinary committee for that purpose;
- (f) provide for appeals against the findings of the disciplinary committee, and any penalty or sanction imposed by it, or against the loss of the benefits of membership or the termination of membership, prescribe a procedure for those appeals and determine the body to which those appeals may be made;
- (g) provide for membership fees and the method for determining membership fees and other payments by members;
- (h) prescribe rules for convening and conducting an annual general meeting of members and special meetings of members, including the quorum required for, and keeping minutes of, any such meeting;
- (i) describe the manner in which decisions are made at any meeting;

- (j) establish a governing body to represent and manage the affairs of the association and its members and act on its behalf, and define the powers and duties of the governing body in that regard;
- (k) describe the manner in which decisions are to be made by the governing body;
- (l) establish the office of the secretary and define the functions attached thereto;
- (m) provide for other office-bearers of that body and define their respective functions;
- (n) prescribe a procedure for nominating and electing the members of that body;
- (o) establish the circumstances and manner in which members of that body may be removed from office;
- (p) provide for appeals against their removal from office, and prescribe a procedure for those appeals and determine the body to which those appeals may be made;
- (q) establish the circumstances and manner in which a ballot must be conducted;
- (r) provide for a grievance procedure, and the establishment of a standing grievances committee;
- (s) stipulate the requirements for amalgamation with any other association;
- (t) require proper accounting records to be kept and financial statements prepared in accordance with generally accepted accounting practice and procedures, and establish a standing financial committee;
- (u) determine a date for the end of its financial year;
- (v) provide for the appointment of an accounting officer, for financial control and responsibility, and for the annual audit of the association's accounts and statements by a person registered and practising for his or her own account as a public accountant or auditor;
- (w) provide for the opening of a bank account for the association, and the banking of its money;
- (x) establish the purposes for which the association's money may be used;
- (y) prescribe a procedure for changing its constitution; and
- (z) prescribe a procedure by which it may be decided to dissolve the association.

(2) The constitution, in making provision in terms of sub-regulation (1) for –

- (a) special meetings of members, must provide for members to call a special general meeting if a stipulated number or percentage of the members indicate that they require such a meeting;
- (b) the election of members of the executive committee or body, may not allow members to be elected to it for a single term longer than two years;
- (c) the annual general meeting, must require that the election of the members of the governing body and of the association's office-bearers be held, and its audited financial

statements and budget for the following financial year be considered and disposed of, at that annual general meeting;

(d) the matters mentioned in sub-regulation (1)(q), must provide that the election of members of the executive committee or body and of the three standing committees must be conducted by secret ballot;

(e) the matters mentioned in sub-regulation (1)(t), must require interim financial statements to be prepared quarterly for scrutiny by members;

(f) joining fees and membership fees, must allow those fees to be determined and to be re-determined or adjusted only at the annual general meeting of members;

(g) the matters mentioned in sub-regulation (1)(s), (y) and (z), must require that a decision to amalgamate with another association, to amend the constitution or to dissolve the association be passed only with the support of at least two thirds of the members present at the meeting, provided there is a quorum;

(h) the qualifications for membership, must provide that an application for admission to membership will be refused unless the applicant has subscribed to the Code of Conduct;

(i) the circumstances in which membership may be terminated, must provide for the termination of the membership of any member operating a public transport service without the necessary operating licence, or, where applicable, the necessary permit, for each vehicle by means of which the service is operated; and

(j) matters that constitute misconduct, must declare the following to be misconduct –

(i) a breach of the Code of Conduct by any member;

(ii) a member's employment of a driver who has not subscribed to the Code of Conduct;

(iii) the continued employment by the member of any driver who repeatedly has breached the Code of Conduct; and

(iv) failure on the part of the association's governing body or any member thereof or office-bearer of the association authorised by that body to comply with the requirements of regulation 35(3)(a) of the National Land Transport Act Regulations, 2009.

(3) An association's constitution must be filed with the PRE pursuant to the association's successful application for provisional or full registration.

Award of contract

16. An organ of state, a transport authority or a core city may not award a contract, for any purpose relating to public transport, to any operators of minibuss taxi-type services who are not

registered or provisionally registered members or non-members, or to any associations that are not registered, except assistance relating to training or instruction.

Registration or provisional registration of members

17. If the member or new member does not comply with the conditions set out in regulation 13, the PRE may revoke the operating licence.

Registration of non-member

18. A non-member qualifies for registration and, upon having applied therefor, must be registered if the –

- (a) non-member has paid the application fee prescribed by the MEC;
- (b) non-member is a natural or juristic person;
- (c) non-member has subscribed to the Code of Conduct applicable in the province where registration is sought;
- (d) non-member –
 - (i) holds an appropriate operating licence for each vehicle by means of which the non-member operates a public transport service; and
 - (ii) operates the public transport service to which such an operating licence relates, in compliance with the terms of, and conditions attached to, the operating licence; and
- (e) applicant's registration as a non-member is ascribable to the following causes –
 - (i) there is no registered association with regard to the route or routes, or in the area where the applicant's public transport service is operated; or
 - (ii) where there is such a registered association, if –
 - (aa) the applicant has been refused membership of the association;
 - (bb) the association's requirements for admission to membership are unfair;
 - (cc) in view of the prevailing circumstances, the applicant cannot reasonably be expected to become a member of the association; or
 - (dd) the applicant, if admitted to membership of the association, will be subjected to unfair discrimination.

Duties of registered associations and non-members

19.(1) A registered association must –

- (a) take all steps that are reasonably necessary to prevent any breaches of the Code of Conduct and any other misconduct on the part of its members and their drivers, and take disciplinary steps against members whenever necessary;
- (b) inform the Head of the KwaZulu-Natal PRE within 21 days, in writing, of the outcome of all disciplinary proceedings against members and grievance procedures by members;
- (c) inform the MEC of any impending or current conflict with any other association or associations;
- (d) inform the Head of the KwaZulu-Natal PRE within 21 days, in writing, of any changes –
 - (i) in its membership; and
 - (ii) with regard to the information furnished by it to the Head of the KwaZulu-Natal PRE in compliance with this Chapter,
- (e) inform the Head of the KwaZulu-Natal PRE of the termination or temporary suspension of the membership of any registered member, within seven days after the termination or suspension;
- (f) timeously give the Head of the KwaZulu-Natal PRE notice of all general meetings of members, and allow his or her representative to attend such a meeting as an observer;
- (g) inform the Head of the KwaZulu-Natal PRE timeously of any amendment proposed to its constitution and the nature and effect thereof; and
- (h) if requested to by any organ of state, transport authority or core city which has rendered financial assistance to the association or its members for a particular purpose, supply the requested information as to the application of the funds received from that source.

(2) Every registered member or non-member must –

- (a) inform the Head of the KwaZulu-Natal PRE within 21 days, in writing, of any changes with regard to the information furnished by him or her; and
- (b) if requested to by any organ of state, transport authority or core city which has rendered financial assistance to the member or non-member for a particular purpose, supply the requested information regarding the application of the funds received from that source.

Non-compliance with registered constitution, Act, Regulations under Act and breach of Code of Conduct

20.(1) Where the Head of the KwaZulu-Natal PRE, on reasonable grounds, suspects that a registered association has failed to comply with any provision of the Act, the Regulations under

the Act, these Regulations or its registered constitution and such failure is material for the application of this Chapter, or that a registered non-member has breached the Code of Conduct, the Head of the KwaZulu-Natal PRE must conduct an investigation into the matter.

(2)(a) In conducting such an investigation, the Head of the KwaZulu-Natal PRE must give the association or non-member an opportunity to make representations or give evidence with regard to the alleged non-compliance or breach.

(b) The association or non-member must submit to the Head of the KwaZulu-Natal PRE, in writing, within 14 days such representations as contemplated in paragraph (a).

(3) In deciding the matter, the representations and evidence made, given or furnished by the association or non-member, must be taken into consideration.

(4) If the Head of the KwaZulu-Natal PRE finds such an association or non-member guilty of non-compliance or breach –

(a) the Head of the KwaZulu-Natal PRE must, by notice in writing, direct the association or non-member to remedy the non-compliance or breach within the period stated in the notice, and set out the steps to be taken for that purpose; and

(b) the association or non-member to whom such a notice has been given, may approach the Head of the KwaZulu-Natal PRE's office for assistance in taking the steps specified in the notice.

(5) Upon failure to comply with such a notice, the Head of the KwaZulu-Natal PRE may cancel the registration of the association or non-member or suspend the registration temporarily, as dictated by the gravity of the non-compliance or breach and the circumstances relevant thereto.

(6) The Head of the KwaZulu-Natal PRE must impose one of the sanctions provided for in sub-regulation (5) and issue an order in terms of which the association or non-member is disqualified from being registered at any time during a specified period which may not be longer than one year –

(a) where the registration of an association is non-compliant with a material provision of its registered constitution;

(b) the breach of the Code of Conduct by a registered non-member cannot be remedied;
or

(c) the sanction so imposed involves the cancellation of the registration of the association or non-member.

(7) Where the registration of an association has been terminated or suspended temporarily in terms of sub-regulation (6)(a), (b) or (c) the registration of all its members will be cancelled or suspended, for the same period.

(8) Upon a registered member being notified by a registered association that it has terminated or temporarily suspended his or her membership for non-compliance with its registered constitution or for a breach of the Code of Conduct, the PRE must cancel that member's registration or suspend it for the same period.

(9) The PRE must provide in its annual report to the MEC any action taken in terms of sub-regulation (5), (6) or (8) against any registered association, member or non-member.

(10) The Head of the KwaZulu-Natal PRE must –

- (a) by written notice, inform any association, member or non-member of the cancellation or temporary suspension of its registration, and direct the association, member or non-member to return the latter's registration certificate to the Head of the KwaZulu-Natal PRE within seven days of the date of the notice; and
- (b) where an association's registration has been cancelled or suspended temporarily, further direct the association to ensure that all its members' registration certificates are returned to the Head of the KwaZulu-Natal PRE within the period specified in that notice.

Cancellation or temporary suspension of registration of associations, members and non-members

21.(1) The PRE must cancel the registration of –

- (a) an association –
 - (i) which has ceased to exist or is no longer based in the Province; or
 - (ii) if it has secured registration through fraudulent conduct;
- (b) a member in respect of a particular association where –
 - (i) the registration of that association is cancelled; or
 - (ii) membership of that association has been duly terminated in accordance with its constitution; and
- (c) a non-member who –
 - (i) is no longer based in the Province;
 - (ii) if a juristic person, has ceased to exist; or

(iii) does not hold an appropriate operating licence or permit for each vehicle used by the non-member to operate a public transport service.

(2) An association, member or non-member whose registration or provisional registration has been cancelled or temporarily suspended as contemplated in section 79 of the Act, must return the registration certificate and the distinguishing marks, if any, issued with regard to the registration so cancelled or suspended to the Head of the KwaZulu-Natal PRE within 21 days after receiving written notice.

(3) The Head of the KwaZulu-Natal PRE may, where an association has terminated membership due to a member's breach of the Code of Conduct, if justified in the circumstances, cancel that member's registration in respect of any other association of which the former is a member, after having given the member sufficient opportunity to make representations and advance reasons why that should not be done.

(4) The Head of the KwaZulu-Natal PRE may cancel, or temporarily suspend, for a period not exceeding one year, the registration of –

- (a) any association, for failure to comply with any provision of its registered constitution, or breached the Code of Conduct;
- (b) any member –
 - (i) whose membership of an association has been suspended temporarily; or
 - (ii) of an association whose registration has been suspended temporarily;
- (c) any non-member for having breached the Code of Conduct; or
- (d) any member or non-member who has been convicted of an offence mentioned in section 90 of the Act.

Effect of lapsing or cancellation of registration on holding of permit or operating licence

22.(1) Where the full registration of an association lapses or is cancelled, all permits and operating licences held by the members of that association which relate to the route or routes in question, lapse on a date calculated as 90 days after such lapsing or cancellation, unless –

- (a) the association has been re-registered, and the member is still a member thereof;
- (b) the member has obtained membership of another registered association operating on the route or routes in question; or
- (c) the member has obtained registration as a non-member in respect of the route or routes in question.

(2) Where the registration of a non-member lapses or is cancelled, all permits and operating licences held by the non-member which relate to the route or routes in question lapse on a date calculated as 90 days after such lapsing or cancellation, unless the non-member has obtained –

- (a) membership of a registered or provisionally registered association operating on the route or routes in question; or
- (b) re-registration as a non-member in respect of the route or routes in question.

CHAPTER 3 DISPUTE RESOLUTION (Regulations 23 – 24)

Handling complaints and holding inquiry by Head of KwaZulu-Natal PRE

23.(1) A complaint lodged with the Head of the KwaZulu-Natal PRE must –

- (a) be made in writing;
- (b) be delivered by hand or sent by registered post; and
- (c) clearly set out the nature and reasons for the complaint.

(2) The Head of the KwaZulu-Natal PRE must keep a register of complaints which must include the following details –

- (a) the date of receipt of the complaint;
- (b) the name of the person against whom the complaint is directed;
- (c) a brief description of the nature of the complaint;
- (d) a complaint register number;
- (e) the status of the complaint; and
- (f) the name of the complainant: Provided that the Head of the KwaZulu-Natal PRE may, under exceptional circumstances, accept a complaint in confidence where this is considered to be in the interests of justice.

(3) After considering the complaint referred to in sub-regulation (1), the Head of the KwaZulu-Natal PRE may consider the following in dealing with the complaint, whether –

- (a) an inquiry should be held or not;
- (b) the matter should be referred to an association to be disposed of, in which case his or her representative may be authorised to review the outcome to ensure that appropriate action has been taken; or
- (c) the matter should be referred to some other person or institution, or law enforcement agency for further disposal.

(4) If the Head of the KwaZulu-Natal PRE proceeds with an inquiry, at least 14 days written notice must be given to all affected parties to attend a formal hearing at the date, time and place stated in the notice.

(5) Affected parties may be allowed legal representation at the inquiry.

(6) Where a person has been duly notified by the Head of the KwaZulu-Natal PRE to attend the inquiry and fails to do so, the inquiry may proceed in the absence of that person.

(7) The Head of the KwaZulu-Natal PRE must appoint a committee consisting of no less than three persons to hold the inquiry.

(8) During the inquiry, the committee of inquiry must –

(a) afford the affected parties an opportunity to be heard, which opportunity includes, but is not limited to –

- (i) producing written evidence or making oral representations;
- (ii) calling witnesses and leading evidence;
- (iii) questioning or cross-examining a person who testifies as a witness; or
- (iv) re-examining witnesses; and

(b) listen fairly to both sides and observe the rules of natural justice; and

(c) discharge its duties in a transparent and impartial manner.

(9) The committee of inquiry must keep a record of proceedings.

(10) Upon disposal of the matter the committee of inquiry must, within 14 days, notify the complainant and any other affected parties of the outcome in writing.

(11) Where the matter cannot be disposed of by the committee of inquiry, the matter must be escalated to the Head of the KwaZulu-Natal PRE, who must resolve the matter.

Appeals to Transport Appeal Tribunal

24.(1) All appeals to the Transport Appeal Tribunal must be strictly in accordance with the Transport Appeal Tribunal Act, 1998 (Act No. 39 of 1998).

(2) All decisions or directives of the Transport Appeal Tribunal must be effected by the Head of the KwaZulu-Natal PRE to the extent required by such decisions.

CHAPTER 4 REGULATION AND ENFORCEMENT (Regulations 25 – 35)

Impounding procedures

25.(1) When impounding a vehicle, an authorised officer must complete the Impoundment Control Form.

(2) The form referred to in sub-regulation (1) must contain a unique serial number and, whenever a vehicle is impounded, copies of the form must be furnished to the driver of the vehicle.

(3) A complete record of the Impoundment Control Form must be kept at the impounding authority.

(4) In order to secure the release of an impounded vehicle, the registered owner of the vehicle must produce the following documents –

- (a) the original identity document of the owner;
- (b) the original vehicle registration certificate, or log book, and, where the original is in the possession of a title holder, a duly certified copy; and
- (c) a certified copy of the criminal charge sheet or original fine receipt confirming that the matter has been finalised.

(5) An authorised officer who releases an impounded vehicle must, before releasing the vehicle, complete a release form.

(6) Where an impounded vehicle is not claimed by the owner within 90 days, such impounded vehicle must be disposed of by the Department as prescribed in the National Road Traffic Act, 1996 (Act No. 93 of 1996).

Confiscation of distinguishing marks relating to operating licences

26.(1) A driver of a vehicle must surrender the distinguishing mark on the vehicle if he or she is found by an authorised officer to be operating a public transport service with an invalid operating licence.

(2) If a vehicle is found to be unroadworthy in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996), by a registered vehicle testing station, the distinguishing mark must be removed by an authorised officer and handed to the Head of the KwaZulu-Natal PRE.

(3) Upon confiscating a distinguishing mark, as contemplated in sub-regulations (1) and (2), the authorised officer must, within a period of seven days, submit it to the Head of the KwaZulu-Natal PRE.

Documentation of agreements between associations

27.(1) In cases where multiple associations render public transport services which –

- (a) are of common origin or destination;
- (b) operate within a commonly defined geographical area; or
- (c) share ranks or other public facilities,

the Head of the KwaZulu-Natal PRE must take steps to document the terms of existing agreements between the affected associations in a reciprocity agreement.

(2) A reciprocity agreement referred to in sub-regulation (1) must include details regarding –

- (a) routes or geographical areas operated by the affected associations;
- (b) shared routes, ranks or other public facilities; and
- (c) operational arrangements,

and must be signed by a duly authorised office bearer of each of the affected associations.

(3) Associations must at all times abide by the terms and conditions in the reciprocity agreement and must ensure that their members operate in accordance with the terms and conditions.

Identification of authorised officers

28. An authorised officer who is on duty must wear the requisite uniform and identification, and must, upon being so requested, produce official identification.

Inspectors

29.(1) An inspector must be appointed who has been appropriately trained, certified, registered and issued with an appointment card.

(2) An inspector on duty must –

- (a) wear an official uniform; and
- (b) carry the official identification card issued by the Head of Department.

(3) An inspector must, on request, produce the identification card referred to in sub-regulation (2)(b).

(4) In addition to the powers and duties in these Regulations, an inspector may, in relation to road transportation –

- (a) stop a motor vehicle by means of a lamp emitting an intermittently flashing blue light in any direction and which is mounted on the inspector's vehicle;
- (b) enter such vehicle and examine the vehicle and the goods conveyed thereon in order to establish if that vehicle is being used for public transport; and
- (c) conduct compliance checks on all vehicles to be issued with operating licences.

(5) The Head of Department or the delegated representative of a transport authority or municipality must keep a register of certificates issued to inspectors as contemplated in sub-regulation (1).

Manner of stopping vehicles by authorised officer

30. An authorised officer may cause a vehicle to be stopped in the manner prescribed for stopping vehicles by traffic officers in the National Road Traffic Act, 1996 (Act No. 93 of 1996).

Conditions governing discontinuation of public transport by operator

31.(1) An operator who discontinues or intends to discontinue the service to which an operating licence relates must notify the Head of the KwaZulu-Natal PRE.

(2) The notice referred to in sub-regulation (1) must be in writing and delivered by hand or by registered post, within 30 days of such discontinuation.

(3) Upon discontinuing the service, as contemplated in sub-regulation (1), an operator whose operating licence is affected must, within 21 days, return such operating licence to the PRE for cancellation or amendment.

(4) An operator who fails to notify the Head of the KwaZulu-Natal PRE of any service that has been discontinued may be black-listed from obtaining an operating licence from the Head of the KwaZulu-Natal PRE for a period not exceeding 10 years.

Temporary suspension of public transport service

32.(1) An operator who temporarily suspends a public transport service must, not later than the period specified in regulation 31(3), notify the Head of the KwaZulu-Natal PRE thereof by written notice, delivered by hand or registered post.

(2) The notice referred to in sub-regulation (1) must contain detailed reasons for such suspension.

(3) Upon resumption of the temporarily suspended service the operator must, within 48 hours, notify the Head of the KwaZulu-Natal PRE by written notice delivered by hand or registered post.

(4) Where a public transport service is temporarily suspended, the Head of the KwaZulu-Natal PRE must, in addition to serving notice of its decision must immediately publish its decision in the *Provincial Gazette* and in at least two newspapers circulating in the Province.

Surrender of operating licences

33. An operator –

(a) whose provisions do not correspond with the authorisation as granted by the Head of the KwaZulu-Natal PRE; or

(b) which has lapsed, been withdrawn, cancelled or suspended,

must surrender such operating licence by hand or registered post to the Head of the KwaZulu-Natal PRE within a period of seven days.

Notification of change of contact details of holder of operating licence

34. An operator whose contact details on record with the Head of the KwaZulu-Natal PRE, change during the period of such operating licence, must notify the Head of the KwaZulu-Natal PRE of such change of details not later than 10 days after such change, by written notice delivered by hand, electronic means or registered post.

Suspension or withdrawal of rights relating to routes as contemplated in section 79 of Act

35.(1) The PRE may suspend or withdraw all, or limit any, rights, title or interest conferred on any party in respect of the operation or use of, or in relation to, any route it determines that –

- (a) such rights, title or interest were acquired as a result of fraudulent conduct;
- (b) such rights, title or interest were acquired as a result of any misrepresentation;
- (c) there is a basis for the decision to grant such rights, title and interest to be reviewed and set aside on any of the grounds set out in the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);
- (d) another party has the rights, title and interest to the exclusion of, or jointly with, another party;
- (e) the continued use or operation of such route is no longer necessary or viable in whole or in part;
- (f) any agreement between parties having such rights, title or interest or engaged in a dispute over such rights, title or interest is an appropriate instrument to regulate the use and operation of such route; or
- (g) good cause has been shown for the suspension, withdrawal or limitation of such rights, title or interest.

(2) Any decision by the PRE to suspend, withdraw or limit any operating licence in terms of these Regulations read with the Code of Conduct, must have the corresponding effect of suspending, withdrawing or limiting any rights, title or interest conferred in respect of the operation or use of, or in relation to, the route that could otherwise be used or operated, on the strength of such operating licence.

(3) The PRE must comply with all the requirements of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), in respect of steps taken, or any determination made relating to complaints arising from a decision made in terms of this regulation.

CHAPTER 5

LICENCE CONDITIONS
(Regulations 36 – 37)

General conditions of operating licences

36.(1) The following general conditions apply to buses, metered taxis, minibus taxis, staff services, midi-buses and scholar transport –

- (a) the PRE may require any information from any operator at any time, provided that such information relates to the operator's rights and obligations as an operator;
- (b) a decal must be displayed on the vehicle in accordance with the provisions of regulations 24, 27(1) and 27(2) of the National Land Transport Act Regulations, 2009;
- (c) an operating licence ceases to have any force or effect from the expiry date reflected on the licence unless the licence is renewed by the PRE prior to the expiry of such licence, and if an application for renewal is pending, the operating licence remains valid until the PRE renews or refuses the issuing of the licence for a reason listed in regulation 25(3) of the National Land Transport Act Regulations, 2009;
- (d) a vehicle should have one operating licence;
- (e) a vehicle should only be driven by a driver with a professional driver's licence permit;
- (f) all disputes arising from the authority given to an operator should be referred to the PRE;
- (g) no driver or operator may conduct themselves in a manner that contravenes, or undermines or is likely to undermine any provision of the Code of Conduct;
- (h) the holder of an operating licence or permit must be automatically disqualified from continuing to hold such operating licence or permit upon –
 - (i) death; deregistration; dissolution; sequestration; winding-up; or other cessation of the existence of such holder;
 - (ii) a court making an order that the holder is incapable of managing its affairs in terms of Rule 57 of the Uniform Rules of the High Court of South Africa;
 - (iii) the holder being convicted of a criminal offence by a Court of law and being sentenced without the option of a fine;
 - (iv) the holder being found guilty of an offence by the PRE which is similar to an offence in respect of which he or she is serving an effective or suspended sentence;
 - (v) such holder being found by a Court of law to be liable or guilty in a manner that renders the holder unfit to hold any position of trust, driver's licence or firearm; or
 - (vi) if such operating licence or permit was issued in error or obtained by fraudulent or other illegal means, or as a result of the PRE having relied on a misrepresentation in the course of issuing the operating licence or permit;

(i) the holder of an operating licence or permit must, during the term of the operating licence or permit, or any extended or renewed term, ensure that the holder complies with any law; and

(j) the holder of an operating licence must, on written request by the PRE or any representative of the PRE, provide without unreasonable delay, all co-operation or information sought by the PRE in order to evaluate the nature and extent of compliance with paragraph (i).

(2) The operator must ensure that the following documents are valid throughout the term of the licence –

- (a) registration or identification documents;
- (b) Professional Driver's Permit (PrDP);
- (c) vehicle registration licence;
- (d) Certificate of Roadworthiness/ Certificate of Fitness on an annual basis;
- (e) comprehensive and personal liability insurance; and
- (f) tax clearance certificate.

Special conditions

37.(1) The special conditions for operating licences for buses are –

- (a) in the case of long distances, both the departure point and the destination planning authorities must consent to the operation;
- (b) in the case of an operational agreement, such agreement comes into effect if approved by the Head of the KwaZulu-Natal PRE;
- (c) in the case of common routes, operational agreements must be submitted to the Head of the KwaZulu-Natal PRE for approval before the route is operated; and
- (d) security and enforcement in ranking facilities and vehicles, and on the operation as a whole, must be undertaken by the municipality.

(2) The special conditions for operating licences for metered taxis are –

- (a) a metered taxi must be fitted with a South African Bureau of Standards-approved meter that must be used on every chargeable trip;
- (b) a metered taxi must have an operating licence;
- (c) the operating licence is valid for three years; and
- (d) all metered taxis must comply with all marking and branding requirements as required by the planning authority.

(3) The special conditions of operating licences for minibus taxis are –

- (a) in the case long distances, both the departure point and the destination planning authorities must consent to the operation;
- (b) an operational agreement comes into effect once and if it has been approved by the Head of the KwaZulu-Natal PRE;
- (c) in the case of common routes, operational agreements must be submitted to the Head of the KwaZulu-Natal PRE for approval before the route is operated; and
- (d) security and enforcement in ranking facilities and vehicles, and on the operation as a whole, must be done by designated law enforcement structures, which are the South African Police Services and the Traffic Police.

(4) The special conditions for operating licences for staff services are –

- (a) in terms of the definition of staff services in the Act, the vehicle specified in the operating licence must be used exclusively for the conveyance of employees;
- (b) the operating licence is only issued for the period for which the contract is valid and, where the contract is terminated prematurely, the operating licence must automatically be cancelled;
- (c) the operating licence must only be renewed if a new contract is awarded to the operator to provide the same service;
- (d) the service may not be provided outside the hours specified in the operating licence;
- (e) the operator must only provide the service authorised by the operating licence, and may not provide any form of minibus-taxi or scholar services;
- (f) the service authorised by the operating licence is provided on a daily basis, and, where the vehicle is inoperative for a period of more than a week, the operator must inform the Head of the KwaZulu-Natal PRE of such inactivity;
- (g) the service authorised by the operating licence must be provided with a vehicle that at all times complies with the conditions of the National Road Traffic Act, 1996 (Act No. 93 of 1996), and the Act;
- (h) the service authorised by the operating licence must at all times be provided in a manner that is safe for passengers and that passengers are at all times treated with respect and in a dignified manner;
- (i) the operating licence must only be used for the vehicle specified therein;
- (j) the operator must ensure that the driver of the vehicle specified in the operating licence is properly licensed and holds the necessary Professional Driving Permit;
- (k) the operator and his or her authorised employees must always maintain sound relations with government departments;

- (l) the operator or his or her authorised employees may not threaten or intimidate any person or fellow operator;
 - (m) if the operator or his or her authorised employees are involved in violent confrontations, the operating licence must be summarily cancelled;
 - (n) the operator and his or her authorised employees may not disrupt any government meetings;
 - (o) a copy of the identification document of each member of staff, and a passenger list showing the addresses of the staff members, must be kept in the vehicle;
 - (p) if the original operating licence marked "for the vehicle" is lost or damaged, the holder must immediately apply for a duplicate operating licence, and the duplicate original operating licence marked "for the file" must be used by the operator during court cases to show that the vehicle is linked to a valid operating licence; and
 - (q) if the duplicate original operating licence marked "for the file" is used to provide a public transport service with a vehicle not specified therein, with a different registration, chassis or engine number, the operating licence must summarily be withdrawn using the provisions of section 79 of the Act, and in such cases, the operator must surrender the original licence and the distinguishing marks relating to the service.
- (5) The special conditions relating to operating licences for midi-buses are –
- (a) in the case of long-distance, both departure point and destination planning authorities must consent to the operation;
 - (b) in the case of an operational agreement, such agreement only comes into effect once it is approved by the Head of the KwaZulu-Natal PRE;
 - (c) in the case of common routes, operational agreements must be submitted to the Head of the KwaZulu-Natal PRE for approval before the route is operated; and
 - (d) security and enforcement in ranking facilities, vehicles and on the operation as a whole must be done by the municipality.
- (6) The special conditions for scholar transport are as contemplated in section 72 of the Act.

CHAPTER 6 EXTRAORDINARY MEASURES (Regulation 38)

Extraordinary measures

38.(1) Where the MEC is of the opinion that urgent steps are necessary to prevent, combat or manage any –

- (a) condemned outcome;
- (b) public disorder;
- (c) public transport boycott; or
- (d) public transport violence,

he or she may, subject to sub-regulation (2), suspend the provision of public transport services in any affected area.

(2) The MEC's powers to suspend the provision of public transport services in terms of sub-regulation (1) may only be exercised upon the fulfilment of the following requirements –

(a) the MEC must issue a notice to any of the persons who, in the opinion of the MEC, are the direct or proximate cause or in any way blameworthy for the –

- (i) condemned outcome;
- (ii) public disorder;
- (iii) public transport boycott; or
- (iv) public transport violence;

(b) the notice referred to in paragraph (a) must –

- (i) be issued within 24 hours of the MEC forming the opinion referred to in sub-regulation (1);
- (ii) state the full reasons for the MEC's opinion; and
- (iii) call upon such persons to provide reasons in writing within 48 hours of the service of the notice as to why the provision of public transport services in any area considered to be affected or likely to be affected, may not be suspended;

(c) if reasons are served on the MEC within the 48 hours stipulated in paragraph (b)(iii), the MEC may suspend the provision of public transport services in any area considered to be affected or be likely to be affected for any period or extended period deemed necessary to stabilise the environment, until the MEC is satisfied that the risk of such occurrence has been eliminated or can be properly managed;

(d) if written reasons are served on the MEC within the 48 hours stipulated in paragraph (b)(iii), and the MEC is satisfied that sufficient cause has been shown, the MEC must withdraw the notice referred to in paragraph (a) in writing; and

(e) if reasons are served on the MEC within the 48 hours stipulated in paragraph (b) (iii), and the MEC is not satisfied with the reasons, the MEC must issue a notice in writing confirming his or her decision to suspend the provision of transport services in terms of sub-regulation (1) and proceed to implement such decision

(3) In forming his or her opinion in terms of sub-regulation (1), the MEC must take into account the –

- (a) safety of passengers using the public transport service;
- (b) safety of residents;
- (c) safety of any other person entering or exiting the affected area;
- (d) rights of operators;
- (e) rights of the public;
- (f) nature and extent of the capacity of law enforcement agencies to guarantee the provision of safe public transportation; and
- (g) alternative transport means for passengers using the public transport service.

(4) A decision to suspend in terms of sub-regulation (2)(c) and (e) must be published in the *Provincial Gazette* setting out –

- (a) the reasons for the opinion;
- (b) a summary of the representations made;
- (c) the reasons for the decision to suspend the provision of public transport services after receiving representations; and
- (d) a notification that any affected person is entitled to approach a Court of law for relief against the decision.

CHAPTER 7

STATUS OF SURVIVING REGULATIONS AND SHORT TITLE AND COMMENCEMENT (Regulations 39 – 40)

Status of surviving regulations

39.(1) Subject to sub-regulation (2), all regulations that survived the repeal of the KwaZulu-Natal Public Transport Act, 2005 (Act No. 3 of 2005), in terms of the KwaZulu-Natal Public Transport Act Repeal Act, 2011 (Act No. 5 of 2011), are hereby incorporated into these Regulations.

(2) If there is an inconsistency between any provision of these Regulations and a provision of the surviving regulations referred to in sub-regulation (1), then the provisions of these Regulations apply.

Short title and commencement

40.(1) These Regulations are called the KwaZulu-Natal Land Transport Regulations, 2019.

(2) These Regulations come into effect on the date of their publication in the *Provincial Gazette*.

ANNEXURE
CODE OF CONDUCT

CONTENTS

1. Definitions and interpretation
2. Introduction
3. Purpose
4. Relationship with PRE
5. Relationship with passenger
6. Relationship among drivers and operators
7. Performance of duties
8. Personal conduct and private interests
9. Generally acceptable standards of conduct
10. Disciplinary procedure

Definitions and interpretation

1.(1) Unless otherwise expressly stated, or if the context otherwise requires, the words and expressions listed below must, when used in this Code of Conduct, bear the meanings ascribed to them below and cognate expressions bear corresponding meanings –

“**driver**” means any person who undertakes driving in the public transport industry strictly in accordance with the Act, and any person assisting or acting on behalf of or acting through such driver or collective of drivers;

“**material adverse event**” means any event or circumstance directly or indirectly resulting from any act or omission on the part of any driver or operator or any agent thereof which has the effect of, or is likely to contravene or undermine or adversely affect any provision, or the implementation, of this Code of Conduct;

“**unrest**” means a state of unlawful or illegal disturbance in the provision of public transport.

(2) In this Code of Conduct –

(a) the table of contents and paragraph headings are for the purposes of reference only and may not be used in interpretation;

- (b) unless the context clearly indicates a contrary intention, any word connoting any gender includes the other genders, and the singular includes the plural and *vice versa*;
- (c) when a number of days are prescribed, such number must be limited to business days and must exclude the first and include the last day, unless the last day is not a business day, in which case the last day must be the next succeeding business day; and
- (d) a reference to a business day is a reference to any day excluding a Saturday, Sunday and public holiday in the Republic of South Africa.

Introduction

2.(1)(a) The Act maintains that an MEC may make Regulations with regard to a Code of Conduct for drivers and operators of public transport vehicles, which may differ according to the mode of transport concerned.

(b) The need exists to provide direction to drivers or operators with regard to their relationship with the PRE, the public and other relevant stakeholders in the public transport industry, and to professionalise the public transport industry with a view to improving adherence to acceptable behaviour, customer relations, the identification of and combating deviant behaviour, and invoking consequence management.

(2)(a) Although this Code of Conduct seeks to be as comprehensive as possible, it is not exhaustive in regulating standards of conduct and may need to be amended from time to time.

(b) The MEC may, from time to time, effect any amendments to this Code of Conduct to the extent reasonably necessary in order to improve and adapt this Code of Conduct to ever-evolving developments in the public transport industry.

(3)(a) Adherence to the Code of Conduct by drivers and operators leads to increased respect and support for the industry from its users, the public at large, and government.

(b) Drivers and operators must conduct their public transport-related activities and business with due care to ensure the safety of the public.

(c) This means that drivers and operators must do everything in their power to ensure that the provision of transport services places the interests of the passenger and the public as the highest priority, particularly ensuring that the provision of public transport, at all times –

- (i) is lawful;
- (ii) is efficient;
- (iii) is effective;
- (iv) is affordable;

- (v) is safe;
- (vi) is sensitive and responsive to passengers with special needs;
- (vii) is respectful;
- (viii) occurs in a stable and peaceful environment where any condemned outcome does not occur or does not have the likelihood of occurring;
- (ix) occurs in a manner that prevents any condemned circumstance; and
- (x) generally aligns to this Code of Conduct.

Purpose

3.(1) The purpose of this Code of Conduct is to –

- (a) give effect to the letter and spirit of the provisions of this Code of Conduct;
- (b) professionalise the provision of public transport-related services;
- (c) record, enable and detect acceptable standards of behaviour in the public transport industry; and
- (d) generally improve stakeholder relations in the public transport industry.

(2) This Code of Conduct constitutes material terms and conditions under which drivers and operators are permitted to operate, conduct business and provide or undertake any public transport-related services or activities.

(3) Any conduct on the part of any –

- (a) operator;
- (b) driver; or
- (c) agent of such operator or driver,

that deviates from the standards set out in this Code of Conduct constitutes a material adverse event.

Relationship with PRE

4.(1) All drivers and operators carry on business and undertake activities by virtue of authority from the PRE.

(2) The authority from the PRE to such drivers and operators creates rights and obligations on the part of such drivers and operators.

(3) This Code of Conduct constitutes part of the obligations, roles and responsibilities of drivers and operators in carrying on business and undertaking activities.

(4) Beyond granting authority, the PRE is entitled, in certain circumstances, to make decisions, including the –

- (a) renewal;
- (b) non-renewal;
- (c) suspension; or
- (d) revocation,

of any rights flowing from the granting of authority to such drivers and operators.

(5) The conduct of any driver or operator in relation to the standards set out in this Code of Conduct is material in the determination by the PRE of any of the matters set out in sub-item (4).

Relationship with passengers

5. All drivers and operators, in conducting their business and carrying out their activities, must

–

- (a) consider the general interests of the passengers of paramount importance;
- (b) serve the passengers in an –
 - (i) honest;
 - (ii) polite;
 - (iii) responsive;
 - (iv) friendly;
 - (v) courteous;
 - (vi) dignified;
 - (vii) unbiased; and
 - (viii) impartial manner;
- (c) strive for excellence in providing the experience of safe, user-friendly and the best value-for-money experience for the passengers;
- (d) have regard for the circumstances and concerns of the passengers;
- (e) affirm the passengers as clients or customers who are the direct contributor to the financial sustainability and well-being of the operators and drivers;
- (f) affirm the passengers as stakeholders who have a critical say in how government and its agencies implement legislative and other reforms in the public transport industry; and

- (g) have special regard for passengers with special needs including passengers living with disabilities, elderly passengers and child passengers.

Relationship among drivers and operators

6. All drivers and operators, in conducting their business and carrying out their activities, must

–

- (a) place at the centre of their interaction the general interests of passengers as the upper-most priority;
- (b) engage in a –
 - (i) constructive;
 - (ii) peaceful;
 - (iii) cordial; and
 - (iv) solutions-driven manner,that seeks to advance the interests of the passengers; and
- (c) hold each other accountable for ensuring appropriate behaviour as stipulated in this Code of Conduct.

Performance of duties

7. All drivers and operators, in conducting their business and carrying out their activities, must

–

- (a) strive to achieve the stated purposes of this Code of Conduct and the general standards set out in this Code of Conduct;
- (b) take reasonable steps to detect or combat any circumstances that may result in any –
 - (i) condemned circumstance;
 - (ii) condemned outcome; or
 - (iii) material adverse event;
- (c) execute their duties in a professional and competent manner;
- (d) not engage in unlawful activity;
- (e) not engage in any activity that does or may create a conflict of interest; and
- (f) take steps to better understand the business environment and the opportunities available in the public transport industry and undergo regular training to improve their skills, career progression or business opportunity prospects.

Personal conduct and private interests

8. All drivers and operators, in conducting their business and carrying on their activities, must

–

- (a) behave in a manner that improves the reputation of the entire public transport industry; and
- (b) desist from any conduct that brings or is likely to bring the name of the public transport industry into disrepute.

Generally acceptable standards of conduct

9.(1) The professionalism of the public transport industry is of paramount importance in the improvement of the image of the industry, end-user satisfaction and the enhancement of the

–

- (a) efficient;
- (b) effective; and
- (c) affordable,

provision of public transport.

(2) This Code of Conduct seeks to –

- (a) create uniform standards aligned to generally acceptable standards of conduct in a professional business environment;
- (b) underscore the importance of the users of public transport as an important stakeholder;
- (c) prescribe recourse in relation to any deviation from generally accepted standards of conduct; and
- (d) discourage operators and drivers in the public transport industry from any conduct that constitutes a contravention of generally accepted standards of conduct.

(3)(a) Adherence to the Code of Conduct by operators and drivers must lead to increased respect and support for the industry from its users, the public at large and government.

(b) It must be instrumental in bringing about peace and unity in enhancing professionalism, stability, customer satisfaction and uniformity in the industry.

(4) The following standards apply to operators –

- (a) operators must conduct their business with due care for the safety of the public;
- (b) operators must ensure that their vehicles are clean and roadworthy at all times, and have a valid certificate of fitness or roadworthy certificate;

- (c) operators must ensure that their vehicles are kept in good working order, and, in the case of a breakdown of a vehicle while transporting passengers, take all possible steps to arrange the timeous repair of the vehicle, or for some other means for the onward conveyance of the passengers;
- (d) operators must listen carefully to passenger complaints, identify problem areas, and, if appropriate, take action to remedy the situation;
- (e) operators must ensure that their vehicles at all times carry or display the relevant –
 - (i) public permit;
 - (ii) certificate of fitness or certificate of roadworthiness;
 - (iii) distinguishing marks (if issued by the authorities);
 - (iv) other documents required by law;
 - (v) their association's logo and number;
 - (vi) rank token; and
 - (vii) operator's name, address and telephone number;
- (f) operators must at all times strive to maintain a good relationship with the authorities and law enforcement officers;
- (g) operators must co-operate with any –
 - (i) police officer;
 - (ii) traffic officer; or
 - (iii) transport inspector,carrying out their official duty;
- (h) operators may not employ drivers who are not in possession of a valid Public Driving Permit or Professional Driving Permit;
- (i) operators must have an agreed, clear understanding with their drivers regarding control measures for driver performance;
- (j) operators may not discourage or prevent their drivers from joining a driver's association, organisation or union;
- (k) operators may not participate in any violent activities or action that could in any way lead to violence;
- (l) operators may not carry unlicensed firearms or allow the display of a weapon in their vehicle;
- (m) operators may not threaten or intimidate any person or group;
- (n) operators must adhere to the relevant provisions, rules and procedures of the Act, Regulations and Code of Conduct;
- (o) operators must maintain confidentiality with regard to the internal affairs of the Head of the KwaZulu-Natal PRE;
- (p) operators may not operate on a route for which they do not have an operating licence;

- (q) operators must attend meetings of the Head of Administration for the KwaZulu-Natal PRE, when reasonably expected of them;
- (r) operators must avail themselves of opportunities provided by government to participate in training courses;
- (s) operators must encourage and facilitate the attendance of their drivers in government-sponsored training courses; and
- (t) operators may not commit, or cause, or permit to be committed, any of the offences stipulated in section 90 of the Act.

(5) The following standards apply to drivers –

- (a) drivers must adhere to the rules of the road and obey all laws in respect of the driving and roadworthiness of vehicles in public areas;
- (b) drivers may not operate a vehicle for public conveyance which is unsafe or unfit to be operated;
- (c) drivers may not operate a vehicle for public conveyance while being unfit for any reason to operate such vehicle safely;
- (d) drivers may not participate in blockades or disrupt the normal operations of road traffic in any manner;
- (e) drivers may not use foul language or engage in any disorderly conduct in public: they must be clean, sober and neatly dressed;
- (f) drivers must at all times treat passengers with dignity, respect and courtesy and take great care to ensure the comfort and safety of passengers;
- (g) drivers may not charge passengers unauthorised fares;
- (h) drivers may not obstruct operations at any rank;
- (i) drivers of the first three vehicles in a loading queue must be in or in the immediate vicinity of their vehicles;
- (j) drivers may not repair or maintain vehicles at ranks, except at especially demarcated areas, and stopping areas;
- (k) drivers may not gamble or use intoxicating substances at taxi facilities or while on duty;
- (l) drivers may not litter or allow their passengers to do so; and
- (m) drivers may not commit, or cause, or permit to be committed, any of the offences stipulated in section 90 of the Act.

(6) Should a breach of this Code of Conduct come to the attention of any operator, driver, commuter, authority or law enforcement official, it must be reported to the Head of the KwaZulu-Natal PRE.

(7)(a) Drivers and operators must ensure that all persons –

- (i) assisting them;
- (ii) acting on behalf of them; or
- (iii) acting through them,

conduct themselves in a manner aligned to this Code of Conduct, and must take appropriate steps to –

- (aa) prevent;
- (bb) combat; or
- (cc) otherwise manage deviant behaviour by any such person.

(b) Beyond recourse against any such person, the conduct of such person in paragraph (a), is attributable to the –

- (i) relevant driver;
- (ii) operator; or
- (iii) collective of drivers or operators,

and must give rise to disciplinary proceedings against such –

- (aa) driver;
- (bb) operator; or
- (cc) collective of drivers or operators,

in terms of the Code of Conduct.

Disciplinary procedure

10.(1) The Head of the KwaZulu-Natal PRE must investigate complaints of a breach of this Code of Conduct by any driver or operator.

(2)(a) The Head of the KwaZulu-Natal PRE may only consider action against any driver or operator after having received a complaint in writing from any person.

(b) All written complaints must be in the form of sworn affidavits, containing full details and supporting evidence, where possible.

(3) Any complaint relating to condemned circumstances, condemned outcomes, unrest or material adverse events must be dealt with under sub-item (1).

(4)(a) After receipt of a complaint, the Head of the KwaZulu-Natal PRE must inform the concerned driver or operator in writing of the nature of the complaint and allow him or her 14 days to furnish a written reply.

(b) If the driver or operator does not reply in writing, the Head of the KwaZulu-Natal PRE may, if it considers the matter to be of a sufficiently serious nature, call upon the complainant and the driver or operator, to attend an inquiry at such time and place as the Head of the KwaZulu-Natal PRE determines.

(5)(a) When holding an inquiry, the Head the KwaZulu-Natal PRE must allow both sides a fair and equal opportunity to present their case.

(b) The rules of natural justice apply, including the following –

- (i) the driver or operator must be given a proper hearing by the Head of the KwaZulu-Natal PRE;
- (ii) the driver and operator must be given an opportunity to produce his or her evidence and of defending any prejudicial statement or allegation made against him or her;
- (iii) the Head of the KwaZulu-Natal PRE must discharge his or her duties honestly and impartially;
- (iv) the Head of the KwaZulu-Natal PRE must make his or her finding on the facts and the ruling legal framework; and
- (v) the decision of the Head of the KwaZulu-Natal PRE must be fair and made in good faith.

(6) Any driver, operator or complainant is entitled to represent him or herself in person or through any legal representative.

(7) The findings of the Head of the KwaZulu-Natal PRE, including any sanction, must be provided to the driver or operator concerned within 14 days.

(8) In the event that a driver or operator is found guilty of contravening the Code of Conduct, the Head of the KwaZulu-Natal PRE may impose any of the following sanctions on such driver or operator –

- (a) a written warning with or without any conditions;
- (b) a fine up to a maximum of R1 000;
- (c) suspension of the operating licence or any authority by which such driver or operator participates in the provision of public transport services for a period not exceeding 12 months; or
- (d) revocation of the operating licence or any authority by which such driver or operator participates in the provision of public transport services for a period not exceeding 36 months: Provided that on expiry of the 36 months, the operator may reapply for the operating licence.

(9) In addition to any sanction imposed in terms of sub-item (8), any person who contravenes any provision of the Regulations or the Code of Conduct is guilty of an offence and on conviction liable to imprisonment not exceeding three months, or to a fine not exceeding R25 000.

(10) Drivers and operators remain liable, upon conviction, to sentences prescribed in terms of section 90 of the Act, and in the event of any conflict or inconsistency with the provisions of section 90 and sub-item (9), the provisions of section 90 must prevail.

STAATSKOERANT, 9 NOVEMBER 2018

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NO. 1223

DEPARTMENT OF TRADE AND INDUSTRY

09 NOVEMBER 2018

DEPARTMENT OF TRADE AND INDUSTRY

**CODES OF GOOD PRACTICE ON BROAD BASED BLACK
ECONOMIC EMPOWERMENT**

I, Dr Rob Davies, Minister of Trade and Industry, hereby:

- (a) Issue the **Defence Sector Code** in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act, (Act No. 53 of 2003) as amended by B-BBEE Act 46 of 2013; and
- (b) Determine that these Codes come into effect on the date of this publication.



Dr Rob Davies, MP
Minister of Trade and Industry
2 October 2018

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