

PROVINCIAL NOTICE

[No. 434 of 2010]

**REGULATIONS IN TERMS OF THE FREE STATE PUBLIC TRANSPORT ACT, 2005
(Act No. 4 of 2005)**

Under section 23 of the Free State Public Transport Act, 2005 (Act No. 4 of 2005), I, TM Manyoni, Member of the Executive Council responsible for Police, Roads and Transport in the Province, hereby make the regulations set out in the Schedule hereto.

SCHEDULE

Definitions

1. In these Regulations, unless the context otherwise indicates –

“**accounting officer**” means the head of the Department responsible for transport in the Province;

“**Act**” means the Free State Public Transport Act (Act No. 4 of 2005)

“**ad hoc authorisation**” means an authorisation granted under section 65 of the Act;

“**adapted light delivery vehicle**” means a light delivery vehicle and any of its conversion components that have been manufactured or adapted for the conveyance of persons by registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“**Advisory Panel**” means the Free State Operating Licensing Board Advisory Panel established under section 46 of the Act;

“**association**” means any group of persons formed primarily in relation to the operation of any mode of public transport service, and –

- (a) which has been formed not for gain;
- (b) whose object is to promote the interests of its members; and
- (c) whose funds are to be applied in promoting those interests;

“**authorised official**” means –

- (a) an inspector contemplated in the National 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 the Department or a municipality, whose duty is to inspect motor vehicles, motor vehicle licences or control traffic;
- (d) a road transport inspector contemplated in section 39 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998);

“**based**” means that the majority of members of an association or inter-provincial association or non-member concerned as the case may be, conduct their or his or her operations respectively, within the Province;

“**Board**” means the Free State Transport Operating Licensing Board established for the province in compliance with section 42 of this Act to exercise the powers mentioned in section 44 of the Act;

“**bus**” means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the Road Traffic Act, 1989 (Act 29 of 1989), to carry more than 35 persons excluding the driver, subject to any limitation imposed by the National Act;

“**bus train**” means a motor vehicle which –

- (a) consists of two sections connected to form a unit;
- (b) can swivel in a horizontal plane at the connection between such sections;
- (c) is designed or adapted solely or principally for the conveyance of the driver and at least 100 other persons; and
- (d) has a continuous passageway over its length;

“**capacity building**” means investment made with the purpose of enhancing the ability of individuals and institutions to achieve their development goals;

“**charter service**” means a public transport service operated by road involving the hire of a vehicle and a driver for a journey at a charge arranged beforehand with the operator, where –

- (a) neither the operator nor the driver charges the passengers individual fares;
- (b) the person hiring the service has the right to decide the route, date and time of travel; and
- (c) the passengers are conveyed to a common destination;

“**coach-type services**” means a scheduled public transport service, using a coach operating on pre-determined routes and tariffs contemplated in section 16 of the Act;

“**commercial service contract**” means an agreement concluded between a contracting authority and a public transport operator in terms of which the –

- (a) operator is to operate a public transport service, provided for in a public transport plan;
- (b) operator’s consideration consists of fares payable by the passengers that are carried and, where passengers pay concessionary fares, also of the reimbursement made by the contracting authority to that operator; and
- (c) operator does not receive any subsidy or other financial support from any organ in any sphere of government and for the purposes of this paragraph, reimbursements made to the operator in respect of concessionary fares is not regarded as a subsidy or other form of financial support;

“**concession agreement**” or “concession” means any agreement between a public transport operator and a contracting authority for the operation of a public transport service on a railway line or rail network –

- (a) in accordance with a public transport plan; and
- (b) at a price and on a service level provided for in that agreement, whether or not the public transport operator, in terms of the agreement, is also required to construct, maintain or rehabilitate the infrastructure and other assets used in connection with that service;

“**concessionary fare**” means the fare paid by a passenger falling within a special category;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**contract**” means a subsidised service contract, unsubsidised service contract, current tendered contract or interim contract;

“**contracting authority**” means the Department, transport authority, municipality or any core city, bound to a contract or concession agreement concluded with a public transport operator;

“**co-operative**” means a co-operative as defined in the Co-operatives Act, 1981 (Act No. 91 of 1981);

“**core city**” means a municipality designated under section 4 of the Urban Transport Act, 1977 (Act No. 78 of 1977), as the core city of an MTA, and includes any municipality which, after the commencement of the National Act, is so designated;

“**courtesy service**” means a complimentary transport service as contemplated in section 15;

“**cross-border road transport**” means cross-border road transport as defined in section 1 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998);

“**current public transport record**” means a transport plan contemplated in section 23 of the National Act;

“**current tendered contract**” means a contract concluded before the commencement date of the National Act for the operation of a public transport service between the Department, on the one hand, and, a public transport operator, on the other hand, to whom the tender for the provision of a service was awarded by the accounting officer in accordance with the tender system applicable to the Department, and which is still binding between them, the term of which expires only after the date of commencement of the National Act, and includes a contract which is binding between the –

- (a) public transport operator and the Department due to the National Department of Transport assigning its rights and obligations to the Department irrespective of whether the assignment occurred before or after the date of commencement of the National Act; or

- (b) public transport operator and a transport authority or a municipality or a core city to which the province, after the date of commencement of the National Act –
- (i) may have assigned its rights and obligations, or
 - (ii) as the case may be, may have further assigned the rights and obligations assigned to it by the National Department of Transport in terms of paragraph (a);

“**Department**” means the Department responsible for Transport in the Province;

“**education service**” means a service as contemplated in section 11 of this Act;

“**four plus one taxi-type service**” means an unscheduled public transport service as contemplated in section 21;

“**framework**” means an outline of the structure within and the form according to which a plan, policy or strategy is determined and developed;

“**grievance procedure**” means the procedure laid down in the constitution of an association to resolve an internal grievance raised by a member or a group of members;

“**Income Tax Act**” means the Income Tax Act, 1962 (Act No. 58 of 1962);

“**infrastructure**” in relation to land transport, means fixed capital equipment and facilities in the land transport system;

“**inspector**” means an inspector designated under section 98 of this Act;

“**integrated development plan**” means the integrated development plan which, in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), is to be prepared by a municipality;

“**integrated transport plan**” means an integrated transport plan contemplated in section 27 of the National Act;

“**interim contract**” means a contract, not being a current tendered contract, for the operation of a subsidised scheduled service, the term of which expires after the date of commencement of the National Act, and which –

- (a) was concluded before that date between the Department and the National Department of Transport on the one hand, and the public transport operator who is to operate that service, on the other hand, and is still binding between them or only binding between the Department and that operator; or

- (b) is binding between that public transport operator and any transport authority, a core city or a municipality, due to the assignment to it, after the date of commencement of the National Act, of the rights and obligations of the Department under the contract contemplated in paragraph (a);

“**international transport service**” means a public transport service operating within the republic and partly within another country or in transit through the republic to another country;

“**interprovincial association**” means a registered association whose members load and offload passengers in the Province and in one or more other provinces;

“**interprovincial transport**” means a public transport service operating between two or more provinces;

“**intraprovincial transport**” means a public transport service operating within the boundaries of the Province;

“**joint route management committee**” means a committee as contemplated in section 41 of the Act;

“**key performance indicator**” means a yardstick or standard established to measure levels of performance and achievement;

“**land transport**” means the movement of persons and goods on or across land by means of any conveyance and through the use of any infrastructure and facilities in connection therewith;

“**limousine-type services**” means a luxury motor vehicle contemplated in section 18 of the Act;

“**local taxi council**” means a committee of representatives of the minibus taxi industry or metered taxi industry established for a local area;

“**long distance service**” means a scheduled or unscheduled public transport service other than a service for commuting, that is provided beyond the boundary of the area covered by a transport plan, where passengers are charged fares individually;

“**MEC**” means the Member of the Executive Council of the Province who is responsible for Transport in the Province;

“**member**” means a member of an association;

“**metered-taxi service**” means a public transport service operated by means of a motor vehicle which is designed, or lawfully adapted, in compliance with the National Road Traffic Act, to carry fewer than nine seated persons, including the driver, where that vehicle –

- (a) is available for hire by hailing, by telephone or otherwise;
- (b) may stand for hire at a rank, and

(c) is equipped with a sealed meter, in good working order, for the purpose of determining the fare payable;

“**midibus**” means a motor vehicle designed, or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, to carry from 19 to 35 seated persons, excluding the driver;

“**minibus**” means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, to carry from 9 to 18 seated persons, excluding the driver;

“**minibus taxi-type service**” means an unscheduled public transport service operated on a specific route or routes, or where applicable, within a particular area, by means of a minibus or midibus;

“**Minister**” means the Minister responsible for Transport in the national sphere of government;

“**motor car**” means a motor vehicle, other than a motor cycle, motor tricycle or motor quadrucycle as defined in the National Road Traffic Act, designed or lawfully adapted by a registered manufacturer in compliance with that Act to carry not more than eight persons, excluding the driver;

“**motor vehicle**” and “**vehicle**” means a motor vehicle as defined in section 1 of the National Road Traffic Act;

“**MTA**” means a metropolitan transport area declared and existing under section 3 of the Urban Transport Act, 1977 (Act No. 78 of 1977);

“**municipal public transport**” means a service for the carriage of passengers within a defined planning authority or transport authority by road and rail for a consideration regardless of whether such transport facilities or assets are municipally owned;

“**municipality**” includes all municipalities referred to in section 155(6) of the Constitution, and in the case of a category C municipality referred to in section 155(1)(c) thereof, also includes the category B municipalities referred to in section 155(1)(b) in its area;

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

“**National Road Traffic Act**” means the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“**non-contracted service**” means a public transport service other than one operated in terms of a commercial service contract, subsidised service contract, current tendered contract, interim contract or concession agreement;

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

“**operating licence**” means a public transport operating licence required by section 51 of the Act and issued in terms of section 57 of the Act;

“**organ of state**” means an organ of state as defined in section 239 of the Constitution;

“**panel**” means the Panel of Assessors appointed under section 68 of the Act;

“**parastatal transport operator**” means an organisation which operates a public transport service and in which the majority of the shares of the controlling interest is held by the Province, or which is otherwise controlled or is owned by the Province;

“**participating municipality**” means any municipality that is party to a founding agreement for the establishment of a transport authority;

“**permit**” means a public road carrier permit or similar authority issued under a previous law, and which is in force at the commencement of the National Act in terms of section 79 of the National Act;

“**persons with disabilities**” means all persons whose mobility is restricted by temporary or permanent physical or mental disability and includes the very young, the blind or partially sighted, the deaf or hard of hearing;

“**planning authority**” means any body which, in terms of section 20 of the National Act, has to prepare transport plans for its area;

“**prescribe**” means prescribe by regulations and prescribed has a corresponding meaning;

“**previous law**” means any law the operation and application of which is superseded by the Act;

“**Province**” means the Free State province as described in section 103 of the Constitution;

“**Provincial Taxi Council**” means the committee of representatives of the minibus taxi, metered taxi or four plus one taxi industry in the Province established in terms of their Standard Constitution;

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

“**public transport plan**” means a public transport plan contemplated in section 26 of the National Act;

“**public transport service**” means a service for the carriage of passengers by road or rail, whether the service is subject to a contract or not, and where the service is provided for a fare or other consideration or reward, including any service that is –

- (a) minibus taxi-type service;

- (b) bus-type service;
- (c) metered taxi service;
- (d) rail service;
- (e) tourist service;
- (f) staff service;
- (g) charter service;
- (h) education service;
- (i) courtesy service;
- (j) shuttle service;
- (k) limousine-type service;
- (l) chauffeur driven service;
- (m) adapted light delivery vehicle service;
- (n) four plus one service;

“**rail service**” means a public transport service operated on a rail track or electromagnetic guide way;

“**registered**” in relation to any association, the members of any association and any non-members, means their registration in the provincial transport register in accordance with the Act and any other applicable laws;

“**Registered Constitution**” means an association’s constitution, filed in the Registrar’s records, pursuant to the association’s successful application for provisional or full registration;

“**registered manufacturer**” means a manufacturer, importer or builder of motor vehicles registered under section 5 of the National Road Traffic Act;

“**Registrar**” means the person appointed as the Provincial Transport Registrar or the Province in terms of section 68 of the Act;

“**roadworthy certificate**” means a certificate certifying the roadworthiness of a motor vehicle in accordance with the requirements of the National Road Traffic Act;

“**scheduled service**” means a public transport service operated on the road by motor car, minibus, midibus or bus on a particular route or routes in accordance with a time table;

“**services**” means public transport services;

“**shuttle service**” means public transport service provided in a limited area or on fixed routes which may be scheduled on demand or unscheduled as referred to in section 17 of the Act;

“**special categories of passengers**” means learners, educators and lecturers, persons with disabilities, tourists, aged, pregnant women and those who are limited in their movements by children with or without pushchairs or prams;

“**special event**” means a cultural, religious, sporting or recreational event, or any entertainment, conference, exhibition or show, which is to occur or be held on a specific day or a number of specific consecutive days at a predetermined venue;

“**staff service**” means a public transport service by road provided by means of a vehicle owned by an employer, or a vehicle provided by a public transport operator in terms of a contract with the employer, when used exclusively for the conveyance of the employer’s employees;

“**standard bus**” means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, with a capacity of 36 to 70 seated passengers and the number of standing passengers authorised by the relevant road worthy certificate;

“**subsidised service contract**” means an agreement, other than an interim contractor a current tendered contract, concluded between a contracting authority and a public transport operator to operate a scheduled service provided for in a public transport plan and in terms of which the public transport operator, in addition to the passenger fares paid, receives financial support in terms of a tendered contract;

“**timetable**” means a published document informing passengers of routes, intervals between departures or the passing of vehicles, or times when and places where public transport services are available, indicating at least origin and destination points and significant intermediate locations along the route;

“**Tourism Act**” means the Tourism Act, 1993 (Act No. 72 of 1993);

“**tourist service**” means a public transport service by road for the carriage of tourists to or from tourist’s attractions, where the tourists are accompanied by a tour guide registered under section 21 of the Tourism Act;

“**transfer**” in relation to an operating licence, means a transfer from the holder of the operating licence to another person;

“**transport authority**” means an authority contemplated in section 29(1) for a transport area;

“**transport plan**” means any plan provided for in section 19 of the National Act;

“**travel demand management**” means a system of actions to maximise the capacity of the transport system for the movement of people and goods rather than vehicles, among others, through increasing vehicle occupancy, developing priority measures for public transport, encouraging travel during off peak period, shifting demand between modes, restricting the space available for parking, adjusting the price of parking, and other appropriate measures;

“**Tribunal**” means the Provincial Appeal Tribunal established under section 106 of the Act;

“**unscheduled service**” means a public transport service operated by road on a particular route or route network, or where applicable, within a particular area, without a timetable, where passengers are charged fares individually.

PUBLIC TRANSPORT SERVICES

Provisions relating to drivers and vehicles

2. (1) The Code of Conduct that forms part of the Constitution of registered associations should comply with the Standard Code of Conduct, as set out in Annexure A.
- (2) Registered non-members must adhere to the Standard Code of Conduct as set out in Annexure A.
- (3) Drivers and their vehicles should comply with the Code of Conduct of the registered Association, or in the case of non-members, the Standard Code of Conduct as set out in Annexure A.
- (4) The holder of a operating licence rendering a public transport services must ensure that -
 - (a) the vehicle is kept clean, both inside and outside, at all times while the services are being rendered;
 - (b) The vehicle and its seats are in a good condition, including but not limited to ensuring that-
 - (i) seat covers are not torn or cut;
 - (ii) seats are stable and securely anchored;
 - (iii) there are no substantial dents or scratches in the paint work.
- (5) A vehicle used for public transport services must be equipped with at least one fire extinguisher in working condition, which should comply with the following -
 - (a) the fire extinguisher must at all times be placed in the vehicle and should be serviced every six months;
 - (b) the certificate of service must be present in the vehicle;
 - (c) the fire extinguisher should be affixed in an easy accessible position.
- (6) A vehicle used for public transport services must be equipped with a first aid box, which should comply with the following -
 - (a) The first aid box must be placed in the vehicle at all times;

- (b) The contents of the first aid box should comply with Regulation 3 of the General Safety Regulations, of the Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983), and should as a minimum contain the items listed in Annexure B.

Metered Taxis

- 3. (1) The holder of an operating licence rendering a metered taxi service must ensure that the vehicle is marked in the manner as prescribed in Annexure C.
- (2) The holder of an operating licence rendering a metered taxi service may operate any particular journey at a fare not determined by operating the meter fitted to that vehicle if the fare for the particular journey has been agreed upon between the driver and the passenger or passengers concerned before the journey begins.

Bus-type service

- 4. The holder of an operating licence to provide a bus-type service must operate according to published tariffs and timetables, and may increase tariffs under the following circumstances -
 - (a) the annual increase in tariffs should be based on the price of petroleum fuel in the Republic of South Africa and will be calculated by way of escalation as per the published CPIX indices; with the base month taken as the month on which the operating licence/permit was approved;
 - (b) the holder should apply, submitting all relevant calculations, for the amendment of tariffs, which will upon approval, be published by the Board before implementation on a date so determined by the Board.

Tourist Services

- 5. In addition to the requirements of the Act, a tourist service may be rendered only where -
 - (a) the motor vehicle complies with possible specific requirements imposed by the Board for vehicles providing tourist services, such as that the vehicle should be equipped with a toilet, a sound system, air conditioning, kitchen equipment or other equipment determined by the Board in accordance with the recommendations of the Free State Tourism Authority;
 - (b) the number of passengers transported does not exceed the maximum number of passengers approved by the Board, notwithstanding the seating capacity of the motor vehicle to be used for the rendering of such service;
 - (c) the driver complies with additional requirements that might be imposed by the Board or the Free State Tourism Authority, as stated in the operating licence.

Charter Service

6. In addition to the requirements of the Act, a charter service may be rendered only where -
- (a) the same passengers are transported back under the same conditions that are set out in the Act by the person or the organisation undertaking the trip; and
 - (b) the charter service may only be provided for a specific journey, which must be specified.

Courtesy service

7. In addition to the requirements of the Act, the following is applicable in the case of a courtesy service -
- (a) in the event that the service is not rendered by the organisation's vehicle but rendered by an operator in terms of a contract, the operator shall -
 - (i) Carry at all times the service contract with the said organisation;
 - (ii) Carry the operating licence permitting such services.

FUNCTIONS AND POWERS OF THE MEC

Functions and powers of the MEC

8. (1) The objectives in undertaking public consultation and participation where required by this Act, should include but should not be limited to the following -
- (a) to facilitate the debate;
 - (b) to record comments;
 - (c) to respond where possible;
 - (d) to communicate with decision makers;
 - (e) to go beyond formulaic and cursory process;
 - (f) to contribute to the sustainable development;
 - (g) to consequently be strategic.
- (2) The procedures to be followed in undertaking public consultation, should include but not limited to the following -
- (a) direct contact through imbizos and public meetings;
 - (b) media coverage;
 - (c) interactive workshops;
 - (d) mailings;
 - (e) website.

- (3) The target audience in undertaking public consultation, should include but not limited to the following -
- (a) individuals;
 - (b) NGO's;
 - (c) general public;
 - (d) decision makers;
 - (e) professionals;
 - (f) transport forums.

Establishment of Joint Route Management Committee

9. (1) The route or network of routes over which a joint route management committee will have jurisdiction will be as prescribed by the MEC, and will be based on the following -
- (a) the area served by the routes;
 - (b) the associations operating the routes;
 - (c) the type of services provided.
- (2) A joint route management committee will consist of the following -
- (a) two members of each registered association whose members operate in the area;
 - (b) two members of each bus operator who renders services in the area;
 - (c) one representative of each local transport forum in which area the route falls;
 - (d) the South African Police Services;
 - (e) two representatives of the Department;
 - (f) two representatives of the community in which the route is located;
 - (g) a representative of each municipality through which the route transcends;
 - (h) any other person determined by the MEC.
- (3) The MEC must request nominations from the relevant bodies for representation on the committee, failing which the MEC may appoint representatives from the bodies according to his/her discretion.
- (4) The term of office of members of a joint route management committee is two years and a member is eligible for reappointment.
- (5) The functions of a joint route management committee will be as follows -
- (a) serve as a liaising body for transport matter on the route or routes for which it has been established;
 - (b) if requested to, make recommendations to the relevant planning authorities regarding applications for operating licences on the route or routes for which it was established;

- (c) make recommendations to the relevant planning authorities regarding possible changes to the transport system and facilities on the route or routes for which it was established; and
- (d) exercise any other function assigned to it by the MEC.

PROVINCIAL OPERATING LICENSING BOARD

Establishment of Provincial Operating Licensing Board

- 10.** (1) The Operating Licensing Board shall consist of the members as determined by the MEC.
- (2) The secretary of the Board will be a person in the employ or the functionary of the Department and will not be in the position to vote.

Meetings and decisions of the Board

- 11.** Meetings of the Board will be held as follows -
- (a) the Board shall have at least one scheduled meeting per month;
 - (b) the Chairperson shall convene a special meeting of the Board according to his or her discretion if the extent of matters to be addressed is such that the scheduled meetings are insufficient, or pressing matters require a prompt decision of the Board;
 - (c) any Board member can request the Chairperson to convene a special meeting based on the circumstances mentioned in 12(1)(b) for his or her decision;
 - (d) the decisions of the special meeting will have the same authority as ordinary scheduled meeting;
 - (e) the Board will always strive for consensus in its decision making;
 - (f) all decisions of meeting will be recorded by the secretary of the Board through print and electronically.

Establishment of Advisory Panel to the Board

- 12.** A person may not be appointed or remain as a member of the Advisory Panel if he or she -
- (i) is a minor and/or mentally incapable of handling his own affairs;
 - (ii) is an unrehabilitated insolvent; or
 - (iii) has been convicted of an offence involving dishonesty or has been removed from public office due to misconduct.

OPERATING LICENCES

Conversion of permits to operating licences

13. (1) All permits must be verified and converted to operating licences on application to the Board by completing the relevant form as prescribed in Annexure D, and must be accompanied by the fee as published by the MEC and must where applicable, be route or network based.
- (2) The holder of a permit required by section 48 of the Act to verify and convert a permit must complete the relevant application form as prescribed by the Board in respect of each permit and submit the same to the Board within such period as specified by the MEC by notice in the *Provincial Gazette* for a specific area, route or route network together with the following documents -
- (a) the original permit or certified copy thereof;
 - (b) the certificate of fitness or roadworthy certificate -
 - (i) in the case of a natural person, the identity document or other type of identification acceptable to the Board;
 - (ii) in the case of a company, its certificate of incorporation or certified copy thereof;
 - (iii) in the case of a closed corporation, its founding statement or a certified copy thereof;
 - (iv) in the case of a trust, its Deed of Trust or a certified copy thereof; or
 - (v) in the case of another type of juristic person, its constitution or a certified copy thereof or any such proof as required by the Board;
 - (c) proof of registration as a member of a registered association according to the records of the Registrar;
 - (d) proof that the vehicle to which the application relates, is registered in the name of the applicant;
 - (e)
 - (i) a valid vehicle registration certificate and a valid certificate of fitness for the vehicle concerned;
 - (ii) a valid licence certificate and a valid clearance certificate for the vehicle; or
 - (iii) a valid certificate of registration of the vehicle and a valid motor vehicle licence, licence disc and roadworthy certificate disc;

- (f) proof that the applicant is registered as a taxpayer or not required to register as a taxpayer under the Income Tax Act or proof of application for registration;
 - (g) In the case where an applicant has applied for registration as a taxpayer, but is not yet registered, proof of application should be submitted before upliftment of the operating licence;
 - (h) A certified resolution of the executive committee of the registered association of which the applicant is a member confirming the support of the association for the application; and
 - (i) where the service is provided in terms of an interim contract or current tendered contract, the original contract or certified copy thereof.
- (3) Over and above the aspects mentioned in subregulation (2), the Board shall consider the following -
- (a) in the case of a minibus taxi-type service, an affidavit should be submitted by the applicant as to whether or not the route or routes specified in detail have been operated on a regular basis for a period of at least 180 days before the date on which the application is made, except where the permit was issued less than 180 days before the date of application;
 - (b) in the case of a metered taxi service it should be ensured that the vehicle has a sealed meter in good working order as approved by the Board;
 - (c) in the case of a bus-type service -
 - (i) an affidavit should be submitted by the applicant as to whether or not the route or routes specified in detail have been operated on a regular basis for a period of at least 180 days before the date on which the application is made, except where the permit was issued less than 180 days before the date of application;
 - (ii) a proposed route or routes, tariffs and timetables should be submitted;
 - (d) in the case of an education service -
 - (i) proof of a signed contract or agreement between itself and the educational institution to provide the services described in the operating licence should be submitted;
 - (ii) the contract should comply with the Standard Contract as contained in Annexure F;

- (e) in the case of a tourist service -
 - (i) before granting an operating licence authorising the rendering of tourist services, the Board must obtain and consider recommendations from the Free state Tourism Authority;
 - (ii) if no response is received within a period of 30 days, the Board may proceed with the application as it deems fit;
 - (iii) the Board may prescribe the maximum number of passengers that may be transported in a motor vehicle used for the rendering of tourist services, notwithstanding the seating capacity of such motor vehicle;
 - (iv) in granting an operating licence for the rendering of tourist services the Board may impose conditions that stipulate that the motor vehicle used for the rendering of such services must be equipped with a toilet, a sound system, air conditioning, kitchen equipment or other equipment determined by the Board in accordance with the recommendations of the Free State Tourism Authority or of its own accord;
- (f) in the case of a charter service -
 - (i) before granting an operating licence authorising the rendering of charter services, the Board may obtain affidavits from intended passengers who have to undertake the trip to the common destination;
 - (ii) in granting an operating licence for the rendering of charter services the Board may impose conditions that the list of passengers be kept in the vehicle at all times;
 - (iii) the charter service may only be issued for once-off events;
 - (iv) no more than three charter licences may be issued to the person or the organisations during a period of 30 days;
 - (v) the Board may prescribe the maximum number of passengers that may be transported in a motor vehicle used for the rendering of charter services, notwithstanding the seating capacity of such motor vehicle;
- (g) in the case of a staff service -
 - (i) before granting an operating licence authorising the rendering of staff services, the Board must obtain and consider recommendations from the employer or proof of contract;

- (ii) in granting an operating licence for the rendering of staff services the Board may impose conditions that a service contract be kept in the vehicle at all times;
 - (iii) the operating licence may be route, network or area bound;
 - (iv) the Board may prescribe the maximum number of passengers that may be transported in a motor vehicle used for the rendering of staff services, notwithstanding the seating capacity of such motor vehicle;
- (h) in the case of a courtesy service -
- (i) the applicant should submit an affidavit proving that the organisation applying for the licence is not a public transport operator;
 - (ii) in granting an operating licence for the rendering of courtesy services the Board may impose additional conditions to ensure that the service is only provided as a courtesy service;
 - (iii) the Board may prescribe the maximum number of passengers that may be transported in a motor vehicle used for the rendering of courtesy services, notwithstanding the seating capacity of such motor vehicle;
- (i) in the case of a coach-type service, a proposed route or routes, tariffs and timetables should be submitted;
- (j) in the case of a shuttle service -
- (i) a proposed route or routes, tariffs and timetables should be submitted;
 - (ii) the tariffs should be published in the *Provincial Gazette* and at least one newspaper circulating in the Province, in English and at least one other official language widely spoken in the Province;
- (k) in the case of an adapted light delivery vehicle -
- (i) the applicant should submit an affidavit from all associations whose members are providing services in the region of the intended service that there is no other appropriate public transport service available in the area;
 - (ii) before granting an operating licence authorising the rendering of a service by an adapted light delivery vehicle, the Board should obtain a recommendation from a suitably qualified person that the type of terrain and roads on which the service will be rendered justify the use of this type of vehicle;

- (1) in the case of a four plus one taxi-type service, an affidavit should be submitted by the applicant as to whether or not the route or routes specified in detail have been operated on a regular basis for a period of at least 180 days before the date on which the application is made, except where the permit was issued less than 180 days before the date of application.
- (4) A separate application must be lodged in respect of each motor vehicle to be authorised to operate under the operating licence.
- (5) In the case of a member of a registered association the application must be supported by his or her association.
- (6) In the case of a non-member proof must be provided that the applicant has complied with section 83(1)(e) of the Act.
- (7) The Board may refuse to accept an application which is not fully completed.
- (8) The Board must make copies of the permit and other original documents submitted and hand them back to the person who submitted them together with a receipt or other acknowledgement of receipt of such documents.
- (9) On receipt of the application contemplated in (1) above for the conversion of a permit to an operating licence or a conversion to a larger vehicle under section 32(5) or (6) of the National Act, the Board must within 21 days of receipt of the application, submit copies of the application to all planning authorities (or relevant municipalities, taxi councils, taxi associations or forum(s)) in whose areas the services are being or will be operated, for representation or recommendation under section 39(1)(b) of the National Act.
- (10) Within 30 days of referring such application, a planning authority (or relevant municipalities, taxi councils, taxi associations or forum(s)) involved must -
 - (a) verify the route details claimed by the applicant;
 - (b) in the case of conversion to a larger vehicle under section 32(5) or (6) of the National Act submit recommendations to the Board on the availability of ranks or terminals or other facilities or places for boarding or alighting from or holding or parking the larger vehicle;
 - (c) state whether or not it supports the application in the light of its transport plans and requirements;
 - (d) if no response is received within the said period of 30 days, the Board may proceed with the application as it deems fit.

- (11) The Board must verify the validity of the permit by comparing the particulars submitted with those on the information systems of the province where applicable, and satisfy itself that the routes described in detail relate to services that were in fact rendered for a period of 180 days prior to the date of application, or that the permit was issued less than 180 days prior to the application.
- (12) The Board must confirm that the applicant is operating on the stated route or route-network as the case may be, by consulting any one or more of the relevant municipalities, taxi councils, taxi associations or forum(s) or in any other manner as the Board deems fit.
- (13) The Board may summon the applicant and representative(s) of the association of which the applicant is a member to answer questions or make representation(s) before issuing an operating licence or licence or authorising the conversion of a permit under section 40(3) of the Act, or to clear up any problems or inconsistencies with regard to the permit in which case section 5 of the Act will apply with the necessary adaptations.
- (14) All applications complying with all the requirements for conversion may be dealt with by an official of the Board designated by the Board.
- (15) If the Board is satisfied about the verification of the permit and that it relates to the applicant and the vehicle concerned, and an authorised official who shall have inspected the same certifies the vehicle to be in a roadworthy condition, it must issue an operating licence in terms of these regulations.
- (16) The authorised official must ensure that information that is on the permit or licence correspond with the information that is on the disc.
- (17) The Board shall notify the applicant of the outcome of his/her/its application as soon as possible.
- (18) Successful applicants must uplift the granted operating licence within 60 calendar days of notification. Provided that the Board may extend the period for upliftment by a further period of 30 calendar days upon written application made before the expiry of the initial period of 60 calendar days on good cause shown. In which case an applicant must also comply with the requirements set out in (1)(c) unless this has already been done.
- (19) Together with the operating licence the Board must issue a disc relating to the operating licence and may also issue other distinguishing marks for which the applicant must pay the prescribed fee as specified in Annexure E. Where these are issued they must be displayed forthwith and at all times on the vehicle concerned.
- (20) On converting a permit to an operating licence the Board may redefine or amend a route or route-network according to the supply and demand for services or in order to clarify route descriptions as contemplated in section 81(1) of the National Act as it deems fit.

Contracts for Services

14. Contract services must be entered into in accordance with the Model Tender Contract Document (MTCD) which is applicable at the time of entering into the contract.

Application concerning operating licences

15. (1) Applications for the granting, renewal or amendment of an operating licence, or for the transfer of the operating licence to another person, must be lodged with the Board on the relevant form as prescribed in Annexure D, and must be accompanied by the fee as prescribed by the MEC, together with the following documents -
- (a) proof of registration as a member of a registered association according to the records of the Registrar;
 - (b) proof that the vehicle to which the application relates, is registered in the name of the applicant;
 - (c) (i) a valid vehicle registration certificate and a valid certificate of fitness for the vehicle concerned;
 - (ii) a valid licence certificate and a valid clearance certificate for the vehicle; or
 - (iii) a valid certificate of registration of the vehicle and a valid motor vehicle licence, licence disc and roadworthy certificate disc;
 - (d) proof that the applicant is registered as a taxpayer or not required to register as a taxpayer under the Income Tax Act, or proof of application for registration;
 - (e) in the case where an applicant has applied for registration as a taxpayer, but is not yet registered, proof of application should be submitted before upliftment of the operating licence;
 - (f) a certified resolution of the executive committee of the registered association of which the applicant is a member confirming the support of the association for the application;
 - (g) where the service is provided in terms of an interim contract or current tendered contract, the original contract or certified copy thereof.
- (2) Over and above the aspects mentioned in subregulation (1), the Board shall consider the following -
- (a) in the case of a metered taxi service it should be ensured that the vehicle has a sealed meter in good working order as approved by the Board.

- (b) in the case of a bus-type service a proposed route or routes, tariffs and timetables should be submitted.
- (c) in the case of an education service -
 - (i) proof of a signed contract or agreement between itself and the educational institution to provide the services described in the operating licence should be submitted;
 - (ii) the contract should comply with the Standard Contract as contained in Annexure F;
- (d) in the case of a tourist service -
 - (i) before granting an operating licence authorising the rendering of tourist services, the Board must obtain and consider recommendations from the Free State Tourism Authority;
 - (ii) if no response is received within a period of 30 days, the Board may proceed with the application as it deems fit;
 - (iii) the Board may prescribe the maximum number of passengers that may be transported in a motor vehicle used for the rendering of tourist services, notwithstanding the seating capacity of such motor vehicle;
 - (iv) in granting an operating licence for the rendering of tourist services the Board may impose conditions that stipulate that the motor vehicle used for the rendering of such services must be equipped with a toilet, a sound system, air conditioning, kitchen equipment or other equipment determined by the Board in accordance with the recommendations of the Free state Tourism Authority or of its own accord;
- (e) in the case of a charter service -
 - (i) before granting an operating licence authorising the rendering of charter services, the Board may obtain affidavits from intended passengers who have to undertake the trip to the common destination;
 - (ii) a list of passengers must be kept in the vehicle at all times;
 - (iii) the charter service can only be issued for once-off events;
 - (iv) no more than three charter licences will be issued to the person or the organisations during a period of 30 days;

- (v) the Board may prescribe the maximum number of passengers that may be transported in a motor vehicle used for the rendering of charter services, notwithstanding the seating capacity of such motor vehicle;
- (f) in the case of a staff service -
 - (i) before granting an operating licence authorising the rendering of staff services, the Board must obtain and consider recommendations from the employer or proof of contract;
 - (ii) a service contract must be kept in the vehicle at all times;
 - (iii) the operating licence may be route, network or area bound;
 - (iv) the Board may prescribe the maximum number of passengers that may be transported in a motor vehicle used for the rendering of staff services, notwithstanding the seating capacity of such motor vehicle;
- (g) in the case of a courtesy service -
 - (i) the applicant should submit an affidavit proving that the organisation applying for the licence is not a public transport operator;
 - (ii) in granting an operating licence for the rendering of courtesy services the Board may impose additional conditions to ensure that the service is only provided as a courtesy service;
 - (iii) the Board may prescribe the maximum number of passengers that may be transported in a motor vehicle used for the rendering of courtesy services, notwithstanding the seating capacity of such motor vehicle;
- (h) in the case of a coach-type service a proposed route or routes, tariffs and timetables should be submitted;
- (i) in the case of a shuttle service -
 - (i) a proposed route or routes, tariffs and timetables should be submitted;
 - (ii) the tariffs should be published in the *Provincial Gazette* and at least one newspaper circulating in the Province, in English and at least one other official language widely spoken in the Province;
- (j) in the case of an adapted light delivery vehicle -
 - (i) the applicant should submit an affidavit from all associations whose members are providing services in the region of the intended service that there is no other appropriate public transport service available in the area;

- (ii) before granting an operating licence authorising the rendering of a service by an adapted light delivery vehicle, the Board should obtain a recommendation from a suitably qualified person that the type of terrain and roads on which the service will be rendered justify the use of the type of vehicle.
- (3) A separate application must be lodged in respect of each motor vehicle to be authorised to operate under the operating licence.
- (4) In the case of a member of a registered association the application must be supported by his or her association.
- (5) In the case of a non-member proof must be provided that the applicant has complied with section 83(1)(e) of the Act.
- (6) The Board may refuse to accept an application which is not fully completed.
- (7) The Board or an official designated by the Board must issue an interim operating licence once it is satisfied that the application has been completed fully and all supporting documents have been submitted. A receipt shall be issued for any payment of fees made. The Board shall hand the interim operating licence and the receipt, if applicable, to the person lodging the application.
- (8) The original of each of the interim operating licences must be kept by the applicant in the vehicle concerned when it is operating.
- (9) The interim operating licence must be returned to the Board when the operating licence is uplifted or, if the application is refused the interim operating licence must be returned to the Board within 10 days after the applicant is informed of the decision of the Board.

Disposing of an application for an operating licence

- 16.** (1) On receipt of the application contemplated in 15(1) above for the granting of a new operating licence, the Board must submit copies of the application to all planning authorities (or relevant municipalities, taxi councils, taxi associations or forum(s)) in whose areas the services are being or will be operated, for representation or recommendation.
- (2) Within 30 days of referring such application, a planning authority (or relevant municipalities, taxi councils, taxi associations or forum(s)) involved must -
- (a) state whether or not it supports the application in the light of its transport plans and requirements;
 - (b) if no response is received within the said period of 30 days, the Board may proceed with the application as it deems fit.

- (3) The Board may summon the application and representative(s) of the association of which the applicant is a member to answer questions or make representation(s) before issuing an operating licence, or to clear up any problems or inconsistencies with regard to the application.
- (4) If the Board is satisfied with the application, and an authorised official who shall have inspected the same certifies the vehicle to be in a roadworthy condition, it must issue an operating licence in terms of these regulations.
- (5) The Board shall notify the applicant of the outcome of his/her/its application as soon as possible.
- (6) Successful applicants must uplift the granted operating licence within 60 calendar days of notification. Provided that the Board may extend the period for upliftment by a further period of 30 calendar days upon written application made before the expiry of the initial period of 60 calendar days on good cause shown. or proof of application for registration.
- (7) In the case where an applicant has applied for registration as a taxpayer, but is not yet registered, proof of registration should be submitted before upliftment of the operating licence.
- (8) Together with the operating licence the Board must issue a disc relating to the operating licence and may also issue other distinguishing marks for which the applicant must pay the prescribed fee as prescribed by the MEC. After the abovementioned documents are issued they must be displayed forthwith and at all times on the vehicle concerned.
- (9) On approving an application for the granting, renewal or amendment of an operating licence, or for the transfer of the operating licence to another person, a permit to an operating licence the Board may redefine or amend a route or route-network according to the supply and demand for services or in order to clarify route descriptions as it deems fit.

Interprovincial transport

17. (1) Applications for the granting of an operating licence for interprovincial transport services where the service in question commence in the Province must be lodged with the Board on the relevant form as prescribed in Annexure D, and must be accompanied by the fee as prescribed by the MEC.
- (2) The procedures as set out in Regulations 15 and 16 are applicable with the addition of the procedures as stipulated in sections 53(4) to 53(6) of the Act.
- (3) Where the Board receives a request for recommendations from the operating licensing board of another province, it must take all of the relevant steps and respond within 90 days of receipt of the request.

Publication of an application in respect of an operating licence

18. (1) When receiving an application contemplated in section 51 of the Act, the Board must publish the following particulars in respect of the application in the *Provincial Gazette* -
- (a) the name of the applicant;
 - (b) the place where the applicant conducts business and the applicant's postal address;
 - (c) the type of application, that is whether it is for a new operating licence or an amendment;
 - (d) the type of motor vehicle and its passenger carrying capacity;
 - (e) the detailed route or network of routes on which the relevant public transport service will be undertaken and points of origin and destination of such services, all points where passengers will be picked up and set down and ranks and other facilities that will be used.
- (2) The particulars specified in subregulation (1) must also be affixed to the notice board of the Board's offices for a period of at least 21 days.
- (3) An interested person who wishes to make representations to the Board as contemplated in section 55 (3) of the Act, must do so in writing and must submit such representation to the Board not later than 21 days after the date on which the particulars were published in the *Provincial Gazette*.
- (4) If an interested person objects to the publication, he or she must -
- (a) set out particulars of his or her transport services or interests that are affected by the application; and
 - (b) specify to what extent and in what manner such services or interests are affected by the application.
- (5) The Board must send a copy of the representation to the applicant concerned by fax or registered post within seven days of receipt thereof.

Issue of an operating licence and provisions thereof

19. (1) The Board must issue an operating licence granted, renewed, amended or transferred by it under the Act in terms of the procedures that are set out in Regulations 13 and 15.
- (2) Where applicable, distinguishing marks should be issued in terms of the National Regulation No. R.890.

Duties of the holder of a permit or operating licence

20. The operating licence holder must affix the distinguishing marks issued as per the requirements of the relevant regulations or National Regulation No R. 890 as applicable.

Ad hoc authorisations

21. (1) An operator wanting to provide a public transport service for a particular occurrence such as a sports event, funeral or wedding which cannot be served by other authorised public transport services, or where such services are not adequate to deal with the demand, can apply for an *ad hoc* authorisation on the relevant form as prescribed in Annexure D, and must be accompanied by the fee as prescribed by the MEC.
- (2) The operator applying for the *ad hoc* authorisation must be registered and the vehicle to be used should be authorised to provide public transport services according to a valid operating licence.
- (3) *Ad hoc* authorisation may only be issued for once-off events.
- (4) The Board must issue an *ad hoc* authorisation in the relevant form as prescribed in Annexure D.
- (5) In addition to the aspects mentioned in section 65 of the Act The following conditions apply to *ad hoc* authorisations -
- (a) not more than one *ad hoc* authorisations may be issued to the holder of an operating licence during a period of 30 days;
 - (b) a list of passengers must be kept in the vehicle at all times;
 - (c) the same passengers must be transported back under the same conditions as stated in the *ad hoc* authorisation.

Special circumstances operating licences

22. (1) In addition to the aspects mentioned in the Act, the following is applicable in applying for and issuing of special circumstances operating licences -
- (a) advertisement will be made in the *Provincial Gazette* and two local newspapers in the area of special measures for operators to apply for special circumstances operating licences;
 - (b) applications must be made on form as prescribed;

- (c) although operators applying for special circumstances operating licences should ideally be registered and the vehicle to be used should be authorised to provide public transport services according to a valid operating licence, the Board may relax certain requirements as transport might be needed in emergency situations. The Board should however as a minimum ensure that the vehicle/s to be used for the services should comply with section 31 of the National Act and has the following -
 - (i) a valid vehicle registration certificate and a valid certificate of fitness for the vehicle concerned;
 - (ii) a valid licence certificate and a valid clearance certificate for the vehicle; or
 - (iii) a valid certificate of registration of the vehicle and a valid motor vehicle licence, licence disc and roadworthy certificate disc;
- (d) applications in respect of special circumstances operating licences do not have to be published;
- (e) no representation by interested persons will be entertained on applications received for special circumstances operating licences;
- (f) in the event that the period for which regulations were in force in an area which has been declared an area in which special measures apply according to section 101 of the Act has expired, or where the MEC has by notice in the *Provincial Gazette* withdrawn the regulations declaring the area, operators with special circumstances operating licences should cease to operate according to the said licences and such licences should be returned to the Board within 7 days of this date.

FREE STATE TRANSPORT REGISTRAR AND REGISTRATION OF ASSOCIATIONS AND OPERATORS

Appointment of Free State Transport Registrar and Panel

- 23.** (1) The Panel of Assessors to be appointed shall consist of five members, who shall be appointed by the MEC of whom -
- (a) the members must be persons who possess wide experience of, and have shown ability in, public transport, industrial, commercial, financial or legal matters or in the conduct of public affairs or who, in the opinion of the MEC, have equivalent background or experience, to perform the functions assigned to the panel under this Act, and specifically -
 - (i) one must have special knowledge of the land public transport industry in the province;

- (ii) at least one must have special knowledge of the needs and interests of those inhabitants of the province who rely on the services operated in the land public transport industry for their transport;
 - (iii) at least one must have a formal qualification in law;
 - (iv) at least one must have special knowledge of the functioning and operations of municipalities in the province or under its jurisdiction.
- (2) The MEC must invite applications for appointment to the panel of assessors in at least one newspaper circulating in the Province, in English and at least in one other official language widely spoken in the Province.
- (3) Before the MEC can effect the appointment, the names of those nominated must be published in the *Provincial Gazette* and at least one newspaper circulating in the Province, in English and at least one other official language widely spoken in the Province for comment.
- (4) An interested person who wishes to make representations to the MEC on the proposed appointments must do so in writing and must submit such representation to the MEC not later than 21 days after the date on which the particulars were published in the *Provincial Gazette* or by a date stipulated in the publication.
- (5) The MEC must give due process to any comments and representations received.
- (6) The main functions of the panel of assessors are -
 - (a) to advise the Registrar with regard to any matter which may be referred to it by the Registrar and which relates to the exercise or performance of the Registrar's powers and duties under section 70 of the Act;
 - (b) to make recommendations to the Registrar in connection with any matter falling within the scope of those powers and duties;
 - (c) at the request of and subject to the directions of the Registrar, to undertake any investigation and report its findings and recommendations to the Registrar.
- (7) The Registrar should draw up a programme setting out roles and schedules of meetings of the Panel of Assessors.
- (8) The Registrar will be the chairperson of the meeting of the Panel of Assessors, except where Assessors meet by themselves and will elect their own chairperson.
- (9) All recommendations and advise to the Registrar as well as any findings of an investigation as contemplated in subregulation (2)(c) should be documented and kept in a register by the Registrar.

Duties of the Registrar

24. (1) The Registrar must use the nationally established, or updated standardised registration administration system to establish and maintain a register of associations and their members as well as non-members.
- (2) The system referred to in subregulation (2) should contain the following information regarding registered associations and their members -
- (a) the name of the association;
 - (b) the date of registration;
 - (c) a copy of the association's Constitution and Code of Conduct;
 - (d) postal address;
 - (e) street address;
 - (f) telephone number and facsimile number (if any);
 - (g) the date the association was established, the nature of the association and the number of persons employed by the association;
 - (h) number of members rendering public transport services;
 - (i) joining fee for membership and annual membership fee payable per member;
 - (j) position, identity number and full name of each office bearer;
 - (k) the detailed route or routes or network of routes on which its members are or will be rendering public transport services and the points of origin and destination of these services, all points where passengers will be picked up and set down and ranks and other facilities that will be used by its members;
 - (l) particulars of each member, namely -
 - (i) identity number or business registration number, name, postal address and street address;
 - (ii) particulars of operating licence held by each member, namely operating licence number and motor vehicle or motor vehicles to which such operating licence relates, as well as a copy of each such operating licence;
 - (iii) particulars of the motor vehicle or motor vehicles operated by each member, namely vehicle registration number, vehicle identification number, roadworthiness certification and date of expiry of roadworthiness certification;
 - (iv) particulars of the service/s rendered by the member.
- (3) The system should contain the following information regarding non-members -
- (a) name and identity number or business registration number;
 - (b) postal address;
 - (c) street address;

- (d) telephone number and facsimile number (if any);
 - (e) particulars of operating licence held by the non-member, namely operating licence number and motor vehicle or motor vehicles to which such operating licence relates, as well as a copy of each such operating licence;
 - (f) particulars of the motor vehicle or motor vehicles operated by non-member, namely vehicle registration number, vehicle identification number, roadworthiness certification, date of expiry of roadworthiness certification, and, if applicable, operating licence number;
 - (g) detailed information regarding services rendered including route or routes or network of routes on which the relevant transport services will be undertaken and the points of origin and destination of such services, all points where passengers will be picked up and set down and ranks and other facilities that will be used;
 - (h) a statement by the non-member that he or she has signed and will abide by the Code of Conduct for Non-Members; and
 - (i) date of registration of the non-member.
- (4) In the event that no nationally standardised registration system is available to keep a register as prescribed by section 70(b) of the Act, the Registrar should develop a register according to the requirements as set out in subregulations (2) and (3) above.
- (5) The Registrar may keep additional information other than that contained in the standard registration administration system which is regarded as important to ensure an adequate register.

Powers of the Registrar

25. (1) The Registrar may issue a subpoena for reasons contemplated in section 71(1)(b) of the Act, which must be in writing and contain at least the following -
- (a) the letter head of the office of the Registrar;
 - (b) the name of the subpoenaed;
 - (c) postal address;
 - (d) street address;
 - (e) telephone number and facsimile number (if any);
 - (f) the self explanatory reasons for the subpoena;
 - (g) the required action to be taken by the subpoenaed, namely to appear before the Registrar or produce any book, plan, document or other record, or any other article, item or object, which is in the physical possession of the person;
 - (h) the time and place related to the required action contemplated in subregulation (6)(g).

Meetings and decisions of the Registrar and assessors

26. Meetings of the Registrar and assessors should comply with the following -
- (a) the panel of assessors should meet as often as may be necessary to conduct its business expeditiously and efficiently;

- (b) for that purpose, any meeting of the panel of assessors is held at the place and time determined by its chairperson or as decided by the panel at a previous meeting;
- (c) all the assessors must be given notice in writing of any meeting of the panel;
- (d) a majority of the total number of assessors forms a quorum at any meeting;
- (e) a decision of a majority of the assessors present at a meeting constitutes a decision of the panel of assessors, although all reasonable effort should be made that decisions are taken by consensus;
- (f) in the event of an equality of votes on any matter, the Registrar has a deciding vote in addition to a deliberative ordinary vote;
- (g) under normal circumstances the Registrar must draw a programme setting out roles and schedules of meetings of the Panel of Assessors;
- (h) the panel may, with the approval of the Registrar, co-opt to that panel one or two persons who are not disqualified in terms of section 68(5) of the Act, for the purpose of assisting that panel with any matter before it which falls within such a person's particular field of expertise or specialisation;
- (i) such a co-opted person may address the panel and participate in the panel's discussion of the matter, but may not take part in any voting thereon;
- (j) the Registrar and or Panel of assessors must keep records of all their meetings and decisions.

Application for registration

27. (1) An application for the registration of an association, a member thereof, or a non-member must be completed on the relevant prescribed forms in Annexure D. The form must be submitted to the Registrar with the relevant application fee prescribed by the MEC.
- (2) All information required by the application form must be given fully. The Registrar may refuse to accept an application which is not fully completed.
- (3) The Registrar must verify information submitted by the applicants against relevant information such as the National Traffic Information System (eNaTIS), the Operating Licence Administration System (OLAS) and the Registration Administration System (RAS) before approving an application for registration.
- (4) The Registrar may summon representative(s) of the association or the applicant in the case of a non-member to answer questions or make representation(s) before approving an application for registration.

- (5) Annual fees as prescribed shall be payable by a registered association and non-member to the Registrar, the first amount of which is payable not later than one year after the date of initial registration, and thereafter annually not later than that date.
- (6) An association or non-member who fails to pay the prescribed annual fees by the due date, is liable to a penalty of 10% of the amount of the annual fees per month for every month that such annual fees have not been paid after the due date.

Issuing of certificate and distinguishing marks upon registration

28. (1) A registration certificate issued to an association, a member or a non-member must be in the relevant form prescribed in Annexure D.
- (2) Where applicable, distinguishing marks should be issued as per National Regulation No R.890 and other marks may also be issued for which the applicant must pay the prescribed fee as specified in the Annexure E. Where these are issued they must be displayed forthwith and at all times on the vehicle concerned.

Associations, members and non-members undertaking interprovincial transport

29. All associations or non-members registered in another province providing services into the Free State must sign the compliance certificate in the relevant form prescribed in Annexure D, that such an association or a non-member shall comply with the provisions of the Standard Code of Conduct or Code of Conduct for non-members respectively and, in the case of an association, Grievance and Disciplinary Procedures will apply.

Elections and referenda

30. Any person who has been fully registered as a member of a registered association, or as a non-member, shall be entitled to elect and be elected to the transport leadership subject to he or she meeting all other set requirements as determined by the Independent Electoral Commission or relevant institution.

Registration of associations

31. (1) The Registrar must register an association which upon application comply with the following -
 - (a) satisfies the prescribe minimum period, namely -
 - (i) the association has been in existence for a period exceeding the minimum prescribed period, namely -
 - (aa) in the case of minibus-taxi associations, the association should have been in existence on 28 February 1995 and has applied for registration on or before 31 July 1997;

- (bb) for Metered taxi associations, the association should have existed on or before 28 February 2002;
 - (cc) for Education transport associations, the association should have existed on or before 28 February 2003;
- (b) the minimum number of members to constitute an association is twenty registered members;
 - (c) the Constitution and code of conduct submitted for registration should comply with the Standard Constitution as set out in Annexure A;
 - (d) the applying association should submit letters from the relevant municipality in which the association is primarily based that indicate the support of the municipality for the association;
 - (e) the association should supply details of all members, their operating licences, their vehicles and proof that they are registered with the association;
 - (f) the association must confirm that all members have valid operating licences and are operating according to the authority of such operating licences;
 - (g) proof must be provided that each member of the association is registered under the Income Tax Act, or, in terms of that Act, is not required to register;
 - (h) all the information supplied has been verified to the satisfaction of the Registrar.
- (2) All information required by these regulations must be given fully. The Registrar may refuse to accept an application which is not fully completed.

New members of registered associations

- 32.** (1) Apart from the aspects mentioned in the Act, before the Registrar could register a new member as a member of an association the Registrar must ensure and verify at least the following -
- (a) whether the applicant was a member of any association before, and whether he or she is the holder of an operating licence for the route or route in question;
 - (b) if the applicant has been previously affiliated to another association, such applicant must submit a clearance letter or letter of transfer from his or her previous association;
 - (c) whether the applicant was not duly expelled from his or her former association;

- (d) whether the applicant does not hold membership of more than one association;
 - (e) whether the applicant has not been accepted as a member by another association;
 - (f) the Registrar has the discretion to register or deregister members.
- (2) Unsuccessful applicants and their prospective associations must be furnished with reasons for their applications being unsuccessful.

Registration of non-members

33. The Registrar must register a person as a non-member who complies with the following -
- (a) an application for the registration of a non-member as per the prescribed form in Annexure D, together with the relevant application fee as prescribed by the MEC have been submitted;
 - (b) proof has been provided that the applicant prescribe to the Standard Code of Conduct;
 - (c) details of all operating licences, and vehicles should be submitted;
 - (d) an affidavit that the applicant is operating according to the authority of such operating licences;
 - (e) proof must be provided that applicant is registered under the Income Tax Act, or, in terms of that Act, is not required to register;
 - (f) proof that the applicant has applied due to the aspects set out in section 83(1)(e) of the Act;
 - (g) all the information supplied has been verified to the satisfaction of the Registrar.

Disciplinary measures

34. (1) The Registrar can cancel and suspend registration -
- (a) where an association, a member or a non-member is in material breach of the constitution;
 - (b) where an association, a member or a non-member is in material breach of the code of conduct;
 - (c) where the association, a member or a non-member has failed to furnish certain information that the Registrar requires for registration;

- (d) where an association fails to meet requirements for full registration;
 - (e) where the composition of the association, or the presence of a member or a non-member constraints the functioning of an association or transport services;
 - (f) the merger of associations takes place;
 - (g) if in the opinion of the Registrar the existence of the said association, a member or a non-member on reasonable grounds is not conducive to peaceful transport services;
 - (h) where the association disregards the MEC's instruction to hold elections for the executive committee of the association or referenda on issues causing conflict or tension within the association or between the association and another association or associations, within a time stated in the notice.
- (2) The Registrar may only act against an association, a member or a non-member if -
- (a) the Registrar has the first hand knowledge of the breach as contemplated in subregulation (36)(1);
 - (b) the Registrar receives advice from the Panel of Assessors;
 - (c) the Registrar receives a written complaint in the form of a sworn affidavit from any person.
- (3) The Registrar must address a written warning to the association or operator whilst he or she is conducting an inquiry dealing with the following -
- (a) after receiving the complaint, the Registrar must inform the association, a member or a non-member concerned in writing of the nature of the complaint and allow relevant registered entity reasonable opportunity to furnish a written reply;
 - (b) request the entity to refrain from what has been alleged with immediate effect;
 - (c) request that if the situation is as alleged, the entity should remedy the failure as soon as possible, but at least within the prescribed time, which may not be less than 21 days;
 - (d) request the entity to restore the situation *post ante* until after the Registrar's inquiry;
 - (e) where no reply is received within seven days, the Registrar must call upon the complainant and the accused to attend the hearing at the time and place determined by the Registrar;

- (f) the accused must be given adequate information about the charges beforehand;
 - (g) the Registrar shall be the chairperson of the disciplinary committee except where the Registrar's involvement in the inquiry is such that he or she would not be able to act as an objective chairperson, in which instances the MEC will appoint the disciplinary committee's chairperson;
 - (h) the accused must be given an opportunity of presenting their case addressing the allegations;
 - (i) the rules of natural justice will be applicable during the hearing;
 - (j) the Registrar will communicate the decision of the hearing within 14 days of the hearing;
 - (k) any party can appeal against the decision of the Registrar to the MEC.
- (4) If the inquiry reveals that there was such a failure or conduct, the Registrar may send a written order signed by him or her of temporary suspension of the certificate of registration.
- (5) Before the Registrar can affect the suspension of the certificate of registration, the Registrar must -
- (a) inform the association or the operator of his or her findings and cause of action;
 - (b) explain the options available to the association or the operator;
 - (c) outline a period and conditions of suspension;
 - (d) inform the Operating Licensing Board and the Department's transport inspectors of his or her decisions.
- (6) If the inquiry reveals that there was a failure or conduct that warrants withdrawal of the certificate of registration, the Registrar may send a written order signed by him or her withdrawing the certificate of registration.
- (7) Before the Registrar withdraw the certificate of registration, the Registrar must -
- (a) inform the association or the operator of his or her findings and cause of action;
 - (b) explain the options available to the association or the operator;
 - (c) outline a period and conditions of suspension;
 - (d) inform the Operating Licensing Board and the Department's transport inspectors of his or her decisions.

REGISTRATION OF METERED TAXI ASSOCIATIONS AND OPERATORS

Registration of metered taxi associations

35. (1) An application for the registration of a metered taxi association, a member thereof, or a non-member must be completed on the relevant prescribed forms in Annexure D. The form must be submitted to the Registrar with the relevant application fee as prescribed (if applicable).
- (2) All information required by the application form must be given fully. The Registrar may refuse to accept an application which is not fully completed.
- (3) The Registrar must verify information submitted by the applicants against relevant information such as the National Traffic Information System (eNaTIS), the Operating Licence Administration System (OLAS) and the Registration Administration System (RAS) before approving an application for registration.
- (4) The Registrar may summon representative(s) of the association or the applicant in the case of a non-member to answer questions or make representation(s) before approving an application for registration.
- (5) Annual fees as prescribed by the MEC shall be payable by a registered association and non-member to the Registrar, the first amount of which is payable not later than one year after the date of initial registration, and thereafter annually not later than that date.
- (6) An association or non-member who fails to pay the prescribed annual fees by the due date, is liable to a penalty of 10% of the amount of the annual fees per month for every month that such annual fees have not been paid after the due date.
- (7) The Registrar must register an association which upon application comply with the following -
- (a) the association has been in existence for a period exceeding the minimum prescribed period, namely that the association should have existed on or before 28 February 2002;
 - (b) the minimum number of members to constitute an association is twenty registered members;
 - (c) the Constitution and code of conduct submitted for registration should comply with the Standard Constitution as set out in Annexure A;
 - (d) the applying association should submit letters from the relevant municipality in which the association is primarily based that indicate the support of the municipality for the association;

- (e) the association should supply details of all members, their operating licences, their vehicles and proof that they are registered with the association;
- (f) the association must confirm that all members have valid operating licences and are operating according to the authority of such operating licences;
- (g) proof must be provided that each member of the association is registered under the Income Tax Act, or, in terms of that Act, is not required to register;
- (h) all the information supplied has been verified to the satisfaction of the Registrar;
- (i) proof must be provided that each member of the association is in possession of a valid radio frequency licence.

Registration of non-members operating metered taxi services

36. (1) The Registrar must register a person as a non-member operating a metered taxi service who complies with the following -
- (a) an application for the registration of a non-member as per the prescribed form in Annexure D, together with the relevant application fee as prescribed by the MEC have been submitted;
 - (b) proof has been provided that the applicant prescribe to the Standard Code of Conduct;
 - (c) details of all operating licences, and vehicles should be submitted;
 - (d) an affidavit that the applicant is operating according to the authority of such operating licences;
 - (e) proof must be provided that applicant is registered under the Income Tax Act, or, in terms of that Act, is not required to register;
 - (f) proof that the applicant has applied due to the aspects set out in section 83(1)(e) of the Act;
 - (g) all the information supplied has been verified to the satisfaction of the Registrar.
- (2) The Registrar may summon the non-member to answer questions or make representation(s) before approving an application for registration.
- (3) Annual fees prescribed shall be payable by a registered non-member to the Registrar, the first amount of which is payable not later than one year after the date of initial registration, and thereafter annually not later than that date.

- (4) A non-member who fails to pay the prescribed annual fees by the due date, is liable to a penalty of 10% of the amount of the annual fees per month for every month that such annual fees have not been paid after the due date.

REGISTRATION OF ASSOCIATIONS OF OPERATORS OF BUS-TYPE AND COACH-TYPE SERVICES

Registration of associations of operators of bus-type and coach-type services

37. (1) An application for the registration of a bus-type and coach-type association, a member thereof, or a non-member must be completed on the relevant prescribed forms in Annexure D. The form must be submitted to the Registrar with the relevant application fee as prescribed (if applicable).
- (2) All information required by the application form must be given fully. The Registrar may refuse to accept an application which is not fully completed.
- (3) The Registrar must verify information submitted by the applicants against relevant information such as the National Traffic Information System (NaTIS), the Operating Licence Administration System (OLAS) and the Registration Administration System (RAS) before approving an application for registration.
- (4) The Registrar may summon representative(s) of the association or the applicant in the case of a non-member to answer questions or make representation(s) before approving an application for registration.
- (5) Annual fees prescribed by the MEC shall be payable by a registered association and non-member to the Registrar, the first amount of which is payable not later than one year after the date of initial registration, and thereafter annually not later than that date.
- (6) An association or non-member who fails to pay the prescribed annual fees by the due date, is liable to a penalty of 10% of the amount of the annual fees per month for every month that such annual fees have not been paid after the due date.
- (7) The Registrar must register an association which upon application comply with the following -
 - (a) the association has been in existence for a period exceeding the minimum prescribed period, namely that the association should have existed on or before 28 February 2002;
 - (b) the minimum number of members to constitute an association is twenty registered members;
 - (c) the Constitution and code of conduct submitted for registration should comply with the Standard Constitution as set out in Annexure A;

- (d) the applying association should submit letters from the relevant municipality in which the association is primarily based that indicate the support of the municipality for the association;
- (e) the association should supply details of all members, their operating licences, their vehicles and proof that they are registered with the association;
- (f) the association must confirm that all members have valid operating licences and are operating according to the authority of such operating licences;
- (g) proof must be provided that each member of the association is registered under the Income Tax Act, or, in terms of that Act, is not required to register;
- (h) all the information supplied has been verified to the satisfaction of the Registrar;
- (i) proof must be provided that each member of the association is in possession of a valid radio frequency licence.

Registration of non-members operating bus-type and coach-type services

38. (1) The Registrar must register a person as a non-member operating a bus-type or coach-type service who complies with the following -
- (a) an application for the registration of a non-member as per the prescribed form in Annexure D, together with the relevant application fee as prescribed have been submitted;
 - (b) proof has been provided that the applicant prescribe to the Standard Code of Conduct;
 - (c) details of all operating licences, and vehicles should be submitted;
 - (d) an affidavit that the applicant is operating according to the authority of such operating licences;
 - (e) proof must be provided that applicant is registered under the Income Tax Act, or, in terms of that Act, is not required to register;
 - (f) p[roof that the applicant has applied due to the aspects set out in section 83(1)(e) of the Act;
 - (g) all the information supplied has been verified to the satisfaction of the Registrar.
- (2) The Registrar may summon the non-member to answer questions or make representation(s) before approving an application for registration.

- (3) Annual fees prescribed by the MEC shall be payable by a registered non-member to the Registrar, the first amount of which is payable not later than one year after the date of initial registration, and thereafter annually not later than that date.
- (4) A non-member who fails to pay the prescribed annual fees by the due date, is liable to a penalty of 10% of the amount of the annual fees per month for every month that such annual fees have not been paid after the due date.

REGISTRATION OF ASSOCIATIONS OF OPERATORS OF FOUR PLUS ONE TAXI TYPE SERVICES

Registration of associations of operators of four plus one taxi type services

- 39.**
- (1) An application for the registration of a four plus one taxi type service association, a member thereof, or a non-member must be completed on the relevant prescribed forms in Annexure D. The form must be submitted to the Registrar with the relevant application fee as prescribed (if applicable).
 - (2) All information required by the application form must be given fully. The Registrar may refuse to accept an application which is not fully completed.
 - (3) The Registrar must verify information submitted by the applicants against relevant information such as the National Traffic Information System (NaTIS), the Operating Licence Administration System (OLAS) and the Registration Administration System (RAS) before approving an application for registration.
 - (4) The Registrar may summon representative(s) of the association or the applicant in the case of a non-member to answer questions or make representation(s) before approving an application for registration.
 - (5) Annual fees prescribed by the MEC shall be payable by a registered association and non-member to the Registrar, the first amount of which is payable not later than one year after the date of initial registration, and thereafter annually not later than that date.
 - (6) An association or non-member who fails to pay the prescribed annual fees by the due date, is liable to a penalty of 10% of the amount of the annual fees per month for every month that such annual fees have not been paid after the due date.
 - (7) The Registrar must register an association which upon application comply with the following -
 - (a) the association has been in existence for a period exceeding the minimum prescribed period, namely that the association should have been in existence on 28 February 1995 and has applied for registration on or before 31 July 1997;
 - (b) the minimum number of members to constitute an association is twenty registered members;

- (c) the Constitution and code of conduct submitted for registration should comply with the Standard Constitution as set out in Annexure A;
- (d) the applying association should submit letters from the relevant municipality in which the association is primarily based that indicate the support of the municipality for the association;
- (e) the association should supply details of all members, their operating licences, their vehicles and proof that they are registered with the association;
- (f) the association must confirm that all members have valid operating licences and are operating according to the authority of such operating licences;
- (g) proof must be provided that each member of the association is registered under the Income Tax Act, or, in terms of that Act, is not required to register;
- (h) all the information supplied has been verified to the satisfaction of the Registrar.

Registration of non-members operating a four plus one taxi type services

40. (1) The Registrar must register a person as a non-member operating a four plus one taxi type service who complies with the following -
- (a) an application for the registration of a non-member as per the prescribed form in Annexure D, together with the relevant application fee as prescribed have been submitted;
 - (b) proof has been provided that the applicant prescribe to the Standard Code of Conduct;
 - (c) details of all operating licences, and vehicles should be submitted;
 - (d) an affidavit that the applicant is operating according to the authority of such operating licences;
 - (e) proof must be provided that applicant is registered under the Income Tax Act, or, in terms of that Act, is not required to register;
 - (f) proof that the applicant has applied due to the aspects set out in section 83(1)(e) of the Act;
 - (g) all the information supplied has been verified to the satisfaction of the Registrar.
- (2) The Registrar may summon the non-member to answer questions or make representation(s) before approving an application for registration.

- (3) Annual fees prescribed by the MEC shall be payable by a registered non-member to the Registrar, the first amount of which is payable not later than one year after the date of initial registration, and thereafter annually not later than that date.
- (4) A non-member who fails to pay the prescribed annual fees by the due date, is liable to a penalty of 10% of the amount of the annual fees per month for every month that such annual fees have not been paid after the due date.

REGISTRATION OF ASSOCIATIONS OF OPERATORS PROVIDING TRANSPORT FOR EDUCATION SERVICES

Registration of associations of operators providing transport for education services

41. (1) An application for the registration of an education service association, a member thereof, or a non-member must be completed on the relevant prescribed forms in Annexure D. The form must be submitted to the Registrar with the relevant application fee as prescribed (if applicable).
- (2) All information required by the application form must be given fully. The Registrar may refuse to accept an application which is not fully completed.
- (3) The Registrar must verify information submitted by the applicants against relevant information such as the National Traffic Information System (NaTIS), the Operating Licence Administration System (OLAS) and the Registration Administration System (RAS) before approving an application for registration.
- (4) The Registrar may summon representative(s) of the association or the applicant in the case of a non-member to answer questions or make representation(s) before approving an application for registration.
- (5) Annual fees prescribed by the MEC shall be payable by a registered association and non-member to the Registrar, the first amount of which is payable not later than one year after the date of initial registration, and thereafter annually not later than that date.
- (6) An association or non-member who fails to pay the prescribed annual fees by the due date, is liable to a penalty of 10% of the amount of the annual fees per month for every month that such annual fees have not been paid after the due date.
- (7) The Registrar must register an association which upon application comply with the following -
 - (a) the association has been in existence for a period exceeding the minimum prescribed period, namely that the association should have existed on or before 28 February 2002;

- (b) the minimum number of members to constitute an association is twenty registered members;
- (c) the Constitution and code of conduct submitted for registration should comply with the Standard Constitution as set out in Annexure A;
- (d) the applying association should submit letters from the relevant municipality in which the association is primarily based that indicate the support of the municipality for the association;
- (e) the association should supply details of all members, their operating licences, their vehicles and proof that they are registered with the association;
- (f) the association must confirm that all members have valid operating licences and are operating according to the authority of such operating licences;
- (g) proof must be provided that each member of the association is registered under the Income Tax Act, or, in terms of that Act, is not required to register;
- (h) all the information supplied has been verified to the satisfaction of the Registrar;
- (i) proof must be provided that each member of the association is in possession of a valid radio frequency licence.

Registration of non-members operating an education service

42. (1) The Registrar must register a person as a non-member operating a four plus one taxi type service who complies with the following -
- (a) an application for the registration of a non-member as per the prescribed form in Annexure D, together with the relevant application fee as prescribed have been submitted;
 - (b) proof has been provided that the applicant prescribe to the Standard Code of Conduct;
 - (c) details of all operating licences, and vehicles should be submitted;
 - (d) an affidavit that the applicant is operating according to the authority of such operating licences;
 - (e) proof must be provided that applicant is registered under the Income Tax Act, or, in terms of that Act, is not required to register;

- (f) proof that the applicant has applied due to the aspects set out in section 83(1)(e) of the Act;
 - (g) all the information supplied has been verified to the satisfaction of the Registrar.
- (2) The Registrar may summon the non-member to answer questions or make representation(s) before approving an application for registration.
 - (3) Annual fees prescribed by the MEC shall be payable by a registered non-member to the Registrar, the first amount of which is payable not later than one year after the date of initial registration, and thereafter annually not later than that date.
 - (4) A non-member who fails to pay the prescribed annual fees by the due date, is liable to a penalty of 10% of the amount of the annual fees per month for every month that such annual fees have not been paid after the due date.

LAW ENFORCEMENT

Appointment of inspectors

- 43.** The following aspects should be adhered to in appointing a transport inspector -
- (a) an application for appointment should be in terms of section 3B of the National Road Traffic Act 93, 1996 for registration as an inspector of licences, examiner of vehicles, examiner for driving licences or a traffic officer, as the case may be, and shall be made on form RO as shown in schedule 2 of the National Road Traffic Act;
 - (b) an application shall be accompanied by acceptable identification of the applicant and certified copies of any document, certificate or diploma relating to the applicant's competence and registration requirements as referred to in section 3D of the National Road Traffic Act;
 - (c) if the MEC is satisfied as contemplated in section 3C of the National Road Traffic Act, he or she shall issue to the applicant a certificate of registration on form CR as shown in Schedule 2 as well as an Identity card;
 - (d) if the MEC is not satisfied as contemplated in section 3C of the National Road Traffic Act, he or she shall refuse to register the applicant and notify such applicant accordingly.

Special emergency measures

44. A person who contravenes or fails to comply with special measures that apply in an area declared as such by the MEC is guilty of an offence and liable on conviction to a term of imprisonment not exceeding six months or a fine not exceeding R10 000.

Short title

45. These Regulations are called the Free State Public Transport Regulations, 2010.