

PROVINCIAL NOTICE

[No. 183 of 2003]

SPECIAL PROCEDURES FOR LEGALISATION OF EDUCATIONAL TRANSPORT SERVICES REGULATIONS, 2003

By virtue of section 54 of the Free State Interim Transport Act, 1998 (Act No. 16 of 1998), I, SMA Malebo, Member of the Executive Council responsible for Public Works, Roads and Transport in the Province, hereby make the Regulations contained in the Schedule.

SCHEDULE

Definitions

1. In these Regulations, a word to which a meaning has been assigned by the National Act and the Provincial Act, shall have the same meaning, unless the context otherwise indicates, and –

“**association**” means any group of persons formed primarily in relation to the operation of minibus taxi-type services, and –

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

“**educational transport**” means public transport services being provided between the area of residence of students and learners and the educational institution on a regular basis, based on an agreement or contract between the operator and the institution and/or learners and students or their parents;

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

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

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

“**the Provincial Act**” means the Free State Interim Passenger Transport Act, 1998 (Act No. 16 of 1998).

Special procedures for legalisation

2. The Board shall grant operating licences to public transport operators who meet the following requirements:
 - (a) the public transport operator must be a member of a registered or provisionally registered educational transport association and must reside within the area of operation of such association;
 - (b) where such registration of association or operator as contemplated in subregulation (a) has not been confirmed, the public transport operator shall be required to prove that he or she has applied for such registration;
 - (c) the public transport operator must have an acceptable vehicle registered in his or her name that may be used for public transport services in terms of the National Act, and is not used for other public transport services other than for educational transport services as authorised by the operating licence;
 - (d) the public transport operator must have a signed contract or agreement between itself and the educational institution to provide the services described in the operating licence, which complies with the minimum requirements as prescribed by the Board;
 - (e) the public transport operator must have been transporting scholars on or before February 2003.

Registration of educational transport associations

3. Subject to section 53(2) of the National Act, the Registrar shall receive, consider and decide on applications for the registration or provisional registration of educational transport associations based in the Province and their members in a manner similar to that of associations as provided for in Part 12 of the National Act.

Application for registration of educational transport associations

4. (1) An application for the registration of a educational transport association, a member thereof or a non-member must be completed on the relevant prescribed form FSPT 8. The form must be submitted to the Registrar with the application fee as determined by the Member of the Executive Council for Transport by notice in the *Provincial Gazette*. All information required in the application form must be given in full. The Registrar may refuse to accept an application if the form is not fully completed.
- (2) A registration certificate issued to a educational transport association must be in the relevant form prescribed in Annexure A.
- (3) Annual fees determined by the Member of the Executive Council by notice in the *Provincial Gazette* shall be payable by a registered educational transport association, the first amount which is payable not later than one year after the date of initial registration, and thereafter annually not later than that date.
- (4) An association that 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 that such fees have not been paid after the due date.

Standard constitution

5. The standard constitution to which registered educational transport associations must adhere is as set out in Annexure B.

Minimum number of members or primary associations required for registration of association

6. The minimum number of members which a educational transport association must have before it may be registered in terms of the National Act shall be 20 (excluding a conditional member referred to in the standard constitution).

Standard contract

7. The standard contract that should form the basis of any contract between a educational transport operator and the institution and/or learners and students or their parents is as set out in Annexure C.

Record of particulars of trips

8. The record of particulars of all trips made must be kept by the operator in his or her vehicle at all times.

Applications for operating licences

9. (1) Subject to subregulation (2), applications for the operating licences referred to in regulation 2, must be lodged with the Board on the forms as prescribed by the Board, together with the following documents:
- (a) (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;
- (b) proof of registration as a member of an educational transport association according to the records of the Registrar;
- (c) proof that the vehicle to which the application relates is registered in the name of the applicant;
- (d) (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;
- (e) a certified resolution of the executive committee of the educational transport association of which the applicant is a member confirming the support of the association for the application.
- (2) Applications must be submitted to the Board within such period as determined by the MEC by notice in the *Provincial Gazette* for a specific area.

- (3) A separate application must be lodged in respect of each motor vehicle to be authorised to operate under the operating licence.
- (4) The application must be supported by the applicant's association.
- (5) 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.
- (6) The original of each of the interim operating licences must be kept by the applicant in the vehicle concerned when it is operating.
- (7) The interim operating licence must be returned to the Board when the operating licence is uplifted as provided in subregulation (17), 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 referred to in subregulation (15).
- (8) The Board must verify the application details against its records and the records of the Registrar, which would include the verification of the registration number of the association of which the applicant is a member and the registration number assigned to the applicant as an operator, and all other relevant records.
- (9) The Board must submit an application to the relevant planning authority for recommendations on the matters set out in section 83(1)(b) of the National Act, and must consider those recommendations subject to section 39(5) of the Provincial Act.
- (10) The planning authority must respond to the request contemplated in subregulation (9) within 21 calendar days from the date of submission of the application.
- (11) The application form, together with all the other relevant documents, must be submitted to the Board and considered at a duly constituted meeting of the Board.
- (12) The Board must confirm that the applicant is operating on the stated route or route-network, as the case may be, by consulting one or more of the relevant municipalities, forum(s) in a manner the Board deems fit.

- (13) The Board may summon the applicant or any other person to appear before it to answer questions or make representations before approving or refusing an application for an operating licence.
- (14) The applicant, as well as a person wishing to object to such application, has the right to appear before the Board. Objectors must give 21 days written notice to the Board and to the applicant of their intention to object to an application.
- (15) The Board must inform the applicant of the decision of the Board in relation to the application and, if the application was successful, that the applicant must uplift the operating licence as provided for in subregulation (17).
- (16) 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. Where these are issued, they must be displayed forthwith and at all times on the vehicle concerned.
- (17) 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 subregulation (1)(c), unless this has already been done.
- (18) The applicant must provide the Board with the following documents before the operating licence and disc will be prepared and released to the applicant:
 - (a) identification of the applicant;
 - (b)
 - (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.

- (19) The Board may, as it deems fit, redefine or amend a route or route-network stipulated in the application in accordance with the need and supply for services on that route-network, when it grants an operating licence in terms of these Regulations.

Short title

- 10.** These Regulations shall be called the Special Procedures for Legalisation of Educational Transport, 2003.