

**REGULATIONS IN TERMS OF SECTION 10 (1) (a) (b), (d), (e), (f) and section 10 (2) of
the National Land Transport Act**

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1) DEFINITIONS

- 1 (1) Save where the context clearly indicates otherwise, any word or expression contained in these regulations shall be accorded the same meaning contained in the National Land Transport Act 5 of 2009 (the 'Act');
- 1 (2) In the event of any irreconcilable conflict or inconsistency between any word or expression contained in these regulations and any term contained in the Act, the term or expression contained in the Act shall prevail;
- 1 (3) In the event of any irreconcilable inconsistency between any expression contained in any handbook or code or policy or procedure or other instrument empowered by or incorporated into these regulations, then the term or expression contained in the regulations shall prevail.
- (a) 'accounting officer' means the Head of Department;
- (b) 'association' means any group of persons formed primarily in relation to the operation of minibus-taxi type services and:
- i) which has been formed not for gain;
 - ii) whose object is to promote the interests of its members; and
 - iii) whose funds are to be applied in promoting those interests;
- (c) 'code of conduct' means the code of conduct prescribed for the KwaZulu-Natal province by the MEC in terms of regulation 3 and Schedule A hereof;
- (d) 'condemned circumstance' means any situation where any driver or operator or any agent of any driver or operator knew or ought reasonably to have known that any condemned outcome would occur or is likely to occur but failed to take reasonable steps to prevent such condemned outcome;
- (e) 'condemned outcome' means loss of human life or injury to any person or intimidation of any person or damage to any property or disruption to the provision of public transport services;
- (f) 'conflict resolution committee' means an ad hoc committee established by the MEC to mediate and arbitrate on conflict matters arising in the public transport sector of the province;
- (g) 'core city' means a municipality designated under section 4 of the Urban Transport Act 1977 (Act 78 of 1977);
- (h) 'department' means KwaZulu-Natal Provincial Department of transport related matters over which the MEC has executive authority;

- (i) 'inspector' means an inspector designated under regulation 55;
- (j) 'interprovincial transport' means a public transport operating between two or more provinces;
- (k) 'head of department' means the head of the Department over which the MEC is executive authority;
- (l) 'member' means, where membership of an association is involved, a member of an association and, where membership of the PRE is involved, a member of the PRE;
- (m) 'non-member' means any person, whether a natural person or a juristic person who is not a member of an association;
- (n) 'NLTTA' means the National Land Transport Transition Act 2000 (Act 22 of 2000);
- (o) 'public disorder' means any act or omission that has or may cause a danger to the general public or any section of the general public;
- (p) 'public transport boycott' means the complete or partial retardation, obstruction or discontinuation of the provision of public transport services by any driver or any operator or any association or any non-member or any other person;
- (q) 'public transport violence' means any act that is, has been or is being committed or caused to be committed or permitted to be committed or threatened to be committed or threatened to be caused to be committed or threatened to be permitted to be committed or is likely to be committed by any driver or operator or association or non-member or any other person with the intention of causing or the effect of a condemned outcome
- (r) 'PRE' means the KwaZulu-Natal Public Transport Regulatory Entity;
- (s) 'registered constitution' means an association's constitution, filed in the Head of Administration for the PRE's records pursuant to the association's successful application for provisional or full registration;
- (t) 'head of administration of the PRE' means the person appointed as the head of administration of the PRE for KwaZulu-Natal by the MEC in compliance with relevant provincial laws and regulation 9;
- (u) 'the Act' means the National Land Transport Act, 2009 (Act 5 of 2009);

PART 1
INTRODUCTORY PROVISIONS

2) PURPOSE

- 2 (1) The purpose of these regulations are:
- (a) to prescribe the code of conduct for operators or drivers of public transport vehicles in terms of section 10(1)(b) of the Act;
 - (b) to provide for the recognition of associations that were recognised as such in terms of the NLTTA ;
 - (c) to provide a mechanism for the recognition of associations that were not in existence during the operation of the NLTTA;
 - (d) to prescribe a code of conduct for associations referred to in sub-regulations 1(b) and 1(c) to this regulation;
 - (e) to authorise the development and implementation of governance and compliance standards and procedures to ensure the effective, efficient and economical conduct of the affairs of the PRE;
 - (f) to recognise and incorporate surviving regulations in terms of repealed legislation.

3) CODE OF CONDUCT FOR OPERATORS AND DRIVERS OF PUBLIC TRANSPORT VEHICLES

- 3 (1) All operators and drivers of public transport vehicles shall be bound by the code of conduct constituting Schedule A to these regulations, which Schedule A is hereby incorporated into these regulations;
- 3 (2) These regulations shall constitute material terms and conditions upon which any operator and driver of public transport undertakes the operation and driving of public transport;
- 3 (3) The code of conduct referred to in sub-regulation 1 to this regulation shall constitute material to be considered by the PRE in the execution of its mandate including determinations relating to the granting, renewal, suspension or revocation of any right, title or interest ordinarily conferred to an operator or driver of public transport in terms of the Act.

4) GOVERNANCE AND COMPLIANCE STANDARDS AND PROCEDURES FOR THE PROVINCIAL REGULATORY ENTITY

- 4 (1) The Accounting officer shall ensure that:
- (a) a handbook or other manual is developed and implemented by the PRE in order to ensure effective, efficient and economical conduct of the affairs of the PRE;
 - (b) persons entrusted with the responsibility of implementing the handbook or other manual referred to in sub-regulation (1)(a) undergo training in order to ensure proper implementation of such handbook or other manual referred to in sub-regulation (1)(a);
 - (c) stakeholders affected by the PRE are identified and familiarised with the material terms of the handbook or other manual referred to in sub-regulation (1)(a);
 - (d) ongoing monitoring and evaluation of performance against the handbook or other manual referred to in sub-regulation (1)(a) is undertaken;
 - (e) timely and appropriate steps are taken in respect of unsatisfactory performance against the handbook or other manual referred to in sub-regulation (1)(a);
 - (f) regular assessments are undertaken in order to assess the impact of performance against the handbook or other manual referred to in sub-regulation (1)(a) and that appropriate steps are taken to adapt and enhance the quality of the handbook or other manual and to enhance performance against the handbook or other manual to the extent reasonably necessary;
 - (g) any other steps are taken to improve performance and stakeholder satisfaction in respect of the roles and responsibilities of the PRE.

5) RECOGNITION OF ASSOCIATIONS

- 5 (1) All associations that were in existence during the term of the NLTTA shall continue to have the rights conferred and responsibilities imposed by the NLTTA;
- 5 (2) The procedure for the recognition of any association that was not in existence during the term of the NLTTA shall be strictly in accordance with the statutory requirements prescribed by the NLTTA;
- 5 (3) All associations recognised in terms of sub-regulation (2) shall have the same rights and obligations in terms of sub-regulation (1) ;

- 5 (4) All the roles and responsibilities of the registrar in relation to associations in terms of the NLTTA are hereby transferred to the Head of Administration of the PRE.

6) IMPACT ASSESSMENT AND CONTINUOUS IMPROVEMENT

- 6 (1) The PRE shall, on a quarterly basis, file written reports with the MEC expressing:

- (a) steps undertaken by the PRE in the execution of its roles and responsibilities in terms of the Act and these regulations;
- (b) difficulties encountered by the PRE in undertaking the steps referred to in sub-regulation 1(a);
- (c) any proposed interventions in respect of any insurmountable difficulties encountered by the PRE in undertaking the steps referred to in sub regulation (1)(a);
- (d) the impact of the steps referred to in sub regulation (1)(a) on the enhancement of effective, efficient and economical delivery on the mandate of the PRE; and
- (e) any proposed interventions to improve the effective, efficient and economical delivery on the mandate of the PRE.

- 6 (2) The MEC shall consider and determine the report referred to in sub regulation (1) without undue delay and promptly provide the PRE with a written record of the determination and reasons therefor.

- 6 (3) Any determination in terms of sub regulation (2) shall be carried into effect by the PRE.

- 6 (4) A concise summary of reports, determinations and implementation of determinations in terms of sub-regulations (1), (2) and (3) shall be included in the annual report of the department to which the MEC is an executive authority.

7) OUTREACH

- 7 (1) The MEC shall cause these regulations to be published within thirty (30) days of the regulations coming into effect:

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

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

8) FUNCTIONS OF THE MEC

- 8 (1) The MEC shall, in executing functions arising from section 9(2) of the Act:
- (a) formulate and implement, on an annual basis, a provincial land transport plan and investigation plan in order to achieve functions set out in section 9(2)(a) of the Act;
 - (b) undertake quarterly reviews on each of the plans set out in sub-regulation 1(a) and make any adjustments reasonably necessary for improved performance against such plans;
 - (c) undertake quarterly financial reviews to evaluate budgetary compliance in respect of expenditure in respect of transport related matters in order to achieve functions set out in section 9(2)(b) of the Act;
 - (d) take any steps reasonably necessary to nullify or rectify or otherwise deal with any conduct deviating from strict budgetary compliance in respect of land transport matters and to approve any requests relating to adjustments, deviations or enhancement of performance in relation to budgetary compliance;
 - (e) undertake an annual resource audit in respect of all municipalities in order to determine the nature and extent of gearing of such municipalities in relation to meeting their responsibilities and performing their functions set out in section 9(2)(c) of the Act;
 - (f) conclude and implement, with each municipality, capacity development agreements identifying clear interventions by the MEC in respect of each Municipality, terms regulating such interventions, oversight mechanisms and consequences for deviation from the terms regulating such interventions;
 - (g) undertake, on an annual basis, comprehensive research in order to determine appropriate steps for the improvement of planning, co-ordination and facilitation of the land transport functions of the province as required in terms of section 9(2)(e) of the Act;
 - (h) implement, without undue delay, recommendations arising from the comprehensive research referred to in sub-regulation (1)(g) and to record in writing any decision and reasons for any decision not to implement any

recommendation or any part of any recommendation arising from such comprehensive research;

- (i) undertake regular consultations with various organs of state affected by any action or decision to be taken in the course of executing functions set out in this regulation and as required in terms of section 9(2)(f) of the Act;
 - (j) take into account competing interests and needs of affected organs of state prior to taking any action or decision in the course of executing functions set out in this regulation and as required in terms of section 9(2)(f) of the Act;
 - (k) conduct, on an annual basis, an impact assessment dealing with matters provided for in section 9(2)(g) of the Act;
 - (l) implement, without undue delay, recommendations arising from the impact assessments referred to in sub-regulation (1)(k) and to record in writing any decision and reasons for any decision not to implement any recommendation or any part of any recommendation arising from such impact assessments;
 - (m) set standards, performance criteria and related indicators to ensure intermodal and intra-modal co-ordination and efficient management of investment in transport and of transport infrastructure and systems;
 - (n) undertake quarterly reviews on performance against standards, criteria and indicators referred to in section 9(2)(h) of the Act and make any adaptations or adjustments reasonably necessary to improve such standards, criteria and indicators or to improve performance against such standards, criteria and indicators;
 - (o) co-ordinate transport initiatives with municipalities, and other stakeholders in the transport field by establishing co-ordinating structures or by other methods; and
 - (p) undertake a quarterly review of performance by co-ordinating structures or other methods in the course of executing functions set out in section 9(2)(j) of the Act and to propose any adaptations or adjustments reasonably necessary to improve the performance of such co-ordinating structures or other matters.
- 8 (2) In addition to the requirements prescribed by the Minister, the MEC shall prescribe the content of the integrated transport plans for different types or categories of Municipality;

- 8 (3) The MEC must prescribe the content of By-laws for the establishment, maintenance and management of Municipal taxi ranks for different types or categories of Municipality.

PART 2

HEAD OF ADMINISTRATION FOR THE PRE AND ASSOCIATIONS

9) TRANSFER OF ROLES AND RESPONSIBILITIES

- 9 (1) The MEC hereby appoints the Head of Administration for the PRE as the person that assumes all the roles and responsibilities previously vesting with the provincial registrar in terms of the NLTTA;
- 9 (2) The Head of Administration for the PRE so appointed is responsible for receiving, considering and deciding upon applications for the registration of associations and their members, and of non-members, and related matters, at least in respect of the minibus taxi industry as provided for in Part 2;
- 9 (3) The Head of Administration for the PRE must perform the functions of that office independently, fairly and impartially.

10) FUNCTIONS OF THE HEAD OF ADMINISTRATION FOR THE PRE

- 10 (1) The Head of Administration for the PRE shall:
- (a) Receive, consider and decide on applications for the registration or provisional registration of associations based in the province and their members, and of any non-members so based;
 - (b) in the circumstances determined by these regulations, decide on and effect the suspension or cancellation of such a registration of any association or any of its members or any non-member in accordance with such laws;
 - (c) keep records of all other information required to maintain a proper register and to enable independent auditing of the performance of the Head of Administration for the PRE against roles and responsibilities arising from these regulations;
 - (d) shall file written quarterly reports with the MEC for the department responsible for transport in the province of KwaZulu-Natal setting out steps taken to implement roles and responsibilities arising from these regulations, difficulties encountered in the course of taking such steps, any other steps taken to

surmount such difficulties, recommendations for consideration and determination in respect of insurmountable difficulties and any proposed steps to continuously improve the effective, efficient and economical execution of roles and responsibilities arising from these regulations.

11)REGISTRATION OF ASSOCIATION OR NON-MEMBER IN ONE PROVINCE ONLY

- 11 (1) An association and any of its members or any non-member that undertakes interprovincial services:
- (a) may not at any time be registered or provisionally registered in more than one province in respect of a particular route;
 - (b) For the purposes of paragraph (a) and regulation 13(b)(i), associations and non-members must select the province where they are based and once a selection has been made, it may in the case of an association, be changed only in accordance with a resolution adopted by the members of the association at an annual general meeting of its members in accordance with the association's constitution.
- 11 (2) A registration or provisional registration of an association and any of its members and of any non-member, who undertake interprovincial transport in a province while registered in another province, is without any legal force.
- 11 (3) After having registered or provisionally registered any association whose members undertake interprovincial transport, in accordance with this regulation, the Head of Administration for the PRE concerned must forward a copy of that association's registration certificate or certificate of provisional registration to the Head of Administration for the PRE of each other province to or from which public transport services are operated by that association's members.

12)PROVISIONAL REGISTRATION AND FULL REGISTRATION OF ASSOCIATIONS AND NON-MEMBERS REGISTERED UNDER PROVINCIAL LAWS

- 12 (1) Any association and any non-member which, immediately before the commencement of the NLTTA, was registered in terms of any provincial law, is regarded as an association or non-member registered provisionally for a

period ending on a date to be determined by the MEC by notice in the Provincial Gazette after consulting the Minister and the other MEC's.

- 12 (2) The provisional registration of an association or non-member in terms of regulation 12(1) lapses on whichever one of the following events take place first:
- (a) when the period mentioned in regulation 12(1) expires;
 - (b) when the provisional registration is converted to full registration in terms of provincial laws.
- 12 (3) The provisional registration of a non-member may not be converted to full registration unless the non-member:
- (a) has had each permit held by that non-member converted to an operating licence; and
 - (b) holds an operating licence for each vehicle by means of which the non-member operates a public transport service; and
 - (c) has subscribed to the code of conduct, in terms of regulation (3), applicable in the province.

13) DIRECT FULL REGISTRATION OF ASSOCIATIONS

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

14)REGISTRATION OF MEMBERS

14 (1) Where an association has been provisionally or fully registered, the Head of Administration for the PRE must register every member thereof in respect of which the required information has been provided in the relevant application form, as a provisional or full member of that association, as the case may be.

15)ISSUING OF CERTIFICATES AND DISTINGUISHING MARKS UPON REGISTRATION OR PROVISIONAL REGISTRATION

15 (1) The Head of Administration for the PREs must liaise with one another so as to ensure that the registration numbers allocated by each of them to associations, their members, and non-members are unique.

15 (2) Where a member or non-member:

- (a) that is registered is engaged in interprovincial transport, the Head of Administration for the PRE must in addition issue, in the manner and form prescribed by the Minister, a distinguishing mark for each vehicle of the registered member or non-member that is used under the authority of an appropriate operating licence to operate the interprovincial transport;
- (b) that is provisionally registered is engaged in interprovincial transport, the Head of Administration for the PRE must in addition issue, in the manner and form prescribed by the Minister, a distinguishing mark for each vehicle of the provisionally registered member or non-member:
 - i) that is so used under the authority of an appropriate operating licence or permit; or
 - ii) in respect of which the provisionally registered member or non-member has made application for an appropriate operating licence in accordance with this Act and relevant provincial laws.

15 (3) The Minister may, in consultation with the MECs, prescribe the minimum particulars to be contained in any registration certificate or certificate of provisional registration to be issued for interprovincial transport.

16)REQUIREMENTS FOR CONSTITUTIONS OF ASSOCIATIONS

16 (1) The constitution of an association must for the purposes of full registration comply with the minimum requirements, if any, prescribed by the Minister in consultation with the MECs.

17) BENEFITS OF REGISTRATION

- 17 (1) Only registered or provisionally registered associations, members and non-members may receive financial assistance from any organ of state in any sphere of government or from any transport authority or core city, for the purposes of establishing or operating a co-operative for minibus taxi operators.
- 17 (2) Only registered members and registered non-members are eligible to be awarded a commercial service contract or a subsidised service contract.
- 17 (3) An organ of state, a transport authority and a core city may not render financial assistance for any purpose relating to public transport to any operators of minibus taxi-type services who are not registered or provisionally registered members or non-members, or to any associations that are not so registered, except assistance relating to training or instruction.

18) APPOINTMENT OF HEAD OF ADMINISTRATION FOR THE PRE

- 18 (1) Subject to regulation (9), the MEC must appoint a Head of Administration for the PRE for the province to exercise the powers and perform the functions and duties conferred and imposed on the holder of that office by regulations Part 2.
- 18 (2) The Head of Administration for the PRE:
- (a) receives the salary and allowances and is entitled to the benefits determined by the MEC with the agreement of the member of the executive council responsible for finance in the province.
 - (b) The letter of appointment of the Head of Administration for the PRE must specify the salary, allowances and benefits so determined.
- 18 (3) The head of the provincial department must, subject to the laws governing the public service, provide the staff necessary to assist the Head of Administration for the PRE in the performance of the functions and duties of that office.
- 18 (4) When the office of Head of Administration for the PRE is vacant or the Head of Administration for the PRE is unable to act due to any temporary physical or mental disability, the MEC may appoint any fit and proper person who is not subject to any disqualification mentioned in regulation (19), to act as Head of Administration for the PRE and exercise or perform the powers, functions and duties of that office until the vacancy is filled or the incumbent of that office has resumed duty, as the case may be.

19)DISQUALIFICATIONS FOR HOLDING HEAD OF ADMINISTRATION FOR THE PRE'S OFFICE

- 19 (1) A person may not be appointed or remain in office as Head of Administration for the PRE—
- (a) if subject to any legal disability;
 - (b) upon having been elected or appointed as a member of Parliament or a provincial legislature or a municipal council;
 - (c) if at any time removed from a public office on account of misconduct;
 - (d) upon being declared insolvent or the person's estate being or having been handed over to creditors, or where the person has been declared insolvent and is not yet rehabilitated;
 - (e) if convicted of any offence—
 - i) of which dishonesty is an element;
 - ii) for which a sentence of imprisonment without the option of a fine has been imposed;
 - iii) in terms of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998), or the NLTTA; or
 - iv) in terms of section 127 of the NLTTA or convicted before the commencement of the NLTTA of any offence in terms of a previous law, if that offence is similar to any offence mentioned in section 127 of the NLTTA;
 - (f) who, subject to sub-regulation (1)(d), has any direct financial or business interest in any sector of the public transport industry.
- 19 (2) When the appointment of any person as Head of Administration for the PRE is considered, the person may be required to disclose to the MEC, in writing, any interests which the person may have in the minibus taxi industry or any other part of the public transport industry.

20)RESIGNATION OF HEAD OF ADMINISTRATION FOR THE PRE, AND REMOVAL FROM OFFICE

- 20 (1) The Head of Administration for the PRE may resign by giving one month's written notice to the MEC.

- 20 (2) The MEC may at any time remove the Head of Administration for the PRE from office;
- (a) for failing:
 - i) to perform the duties of the Head of Administration for the PRE fairly and impartially; or
 - ii) to perform those duties diligently and efficiently.
 - (b) for misconduct; or
 - (c) if, because of any physical or mental illness or disability, the Head of Administration for the PRE has become incapable of performing the Head of Administration for the PRE's duties or performing them efficiently.

21)VACATION OF OFFICE

- 21 (1) The Head of Administration for the PRE must vacate office:
- (a) if the Head of Administration for the PRE becomes subject to a disqualification mentioned in regulation (19);
 - (b) in the case where the Head of Administration for the PRE has resigned, when the resignation takes effect in terms of regulation (20); or
 - (c) upon removal from office under regulation (20) (2).
- 21 (2) When the office of Head of Administration for the PRE has become vacant, the MEC must take immediate steps to fill the vacancy by the appointment, in accordance with regulation (18), of a fit and proper person who is not subject to a disqualification mentioned in regulation (19), which applies, with the changes required in the context, to such an appointment.

22)FUNCTIONS OF THE HEAD OF ADMINISTRATION FOR THE PRE

- 22 (1) The Head of Administration for the PRE must—
- (a) receive and consider and decide upon, applications for the registration of associations and their members, and of non-members, as provided for in Part 2;
 - (b) advise the MEC on matters falling within the scope of Part 2, and provide the MEC with information on matters of public importance acquired in the course of performing the functions of that office in terms of those regulations;
 - (c) take all reasonable steps to monitor and acquire information with regard to the compliance or non-compliance:

- i) by registered associations, with their respective constitutions;
 - ii) by registered members and by registered non-members, with the code of conduct;
 - iii) of the registered associations' constitutions, with section 30 of the NLTTA;
- (d) assist in the promotion of professional practices by registered associations and their members and by non-members;
- (e) take any steps that are reasonably necessary with a view to encourage associations to register in accordance with regulations Part 2, and provide advice and assistance to enable them to apply successfully for registration;
- (f) consider and decide on the suspension or cancellation of the registration of an association or any member thereof or of any non-member;
- (g) evaluate proposed amendments to the constitutions of registered associations in order to ensure that the amendments are consistent with the requirements of section 30 of the NLTTA, and liaise with associations with a view to prevent the adoption of amendments that are not so consistent, or inform them of the inconsistency of amendments adopted by them, and call on them to abandon such amendments.
- (h) keep a provincial transport register in which is recorded, in the manner prescribed, the name of every association, member of an association or non-member whose application for such a registration has been granted, together with the prescribed information about the taxi service or services rendered by the association, member of the association or non-member so registered, and the vehicles used for operating those services; and
- (i) keep records of all other information required to maintain the National Transport Register.
- 22 (2) The information recorded in the provincial register:
- (a) is open to inspection by the public during the provincial department's normal office hours.
 - (b) at the request of any interested person and on payment of the fee, if any, that has been prescribed by the MEC, the Head of Administration for the PRE must furnish the person with a certified copy of or extract from any record contained in the provincial transport register, subject to subsection (7) of section 6 of the NLTTA.

- 22 (3) In dealing with any matter contemplated in subsection (1)(a) or (f) of the NLTTA, the Head of Administration for the PRE may:
- (a) allow a person affected by or interested in the matter, or the duly authorised representative of such a person, to appear before the Head of Administration for the PRE and:
 - i) give evidence or make oral representations relevant to the matter;
 - ii) call witnesses and lead evidence on any question concerning a matter relevant to the proceedings before the Head of Administration for the PRE;
 - iii) question a person who testifies as a witness in those proceedings;
 - (b) issue a subpoena in the form prescribed by the MEC requiring a person to appear before the Head of Administration for the PRE to give evidence or to produce any book, plan, document or other record, or any article, item or object, in the possession or under the control of the person, and have it served in the manner so prescribed;
 - (c) order any person present in or at the place where the proceedings are conducted, to appear before the Head of Administration for the PRE to give evidence or to produce any book, plan, document or other record, or any article, item or object, which is in the physical possession of the person in or at that place;
 - (d) question any person appearing as a witness;
 - (e) require that any oral evidence be given under oath or affirmation and, for that purpose, administer an oath to or take down an affirmation from any witness;
 - (f) refuse to hear any oral evidence or representations from any person unless the person has been sworn in or has made an affirmation as a witness.
- 22 (4) Any party affected by any decision made or given by the Head of Administration for the PRE may require the Head of Administration for the PRE to furnish reasons for that decision in writing, whereupon the Head of Administration for the PRE must do so without delay.
- 22 (5) For the purposes of this section, “registration” and “registered” includes a reference to “provisional registration” and “provisionally registered”, respectively.

23) HEAD OF ADMINISTRATION FOR THE PRE REQUIRED TO DISCLOSE COMMERCIAL AND PECUNIARY INTERESTS

- 23 (1) The Head of Administration for the PRE may not attend to and dispose of any matter in which the Head of Administration for the PRE has a direct commercial or pecuniary interest which is greater than that which a member of the general public has in that matter.
- 23 (2) If at any stage it appears that the Head of Administration for the PRE has or may have an interest which in terms of sub-regulation (1) may preclude the Head of Administration for the PRE from disposing of the matter, the Head of Administration for the PRE must forthwith:
- (a) disclose the interest to the MEC with a view to the latter deciding the issue; and
 - (b) suspend attendance to and disposal of the matter pending the MEC's decision.
- 23 (3) The MEC must without delay:
- (a) in writing, notify the Head of Administration for the PRE of the decision taken on the issue.
 - (b) where the MEC finds:
 - i) such an interest not to exist, the MEC in that notification must inform the Head of Administration for the PRE accordingly and direct the Head of Administration for the PRE to proceed with the matter that was so suspended; or
 - ii) such an interest to exist, the MEC must appoint another suitable person in accordance with regulation (18) to dispose of the matter that was so suspended.
- 23 (4) Any act performed by the Head of Administration for the PRE in disposing of a matter contrary to sub-regulation (1) has no legal force.

24) HEAD OF ADMINISTRATION FOR THE PRE TO REPORT ANNUALLY

- 24 (1) The Head of Administration for the PRE must annually, as soon as possible after the end of the province's financial year, submit to the MEC a report on:
- (a) the functioning of the Head of Administration for the PRE's office;
 - (b) the functioning of the panel of assessors, and its role and contributions in assisting the Head of Administration for the PRE in the performance of the functions of that office in terms of Part 2;

- (c) matters concerning the registration of associations, the members thereof, and non-members; and
- (d) other topical matters in connection with or arising from the application of Part 2.

24 (2) The MEC must table the Head of Administration for the PRE's report in the provincial legislature within 21 days of receipt, if the legislature is then sitting, or if it is not then sitting, within 21 days of the beginning of its next session.

25) ESTABLISHMENT AND FUNCTIONS OF PANEL OF ASSESSORS

25 (1) The MEC, after consultation with the Head of Administration for the PRE, may by notice in the Provincial Gazette establish a panel of assessors consisting of the number of assessors specified in the notice, but not fewer than five and not more than seven, of whom:

- (a) one must have special knowledge of the minibus taxi industry in the province;
- (b) 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 minibus taxi industry for their transport;
- (c) at least one must have a formal qualification in law;
- (d) at least one must have special knowledge of the functioning and operations of transport authorities and municipalities in the province or under its jurisdiction.

25 (2) The functions of the panel of assessors are:

- (a) to advise the Head of Administration for the PRE with regard to any matter which may be referred to it by the Head of Administration for the PRE and which relates to the exercise or performance of the Head of Administration for the PRE's powers and duties under Part 2;
- (b) to make recommendations to the Head of Administration for the PRE in connection with any matter falling within the scope of those powers and duties; and
- (c) at the request of and subject to the directions of the Head of Administration for the PRE, to undertake any investigation and report its findings and recommendations to the Head of Administration for the PRE.

26) APPOINTMENT, REMUNERATION AND CONDITIONS OF SERVICE OF ASSESSORS

- 26 (1) Subject to sub-regulation (2) the MEC must appoint the number of assessors specified in terms of sub-regulation (25) (1);
- 26 (2) Before appointing persons as assessors, the MEC must:
- (a) make known his or her intentions to appoint them by notice in the Provincial Gazette and invite comments or objections relating to the appointment within a time stated in the notice;
 - (b) consider any comments or objections received pursuant to such a notice.
- 26 (3) In so doing, the MEC must appoint fit and proper persons who are characterised by their impartiality, but may not appoint any person as an assessor if the person is disqualified from being appointed Head of Administration for the PRE.
- 26 (4) An assessor is appointed:
- (a) for a period specified in the assessor's letter of appointment but not exceeding two years, on the expiry of which the person concerned is eligible for reappointment for not more than one term; and
 - (b) on general terms and conditions specified in the assessors' letter of appointment.
- 26 (5) Each of the assessors is entitled to:
- (a) remuneration for each day or part of day in any month on which the assessor performed the work of the panel of assessors in terms of this Part, at a daily rate determined by the MEC with the concurrence of the MEC responsible for finance; and
 - (b) be reimbursed, in accordance with a tariff so determined, for all reasonable travelling and subsistence expenses necessarily incurred while the assessor performed work of that panel.

27) MEETINGS OF PANEL OF ASSESSORS

- 27 (1) The panel of assessors:
- (a) meets as often as may be necessary to conduct its business expeditiously and efficiently.
 - (b) holds meetings at the place and time determined by its chairperson or as decided by that panel at a previous meeting but its first meeting will be held at the place and time determined by the Head of Administration for the PRE and

at that meeting, which must be attended by all the assessors, they must elect one of their numbers as the chairperson.

(c) must be given notice in writing of any meeting of the panel.

27 (2) A majority of the total number of assessors forms a quorum at any meeting of that panel.

27 (3) A decision of a majority of the assessors present at a meeting constitutes a decision of the panel of assessors, subject to sub-regulation (2);

27 (4) In the event of an equality of votes on any matter, the chairperson has a casting vote in addition to a deliberative ordinary vote.

27 (5) No decision taken or given and no other act performed by the panel of assessors is invalid merely by reason:

(a) of a vacancy in that panel; or

(b) of the fact that any person not entitled to sit as an assessor sat as an assessor or participated in the proceedings of that panel when the decision was taken, if that decision was taken or that act was authorised by the required majority of the assessors who were entitled to sit and participate as members of that panel.

27 (6) The panel of assessors must keep minutes of the proceedings at its meetings.

27 (7) The minutes of any meeting of the panel of assessors, when confirmed at a next meeting and signed by the person who presides over the latter meeting, are, in the absence of proof of error, regarded as a true and correct record of the proceedings and matters at the meeting which they purport to minute, and are sufficient evidence of those proceedings and matters at any proceedings before a court of law or any tribunal or commission of inquiry.

28) PANEL OF ASSESSORS MAY CO-OPT IN CERTAIN CIRCUMSTANCES

28 (1) The panel of assessors may, with the approval of the Head of Administration for the PRE, co-opt to that panel one or two persons who are not disqualified in terms of regulation 26(3), 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.

28 (2) Such a co-opted person may address the panel of assessors and participate in the panel's discussion of the matter, but may not take part in any voting thereon.

28 (3) Regulation 27(4) applies, with the changes required by the context, also where any person has been co-opted in terms of this section.

29) RESIGNATION AND REMOVAL FROM AND VACATION OF OFFICE BY ASSESSORS

29 (1) Regulations (20) and (21) relating to the Head of Administration for the PRE's resignation and removal from and vacation of office and to the filling of a vacancy in that office, apply, with the changes required by the context, to the resignation and removal from office and vacation of office of an assessor and the filling of a vacancy in the panel of assessors.

30) DISCLOSURE OF ASSESSORS' COMMERCIAL AND PECUNIARY INTERESTS

30 (1) An assessor may not attend or participate in any meeting of the panel where the proceedings at the meeting entail the discussion of or voting on any matter in which the assessor has a direct commercial or pecuniary interest which is greater than that which a member of the general public has in that matter.

30 (2) If, at any stage during any proceedings of the panel of assessors it appears that an assessor has or may have an interest which in terms of sub-regulation (1) may preclude the assessor from participating in the proceedings:

- (a) the assessor must forthwith and fully disclose the nature of the interest and leave the venue of the meeting so as to enable the remaining members of that panel to discuss the matter and to determine whether the assessor concerned is so precluded; and
- (b) that assessor's disclosure and the remaining assessors' determination in terms of sub-regulation (2) (a) must be recorded in the minutes of the meeting concerned.
- (c) If an assessor fails to disclose any interest in compliance with sub-regulation (2) when that panel considers and deals with any matter to which the interest relates, or if such an assessor otherwise contravenes or fails to comply with sub-regulations (1) or (2), the proceedings affected by the non-disclosure, contravention or non-compliance are without any legal force and effect, and the assessor concerned is guilty of misconduct.

31)PROVISIONAL AND FULL REGISTRATION OF ASSOCIATIONS AND NON-MEMBERS PREVIOUSLY REGISTERED

- 31 (1) For the purposes of regulation (12):
- (a) the Head of Administration for the PRE, if satisfied that an association or non-member qualifies for provisional registration in terms of that section, must register the association or non-member provisionally, subject to regulation (11) (1)(a), by entering the latter's name and the required particulars as prescribed by the MEC in the provincial transport register.
 - (b) the onus rests on the association or non-member to ensure that provisional registration occurs in terms of sub-regulation (1).
- 31 (2) The provisional registration of an association or non-member in terms of sub-regulation (1) lapses on whichever one of the following events take place first:
- (a) When the period mentioned in regulation (12) (1) expires; or
 - (b) when the provisional registration is converted to full registration in terms of sub-regulation (3).
- 31 (3) The Head of Administration for the PRE must register an association which, before the expiry of the period of its provisional registration, has applied to the Head of Administration for the PRE to convert its provisional registration to full registration and has satisfied the Head of Administration for the PRE:
- (a) that its members no longer hold any current permits under the authority of which they would be entitled, in terms of section 79 of the NLTTA, to operate their respective public transport services, due to either the one or the other or both of the following:
 - i) The conversion of those permits to operating licences as provided for in this Act and applicable provincial laws;
 - ii) the termination of the membership of any member who is the holder of such a permit and has failed to have that permit so converted to an operating licence;
 - (b) that it has terminated the membership of every member who, as at the date of the application, does not hold an appropriate operating licence for each vehicle by means of which a public transport service is operated by the member; and
 - (c) that it meets the requirements of regulation (33), which applies with the changes required by the context.

- 31 (4) The Head of Administration for the PRE must register any non-member who, before the expiry of the period of provisional registration, has applied to the Head of Administration for the PRE to convert the non-member's provisional registration to full registration and has satisfied the Head of Administration for the PRE that the non-member complies with regulation (36).
- 31 (5) This section does not preclude an association whose provisional registration has lapsed in terms of sub-regulation (2)(a) from applying for registration in terms of regulation (33).

32) PROVISIONAL REGISTRATION OF ASSOCIATIONS NOT QUALIFYING DIRECTLY FOR FULL REGISTRATION

- 32 (1) An association may be provisionally registered if:
- (a) the association has been in existence for a period not less than the period determined by the MEC by notice in the Provincial Gazette.
 - (b) the number of its membership as at the date of application is not less than the minimum number as determined by the MEC by notice in the Provincial Gazette;
 - (c) all its members have subscribed at least to those provisions of the code of conduct that are specified by the MEC by notice in the Provincial Gazette;
 - (d) the association has a constitution:
 - i) which has been subscribed to by all its members, and in terms of which any breach of those specified provisions of the code of conduct by any member may result in the imposition of an appropriate penalty or sanction by a standing disciplinary committee after due inquiry; and
 - ii) which complies with those provisions of regulation (39) as determined by the MEC by notice in the Provincial Gazette.
- 32 (2) An association may not be provisionally registered if its joining fees and membership fees exceed the maximum amounts prescribed by the MEC by notice in the Provincial Gazette.
- 32 (3) The Head of Administration for the PRE, if satisfied that an applicant association meets the requirements for provisional registration imposed by sub-regulation (1), must register it provisionally, by entering its name and the particulars prescribed by the MEC in the provincial transport register, subject to

this section, and must issue to the association an appropriate registration certificate in the form so prescribed.

33)DIRECT FULL REGISTRATION OF ASSOCIATIONS

- 33 (1) An association qualifies for registration and, upon having applied therefor, must be registered, if:
- (a) the association complies with the requirements of section 13 of the NLTTA;
 - (b) the association has been in existence for a period not less than the period determined by the MEC by notice in the Provincial Gazette;
 - (c) the number of its membership as at the date of the application is not less than the minimum number as so determined by the MEC;
 - (d) the application fee prescribed by the MEC, if any, has been paid;
 - (e) the amounts of the joining fee and membership fee of the association do not exceed the maximum amounts as so determined; and
 - (f) the association is not disqualified in terms of an order issued under section 40(5) from being registered.

34)APPLICATION AND REGISTRATION PROCEDURE

- 34 (1) An association applies for registration or provisional registration or for conversion of provisional registration to full registration, by submitting to the Head of Administration for the PRE:
- (a) an application in the form prescribed by the MEC for that purpose, that has been duly completed and is signed by the association's authorised representatives;
 - (b) a copy of the association's constitution as signed by all its paid-up members;
 - (c) a copy of its membership record reflecting the names of its members and, in relation to each of those members, the particulars which the MEC has prescribed for the purposes of this paragraph;
 - (d) such other proof of the applicant's compliance with the requirements of these regulations as may be prescribed by the MEC; and
 - (e) any other information that may assist the Head of Administration for the PRE in determining whether the requirements for registration imposed by this Act, or, the requirements for conversion to full registration, as the case may be, have been met.

- 34 (2) The Head of Administration for the PRE, if satisfied that the applicant association meets those requirements, must register the association concerned or convert the association's provisional registration to such a full registration, or provisionally register the association by entering its name and the required particulars as prescribed by the MEC, in the provincial taxi register.
- 34 (3) Upon having registered, converted the registration or provisionally registered any association in accordance with sub-regulation (2), all persons found by the Head of Administration for the PRE to be members of that association and to meet the requirements of these regulations, must be registered or provisionally registered as members by entering in the provincial taxi register their names and the required particulars as prescribed by the MEC for the purposes of this regulation.
- 34 (4) A non-member applies for registration by submitting to the Head of Administration for the PRE:
- (a) an application in the form prescribed by the MEC for that purpose that has been duly completed and signed by the applicant or, in the case of a non-member that is a juristic person, by the latter's duly authorised representative;
 - (b) a statement under oath or affirmation whereby the applicant subscribes to the code of conduct; and
 - (c) such other proof of the applicant's compliance with the requirements of these regulations as may be prescribed by the MEC.
- 34 (5) The Head of Administration for the PRE may require further information in support of any application made in accordance with this section.

35) REGISTRATION OR PROVISIONAL REGISTRATION OF MEMBERS

- 35 (1) Where an association has been registered, every member of the association who has subscribed to its constitution and to the code of conduct, and who complies with the other requirements of these regulations and provincial laws, must be registered as a member.
- 35 (2) Where any association has been provisionally registered:
- (a) every person who:
 - i) is a member of the association and holds an appropriate operating licence or permit for each vehicle by means of which the member operates a public transport service or has applied for the appropriate operating licence or

permit, must be registered as a member provisionally for a period ending when that association's provisional registration lapses;

- ii) is a member of an association which has been provisionally registered, who seeks provisional registration in terms of sub-regulation (2)(a)(i), is to take necessary steps with a view to ensuring that the member's provisional registration takes place in terms of sub-regulation(2)(a)(i);
- (b) Where the provisional registration of an association has been converted to full registration, every member of the association who has subscribed to the association's constitution and to the code of conduct must be registered as a member.
- 35 (3) Within one month after the admission of a new member to any association mentioned in sub-regulation (1) or (2)(b) its executive committee or body, or any member thereof or office-bearer of the association authorised thereto by that committee or body, must apply to the Head of Administration for the PRE, in the manner prescribed by the MEC, for the new member's registration as a member.
- 35 (4) A new member on behalf of whom an application has been made must be registered or provisionally registered, as the case may be, as a member if the Head of Administration for the PRE is satisfied that the new member:
- (a) holds an appropriate operating licence for each vehicle by means of which the member operates a public transport service; and
 - (b) operates the public transport service to which such an operating licence relates, in compliance with the terms of, and conditions attached to, the operating licence;
 - (c) has subscribed to the constitution of the association concerned and to the code of conduct applicable in the province where that association is registered.

36)REGISTRATION OF NON-MEMBERS

- 36 (1) A non-member qualifies for registration and, upon having applied therefor, must be registered, where;
- (a) the non-member has paid the application fee prescribed by the MEC;
 - (b) the non-member, if a juristic person;
 - i) has been in existence for a period not less than the period determined by the MEC by notice in the Provincial Gazette; and

- ii) has members which, in the case of a company or close corporation incorporated or registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), or the Close Corporations Act, 1984 (Act No. 69 of 1984), respectively, do not include two or more persons who, at the time of formation of the company or close corporation, or at any time thereafter, were the operators of public transport services which are substantially the same as those operated by that company or close corporation;
 - (c) the non-member has subscribed to the code of conduct applicable in the province where registration is sought;
 - (d) the non-member;
 - i) holds an appropriate operating licence or permit for each vehicle by means of which the non-member operates a public transport service; and
 - ii) operates the public transport service to which such an operating licence relates, in compliance with the terms of, and conditions attached to, the operating licence;
 - (e) The applicant's registration as a non-member is ascribable to the following causes:
 - i) There is no registered association with regard to the route or routes or, if applicable, in the area where the applicant's public transport service is operated; or
 - ii) where there is such a registered association, if;
 - 36(1)(e)(ii)(1) the applicant has been refused membership of the association; or
 - 36(1)(e)(ii)(2) the association's requirements for admission to membership are unfair; or
 - 36(1)(e)(ii)(3) in view of the prevailing circumstances, the applicant reasonably cannot be expected to become a member of the association; or
 - 36(1)(e)(ii)(4) the applicant, if admitted to membership of the association, will be subjected to unfair discrimination.
- 36 (2) An operating licence may not be granted to a non-member unless the non-member submits to the board a certificate from the Head of Administration for the PRE certifying that he or she complies with the requirements of sub-regulation

(1)(b), (c) and (e), and the Head of Administration for the PRE must issue such a certificate to a non-member who qualifies on payment of the prescribed fee.

37) CERTIFICATES OF REGISTRATION AND DISTINGUISHING MARKS

37 (1) The Head of Administration for the PRE must upon having registered or provisionally registered any association, any member or any non-member, allocate a unique registration number to the association, member or non-member concerned and issue to the association, member or non-member a registration certificate or a certificate of provisional registration in the manner and form and containing the particulars as prescribed by the MEC, subject to regulation (15). Subject to regulation (15), where the member or non-member is registered or provisionally registered, the Head of Administration for the PRE must, with effect from a date determined by the MEC, by notice in the Provincial Gazette, issue, in the manner and form prescribed by the MEC;

- (a) a distinguishing mark for every vehicle of the registered member or non-member that is used, under the authority of an appropriate operating licence or permit;
- (b) a distinguishing mark for every vehicle of the provisionally registered member or non-member
 - i) that is so used under the authority of an appropriate operating licence or permit; or
 - ii) in respect of which the provisionally registered member or non-member has made application for an appropriate operating licence in accordance with these regulations.

37 (2) Subject to regulation (15), the Head of Administration for the PRE must also issue such a distinguishing mark for each vehicle used by any registered or provisionally registered member, and any registered or provisionally registered non-member, whose registration took place before the date of that notice, upon mere submission to the Head of Administration for the PRE of;

- (a) the registration certificate of the registered member or non-member concerned, and a current operating licence or permit for each vehicle so used by that registered member or non-member;
- (b) the relevant certificate of provisional registration of the provisionally registered member or non-member, and

- i) a current operating licence or permit for each vehicle used by the provisionally registered member or non-member; or
- ii) proof, to the satisfaction of the Head of Administration for the PRE, that the provisionally registered member or non-member has made application for such an operating licence.

38) DUTIES OF REGISTERED AND PROVISIONALLY REGISTERED ASSOCIATIONS AND NON-MEMBERS

38 (1) A registered association must;

- (a) take all steps that are reasonably necessary to prevent any breaches of the code of conduct and any other misconduct on the part of its members and their drivers, and to take disciplinary steps against members whenever necessary;
- (b) inform the Head of Administration for the PRE expeditiously and timeously of the outcome of all disciplinary proceedings against members and grievance procedures by members;
- (c) inform the MEC of any impending or current conflict with any other association or associations;
- (d) inform the Head of Administration for the PRE expeditiously and timeously of any changes:
 - i) in its membership; and
 - ii) with regard to the information furnished by it to the Head of Administration for the PRE in compliance with Part 2;
- (e) inform the Head of Administration for the PRE of the termination or temporary suspension of the membership of any registered member, within seven days after the termination or suspension;
- (f) timeously give the Head of Administration for the PRE notice of all general meetings of members, and allow the Head of Administration for the PRE or the Head of Administration for the PRE's representative to attend such a meeting as an observer;
- (g) inform the Head of Administration for the PRE timeously of any amendment proposed to its constitution and the nature and effect thereof;
- (h) if requested thereto by any organ of state, transport authority or core city which has rendered financial assistance to the association or its members for a

particular purpose, supply the requested information as to the application of the funds received from that source.

- 38 (2) Every registered or provisionally registered non-member must;
- (a) inform the Head of Administration for the PRE expeditiously and timeously of any changes with regard to the information furnished by the non-member to the Head of Administration for the PRE in compliance with Part 2;
 - (b) if requested thereto by any organ of state, transport authority or core city which has rendered financial assistance to the non-member for a particular purpose, supply the requested information as to the application of the funds received from that source.
- 38 (3) Sub-regulation (1) applies, with the changes required by the context, to any provisionally registered association.

39) REQUIREMENTS FOR CONSTITUTIONS OF ASSOCIATIONS

- 39 (1) The constitution of an association must, for the purposes of full registration, comply with the minimum requirements, if any, prescribed by the Minister in terms of regulation 16, and
- (a) state the association's full name, postal and physical addresses, and declare that it is an association not for gain;
 - (b) set out its aims and objects, and state where it is based;
 - (c) prescribe qualifications for, and admission to, membership of the association, and the rights, benefits and duties associated therewith, and require the names of all members to be entered on a membership list;
 - (d) establish the circumstances in which a member is no longer entitled to the benefits of membership, and provide for the termination of membership and the circumstances in which membership may be terminated;
 - (e) stipulate conduct that constitutes misconduct and give rise to disciplinary proceedings against offending members, prescribe the disciplinary steps to be taken against the members and the procedures to be followed in that regard, and establish a standing disciplinary committee for that purpose;
 - (f) provide for appeals against the findings of the disciplinary committee, and any penalty or sanction imposed by it, or against loss of the benefits of membership or the termination of membership, prescribe a procedure for those appeals and determine the body to which those appeals may be made;

- (g) provide for membership fees and the method for determining membership fees and other payments by members;
- (h) prescribe rules for the convening and conducting of an annual general meeting of members and special meetings of members, including the quorum required for, and the keeping of minutes of, any such meeting;
- (i) describe the manner in which decisions are made at any meeting;
- (j) establish a governing body to represent and manage the affairs of the association and its members and act on its behalf, and define the powers and duties of the governing body in that regard;
- (k) describe the manner in which decisions are to be made by the governing body;
- (l) establish the office of secretary and define the functions attached thereto;
- (m) provide for other office-bearers on that body and define their respective functions;
- (n) prescribe a procedure for nominating and electing the members of that body;
- (o) establish the circumstances and manner in which members of that body may be removed from office;
- (p) provide for appeals against their removal from office, and prescribe a procedure for those appeals and determine the body to which those appeals may be made;
- (q) establish the circumstances and manner in which a ballot must be conducted;
- (r) provide for a grievance procedure, and the establishment of a standing grievances committee;
- (s) stipulate the requirements for amalgamation with any other association;
- (t) require proper accounting records to be kept and financial statements prepared in accordance with generally accepted accounting practice and procedures, and establish a standing financial committee;
- (u) determine a date for the end of its financial year;
- (v) provide for the appointment of an accounting officer, for financial control and responsibility, and for the annual audit of the association's accounts and statements by a person registered and practising for own account as a public accountant and auditor;
- (w) provide for the opening of a banking account for the association, and the banking of its money;
- (x) establish the purposes for which the association's money may be used;

- (y) prescribe a procedure for changing its constitution; and
 - (z) (z) prescribe a procedure by which it may be decided to dissolve the association.
- 39 (2) The constitution also, in making provision in terms of sub-regulation (1) for:
- (a) special meetings of members, must provide for members to call a special general meeting if a stipulated number or percentage of the members indicate that they so require such a meeting;
 - (b) the election of members of the executive committee or body, must not allow members to be elected thereto for a single term longer than two years;
 - (c) the annual general meeting, must require that the election of the members of the governing body and of the association's office-bearers be held, and its audited financial statements and budget for the following financial year be considered and disposed of, at that general meeting;
 - (d) the matters mentioned in paragraph (q) of sub-regulation (1), must provide that the election of the members of the executive committee or body and of the three standing committees must be conducted by secret ballot;
 - (e) the matters mentioned in paragraph (t) of sub-regulation (1), must require interim financial statements to be prepared quarterly for scrutiny by members;
 - (f) joining fees and membership fees, must allow those fees to be determined and to be re-determined or adjusted only at the annual general meeting of members;
 - (g) the matters mentioned in paragraphs (s), (y) and (z) of sub-regulation (1), must require that a decision to amalgamate with another association, to amend the constitution or to dissolve the association be carried only with the support of at least two thirds of the members present at the meeting, provided there is a quorum;
 - (h) the qualifications for membership, must provide that an application for admission to membership will be refused unless the applicant has subscribed to the Code of conduct;
 - (i) the circumstances in which membership may be terminated, must provide for the termination of the membership of any member operating a public transport service without the necessary operating licence, or, where applicable, the necessary permit, for each vehicle by means of which the service is operated;

- (j) matters that constitute misconduct, must declare the following to be misconduct:
 - i) the breach of the code of conduct by any member;
 - ii) a member's employment of a driver who has not subscribed to the code of conduct;
 - iii) the continued employment by the member of any driver who repeatedly has breached the code of conduct;
 - iv) failure on the part of the association's governing body or any member thereof or office-bearer of the association authorised by that body to comply with the requirements of regulation (35) (3)(a).

40)NON-COMPLIANCE WITH REGISTERED CONSTITUTION, THE ACT, REGULATIONS UNDER THE ACT AND BREACH OF SCHEDULE A TO THESE REGULATIONS

- 40 (1) Where the Head of Administration for the PRE, on reasonable grounds, suspects that a registered association has failed to comply with any provision of the Act, the regulations under the Act or its registered constitution and such failure is material for the application of Part 2, or that a registered non-member has breached the code of conduct, the Head of Administration for the PRE must conduct an investigation into the matter.
- 40 (2) In conducting such an investigation, the Head of Administration for the PRE must give the association or non-member an opportunity to make representations or give evidence with regard to the alleged non-compliance or breach.
- 40 (3) In deciding the matter, the representations and evidence made, given or furnished by the association or non-member must be taken into consideration.
- 40 (4) Where in terms of these regulations, the specific act of non-compliance or breach constitutes an offence and the association or non-member has been charged with such an offence, the Head of Administration for the PRE may postpone the investigation until the criminal proceedings against the accused have been finalised or withdrawn.
- 40 (5) If the Head of Administration for the PRE finds such an association or non-member guilty of such a non-compliance or breach:

- (a) the Head of Administration for the PRE must, by notice in writing, direct the association or non-member to remedy the non-compliance or breach within the period stated in the notice, and set out the steps to be taken for that purpose.
 - (b) the association or non-member to whom such a notice has been given, may approach the Head of Administration for the PRE's office for assistance in taking the steps specified in the notice.
- 40 (6) Upon failure to comply with such a notice, the Head of Administration for the PRE may impose a fine not exceeding an amount as prescribed by the MEC for the specific non-compliance or breach, or cancel the registration of the association or non-member or suspend the registration temporarily, as dictated by the gravity of the non-compliance or breach and the circumstances relevant thereto.
- 40 (7) Where the registration of an association:
- (a) is non-compliant with a material provision of its registered constitution or the breach of the code of conduct by a registered non-member cannot be remedied, the Head of Administration for the PRE must impose one of the penalties provided for in sub-regulation (6), and may, in severe cases where the penalty so imposed involves the cancellation of the registration of the association or non-member, issue an order in terms of which the association or non-member is disqualified from being registered at any time during a specified period which may not be longer than one year.
 - (b) has been terminated or suspended temporarily in terms of sub-regulation (7)(a), the registrations of all its members will be cancelled or suspended, as the case may be, for the same period.
- 40 (8) Upon being notified by a registered association that it has terminated or temporarily suspended the membership of a registered member for non-compliance with its registered constitution or breach of the code of conduct, the Head of Administration for the PRE must cancel that member's registration or suspend it for the same period, respectively.
- 40 (9) The Head of Administration for the PRE must, within one week after having acted in terms of sub-regulation (6), (7) or (8) against any registered association, member or non-member, by written notice, notify the MEC, the Head of Administration for the PRE of every other province and every planning authority in the province or under its jurisdiction, of the action so taken.
- 40 (10) The Head of Administration for the PRE:

- (a) by written notice must inform any association, member or non-member of cancellation or temporary suspension of registration, and direct the association, member or non-member, as the case may be, to return the latter's registration certificate to the Head of Administration for the PRE within seven (7) days of the date of the notice.
 - (b) where an association's registration has been cancelled or suspended temporarily, must further direct the association to ensure that all its members' registration certificates are returned to the Head of Administration for the PRE within the period specified in that notice.
- 40 (11) The preceding provisions of this section apply, with the changes required by the context, to any provisionally registered association or non-member, subject to the relevant provisions of these regulations.

41) CANCELLATION OR TEMPORARY SUSPENSION OF REGISTRATION OR PROVISIONAL REGISTRATION OF ASSOCIATIONS, MEMBERS AND NON-MEMBERS

- 41 (1) The Head of Administration for the PRE must cancel the registration or provisional registration of:
- (a) an association:
 - i) which has ceased to exist or is no longer based in the province; or
 - ii) if it has secured registration or provisional registration through fraudulent conduct;
 - (b) a member in respect of a particular association where:
 - i) the registration or provisional registration of that association is cancelled;
 - ii) membership of that association has been duly terminated in accordance with its constitution;
 - (c) a non-member:
 - i) who is no longer based in the province;
 - ii) who, if a juristic person, has ceased to exist; or
 - iii) who does not hold an appropriate operating licence or permit for each vehicle used by the non-member to operate a public transport service;
 - (d) a member of an association provisionally registered who does not hold an appropriate operating licence or permit for each vehicle used by such a

member to operate a public transport service, or has not applied for such an operating licence.

- 41 (2) An association, member or non-member whose registration or provisional registration has been cancelled or temporarily suspended as provided for in this section or a provincial law, must return the registration certificate or certificate of provisional registration and the distinguishing marks, if any, issued with regard to the registration or provisional registration so cancelled or suspended to the Head of Administration for the PRE within the time prescribed by the MEC.
- 41 (3) The Head of Administration for the PRE may, where an association has terminated membership due to a member's breach of the code of conduct, if justified in the circumstances, cancel that member's registration or provisional registration in respect of any other association of which the former is a member, after having given the member sufficient opportunity to make representations and advance reasons why that should not be done.
- 41 (4) The Head of Administration for the PRE may cancel, or suspend temporarily for a period not exceeding one year, the registration or provisional registration of:
- (a) any association for failure to comply with any provision of its registered constitution that is material for the application of Part 2;
 - (b) any member:
 - i) whose membership of an association has been suspended temporarily; or
 - ii) of an association whose registration or provisional registration has been suspended temporarily;
 - (c) any non-member for having breached the code of conduct;
 - (d) any member or non-member who has been convicted of an offence mentioned in section 90 of the Act.

42) EFFECT OF LAPSING OR CANCELLATION OF REGISTRATION ON HOLDING OF PERMIT OR OPERATING LICENCE

- 42 (1) Where the full registration of an association lapses or is cancelled, all permits and operating licences held by the members of that association which relate to the route or routes in question, lapse on a date calculated as ninety (90) days after such lapsing or cancellation, unless:
- (a) the association has been re-registered provisionally or fully, and the member is still a member thereof;

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

42 (2) Where the registration of a non-member lapses or is cancelled, all permits and operating licences held by the non-member which relate to the route or routes in question lapse on a date calculated as one-hundred and eighty (180) days after such lapsing or cancellation, unless:

42 (3) the non-member has obtained membership of a registered or provisionally registered association operating on the route or routes in question; or

42 (4) the non-member has obtained re-registration as a non-member in respect of the route or routes in question.

43)REGISTRATION OR PROVISIONAL REGISTRATION IS NO BAR TO PROSECUTION FOR UNAUTHORISED OPERATION OF PUBLIC TRANSPORT

43 (1) The registration or provisional registration of any member or any non-member, is no bar to the prosecution of such a member or non-member for an offence mentioned in section 90 of the Act.

PART 3 DISPUTE RESOLUTION

44)HANDLING OF COMPLAINTS AND HOLDING OF INQUIRY BY HEAD OF ADMINISTRATION FOR THE PRE

44 (1) A complaint lodged with the Head of Administration for the PRE in terms of section 86(n) of the Act must:

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

44 (2) The Head of Administration for the PRE must keep a register of complaints which must include at least the following details:

- (a) date of receipt of the complaint;
- (b) name of the complainant;
- (c) name of the person against whom the complaint is directed;

- (d) brief description of the nature of the complaint;
- (e) a complaint register number; and
- (f) status of complaint:

Provided that the Head of Administration for the PRE may, under exceptional circumstances accept a complaint in confidence where this is considered to be in the interests of justice.

- 44 (3) After considering the complaint referred to in sub-regulation (1), accusation or allegation, the Head of Administration for the PRE may obtain recommendations considered necessary to dispose of the matter and may decide whether:
- (a) an inquiry should be held or not;
 - (b) the matter should be referred to an association to be disposed of, in which case the Head of Administration for the PRE must review the outcome to ensure that appropriate action has been taken; or
 - (c) the matter should be referred to some other person or institution, such as the South African Police Services, for further disposal.
- 44 (4) If the Head of Administration for the PRE proceeds with an inquiry, at least fourteen (14) days written notice must be given to all affected parties to attend a formal hearing at the date, time and place stated in the notice.
- 44 (5) Affected parties may be allowed legal representation at the inquiry.
- 44 (6) Where a person has been duly notified by the Head of Administration for the PRE to attend the inquiry and fails to do so, the inquiry may proceed in the absence of that person.
- 44 (7) For the purposes of such an inquiry, the Head of Administration for the PRE and at least one assessor constitute a committee of inquiry, which inquiry must be chaired by the Head of Administration for the PRE.
- 44 (8) The Head of Administration for the PRE may co-opt not more than two additional persons who are suitable, by virtue of their qualifications or experience, to sit on the committee of inquiry.
- 44 (9) During the inquiry the committee of inquiry must:
- (a) afford the affected parties an opportunity to be heard, which opportunity includes, but not limited to:
 - i) producing written evidence or making oral representations relevant to the matter;

- ii) calling witnesses and leading evidence on any question concerning the matters and re-examine such; and
 - iii) questioning or cross-examining a person who testifies as a witness;
 - (b) listen fairly to both sides and observe the rules of natural justice; and
 - (c) discharge its duties in a transparent and impartial manner.
- 44 (10) The Head of Administration for the PRE must cause a record of proceedings before the committee of inquiry to be kept.
- 44 (11) Upon disposal of the matter the Head of Administration for the PRE must within fourteen (14) days, in writing, notify the complainant and any other affected parties of the outcome.

45)FUNCTIONING OF CONFLICT RESOLUTION COMMITTEE

- 45 (1) A conflict resolution committee must be established by the MEC to deal with conflict situations and which consists of at least three (3) and no more than five (5) independent persons appointed by the MEC.
- 45 (2) The chairperson of the conflict resolution committee referred to in sub-regulation (1) must have at least seven (7) years' experience as an attorney or advocate.
- 45 (3) A conflict resolution committee referred to in sub-regulation (1), must, when dealing with matters placed before it, be guided by the principles and guidelines of arbitration as contemplated in the Arbitration Act, 1965 (Act No. 42 of 1965), in particular those aspects which relate to:
- (a) confirmation of matter in dispute;
 - (b) identification of the claimant party and the defendant party;
 - (c) notifying parties in conflict of the venue, date and time for hearings of the matter in dispute;
 - (d) presentation of submissions by parties in dispute and manner of responding thereto;
 - (e) ruling on the matter in dispute; and
 - (f) notifying parties of the ruling.
- 45 (4) The proceedings of the conflict resolution committee must be confidential, save that at the request of any of the parties the Chairperson may allow attendance by other persons.

- 45 (5) Decisions of a conflict resolution committee must be minuted and be made on the basis of majority, and in the absence of majority on any issue the decision of the Chairperson of the committee must prevail.
- 45 (6) The decision of a conflict resolution committee must be made as soon as practicable, but no later than fourteen (14) days after finalisation of the hearing: Provided that the MEC may, in exceptional circumstances, extend such period.
- 45 (7) Parties who elect to place a matter in dispute before a conflict resolution committee, must Annexure A to these regulations and submit such form to the secretary of the conflict resolution committee;
- 45 (8) The conflict resolution committee may, on its own or at the request of any of the parties, require any person:
- (a) to appear before it; and
 - (b) to give evidence or to produce any book, plan or other document or article under the control or in the possession of that person.
- 45 (9) Where any of the parties fails to comply with any directive or instruction or abandons the proceedings, the conflict resolution committee may proceed with the matter in the absence of such party, and may make a ruling thereon.
- 45 (10) In the event of the parties reaching agreement after a matter has been referred to the conflict resolution committee, the committee must, upon being informed by any party with proof that the matter has been settled, make a decision in accordance with such settlement.
- 45 (11) To the extent that the settlement referred to in sub-regulation (8) does not address all relevant disputes, the conflict resolution committee, unless it is prevented from doing so in terms of the settlement, must make a ruling in accordance with such settlement and must proceed with the matter in respect of any outstanding disputes not specifically addressed in such settlement.
- 45 (12) Any court proceedings on any matter in dispute or any other matter in dispute concerning conflict resolution does not affect the continuation of the proceedings entrusted to a conflict resolution committee, save to the extent that a court may otherwise decide.
- 45 (13) Unless the parties in writing agree otherwise, a conflict resolution committee must set out the reasons for its decision, which decision and reasons must be in writing, signed and dated by the chairperson of the committee.

46) APPEALS TO APPEALS TRIBUNAL

- 46 (1) All appeals to the appeals tribunal must be strictly in accordance with the Appeals Tribunal Act number 39 of 1998 and the rules and procedures prescribed by the appeals tribunal;
- 46 (2) All decisions or directives of the appeals tribunal shall be carried into effect by the PRE to the extent required by such decisions or directives without undue delay.

PART 4 REGULATION AND ENFORCEMENT

47) IMPOUNDING PROCEDURES

- 47 (1) When impounding a vehicle, an Authorised Officer must complete the Impoundment Control Form contained in Annexure B to these regulations.
- 47 (2) The form referred to in sub-regulation (1) must contain a unique serial number and copies of the relevant parts of the form must be furnished to each of the following whenever a vehicle is impounded:
- (a) the driver of the vehicle;
 - (b) the towing company representative.
- 47 (3) A complete record of the Impoundment Control Form must be kept at the relevant vehicle pound.
- 47 (4) In order to secure the release of an impounded vehicle, the registered owner of the vehicle must produce the following documents –
- (a) the original identity document of the owner;
 - (b) the original vehicle registration certificate (log book) for the relevant vehicle and where the original is in the possession of a title holder, a duly certified copy; and
 - (c) certified copy of the charge sheet or original fine receipt confirming that the matter has been finalised.
- 47 (5) An Authorised Officer who releases an impounded vehicle must, before releasing the vehicle, complete Annexure C to these regulations.

48) CONFISCATION OF DISTINGUISHING MARKS RELATING TO OPERATING LICENCES

- 48 (1) When found to be operating a public transport service with an invalid operating licence, the driver of the vehicle must, on demand by an Authorised Officer, surrender the distinguishing mark being displayed on the vehicle.
- 48 (2) In the event that a vehicle is found to be un-roadworthy by a registered vehicle testing station, having been tested in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996), the distinguishing mark must be removed by an Authorised Officer and must be handed to the PRE.
- 48 (3) Upon confiscating a distinguishing mark as contemplated in sub-regulations (1) and (2), the Authorised Officer must, within a period of seven days, hand it to an authorised official of the PRE.

49) DOCUMENTATION OF AGREEMENTS BETWEEN ASSOCIATIONS

- 49 (1) In cases where multiple associations render public transport services which:
- (a) are of common origin and/or destination;
 - (b) operate within a commonly defined geographical area; or
 - (c) share ranks or other public facilities, the Head of Administration for the PRE must take steps to document the terms of existing agreements between the affected associations in a reciprocity agreement.
- 49 (2) A reciprocity agreement referred to in sub-regulation (1) must include details regarding:
- (a) routes or geographical areas operated by the affected associations;
 - (b) shared routes, ranks or other public facilities; and
 - (c) operational arrangements, and must be signed by a duly authorised office bearer of each of the affected associations.
- 49 (3) Associations must at all times abide by the terms and conditions in the reciprocity agreement and must ensure that their members operate in accordance with these terms and conditions.

50) IDENTIFICATION OF AUTHORISED OFFICERS

- 50 (1) An Authorised Officer who is on duty must wear the requisite uniform and identification, and upon being so requested, must produce official identification.

51) INSPECTORS

- 51 (1) An inspector must be appointed who has been appropriately trained, certified, registered and issued with a Certificate of Appointment as contained in Annexure D to these regulations.
- 51 (2) An inspector on duty must:
- (a) wear an official uniform: and
 - (b) carry the official identification card issued by the MEC.
- 51 (3) An inspector must, on request, produce the identification card referred to in sub-regulation (2)(b).
- 51 (4) In addition to the duties and powers referred to elsewhere in these regulations, an inspector may in relation to road transportation:
- (a) cause a motor vehicle to be stopped by means of a lamp emitting an intermittently flashing blue light in any direction and which is mounted on the inspector's vehicle, and
 - (b) enter such vehicle and examine the vehicle as well as the goods conveyed thereon in order to establish whether that vehicle is being used for public transport or in order to exercise any power or perform any duty or authorised act.
- 51 (5) The Head of Department or the delegated representative of a transport authority or municipality, as the case may be, must keep a register of certificates issued to inspectors as contemplated in sub-regulation (1).

52) MANNER OF STOPPING VEHICLES BY AUTHORISED OFFICER

- 52 (1) An Authorised Officer may cause a vehicle to be stopped in the manner prescribed for the stopping of vehicles by traffic officers in the National Road Traffic Act.

53) CONDITIONS GOVERNING DISCONTINUATION OF PUBLIC TRANSPORT BY OPERATOR

- 53 (1) A holder of an operating licence intending to discontinue the service to which an operating licence relates must, prior to doing so, notify the PRE.
- 53 (2) The notice referred to in sub-regulation (1) must be in writing and delivered by hand or by registered post, at least 30 days before such discontinuation:

Provided that the PRE may authorise the holder to discontinue the service within a shorter period of time.

- 53 (3) Upon discontinuing service as contemplated in sub-regulation (1), the holder of an affected operating licence must, within _____ days, return such operating licence to the PRE for cancellation or amendment, as the case may be.

54) TEMPORARY SUSPENSION OF PUBLIC TRANSPORT SERVICE

- 54 (1) An operator who temporarily suspends a public transport service must, not later than the period specified in regulation 51(3) above, notify the PRE thereof by written notice, delivered by hand or by registered post.
- 54 (2) The notice referred to in sub-regulation (1) must contain detailed reasons for such suspension.
- 54 (3) Upon resumption of the temporarily suspended service the operator must, within 48 hours thereof, notify the PRE by written notice delivered by hand or by registered post.
- 54 (4) Where a public transport service is temporarily suspended the PRE must, in addition to serving notice of its decision in accordance with regulation 13, forthwith publish its decision in the Gazette and in at least two (2) newspapers circulating in the Province.

55) SURRENDER OF OPERATING LICENCES

- 55 (1) A holder of an operating licence:
- (a) whose provisions do not correspond with the authorisation as granted by the PRE; or
 - (b) which has lapsed, been withdrawn, cancelled or suspended, must surrender such operating licence by hand or by registered post to the PRE within a period of seven days after the date of the notice from the PRE, which notice must be dispatched to the holder by registered post.
- 55 (2) The surrender of an operating licence following cancellation or suspension of registration, or failure by a non-member to apply for registration must conform to the process and the period referred to in sub-regulation (1).

56)NOTIFICATION OF CHANGE OF CONTACT DETAILS OF HOLDER OF OPERATING LICENCE

56 (1) The holder of an operating licence whose contact details on record with the PRE change during the currency of such operating licence, must notify the PRE of such change of details not later than 10 days after such change, by written notice delivered by hand, electronic means or by registered post.

57)SUSPENSION OR WITHDRAWAL OF RIGHTS RELATING TO ROUTES

57 (1) The PRE may suspend or withdraw all or limit any rights, title or interest conferred to any party in respect of the operation or use of or in relation to any route if the PRE determines:

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

57 (2) Any decision by the PRE to suspend, withdraw or limit any operating license in terms of these regulations read with Schedule A shall have a corresponding effect of suspending or withdrawing or limiting any rights, title or interest conferred in respect of the operation or use of or in relation to the route that could otherwise be used or operated on the strength of such operating license.

57 (3) the PRE shall fully comply with the requirements of the Promotion of Administrative Justice Act 3 of 2000 in respect of all steps taken by it in respect of any determination in terms of regulation 57(1).

PART 5
THE PROVINCIAL REGULATORY ENTITY

58) POWERS AND DUTIES OF THE PRE

- 58 (1) In addition to the powers conferred by the Act, the PRE must hear a complaint related to public transport regulated matters and make such a ruling as it may consider just and fair in the circumstances, based on the provisions of the Act, facts of the case and relevant law and regulations.
- 58 (2) For the purpose of dealing with any matter before it, the PRE may, allow a person affected by or interested in the matter or a duly authorised representative of that person, to appear before it and;
- (a) summon any person to give evidence or make oral representations relevant to the matter;
 - (b) summon witnesses and lead evidence on a question relevant to the matter; or
 - (c) question a person who testified as a witness in the matter;
 - (d) by written notice require a person to appear before it to give evidence or to hand over a book, plan or other document or article in his or her possession or under his or her control;
 - (e) question a person appearing before it as a witness; and
 - (f) call upon and administer an oath to, or accept an affirmation from, any person present at the hearing or who has been summoned.
- 58 (3) The PRE must notify parties of the date, time and place of the hearing at least ten days prior to the hearing date.
- 58 (4) The hearings of the PRE must be recorded and verbatim transcript thereof must, upon request by any interested person, be made available to such a person at a reasonable time upon payment to the department of actual costs of preparation and production of such transcripts.
- 58 (5) The PRE must collect, make copies, take custody and store in chronological or numerical order all information, proceedings and hearings, including recordings of hearings and transcript.
- 58 (6) The PRE must issue summons in a form similar to the one in Annexure E to a person required for the hearing.

59)ADMINISTRATION OF THE PRE

- 59 (1) The staff required for the proper performance of the PRE's functions and administration of the Act must be appointed or seconded by the Head of Department subject to the laws governing the Public Service.
- 59 (2) Any person appointed or seconded in terms of sub-regulation (1) must be provided with a certificate of appointment signed by or on behalf of the Head of Department.

60)REPORTING ON ACTIVITIES OF PRE

- 60 (1) The Chairperson must prepare and submit quarterly reports to the Head of Department on the activities of the PRE.
- 60 (2) The MEC may require the PRE to submit additional reports to him or her as the MEC may require from time to time.

61)ASSIGNMENT OF POWERS AND DUTIES BY THE PRE

- 61 (1) The PRE may:
- (a) in writing delegate to any person or entity any of the powers entrusted or delegated to the PRE; or
 - (b) instruct any official in the PRE and/or agent of the PRE to perform any of the duties assigned to the PRE.
- 61 (2) A delegation or instruction in terms of sub-regulation (1):
- (a) is subject to any limitations and conditions the PRE may impose;
 - (b) may either be to a specific natural person and/or natural persons and/or juristic person and/or juristic persons;
 - (c) does not divest the PRE of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.
- 61 (3) The PRE may confirm, vary or revoke any decision taken by any of the persons referred to in sub-regulation (2)(b) as a result of a delegation or instruction in terms of sub-regulation (1), subject to any rights that may have become vested as a consequence of the decision.

PART 6
LICENSE CONDITIONS

62) GENERAL CONDITIONS RELATING TO OPERATING LICENCES:

- 62 (1) The following general conditions relate to buses, metered taxi's, mini-bus taxis, staff services, midi-bus and scholar transport:
- (a) The PRE may require any information from any operator at any time provided that such information relates to the operator's rights and obligations as an operator.
 - (b) The decal must be displayed in the vehicle in accordance with the strict provisions of regulations 24, 27(1) and 27(2) of the regulations to the Act;
 - (c) An operating license ceases to have any force or effect with effect from the expiry date reflected on such license unless such license is renewed by the PRE through another license prior to expiry of such license. The fact that an application for renewal is pending in respect of an expired license does not confer any rights to the operator either in respect of the expired license or the pending application for renewal;
 - (d) One vehicle should have one operating license;
 - (e) A vehicle should only be driven by a driver with a professional drivers' permit at all times;
 - (f) All disputes arising from the authority given to an operator should be referred to the PRE only;
 - (g) No driver or operator may conduct themselves in a manner that contravenes or undermines or is likely to contravene or undermine any provision of the code of conduct;
 - (h) The holder of an operating license or permit shall be automatically disqualified from continuing to hold such operating license or permit upon:
 - i) death or deregistration or dissolution or sequestration or winding-up or other cessation of existence of such holder;
 - ii) a court making an order that such holder is incapable of managing its affairs in terms of rule 57 of the Uniform Rules of the High Court of South Africa;
 - iii) such holder being convicted of a criminal offence by a Court of Law and being sentenced to a minimum term of ___ months/years without the option of a fine;

- iv) such holder being found guilty of an offence by the PRE which is similar to an offence in respect of which such holder is serving an effective or suspended sentence; or
- v) such holder being found by a Court of law, during or arising from civil or criminal proceedings, to be liable or blameworthy or guilty in a manner that renders such holder unfit to hold any position of trust or to hold a drivers' license or to hold a firearm;
- vi) if such operating license or permit was issued in error or obtained through fraudulent or other illegal means or as a result of the PRE having relied on a misrepresentation in the course of issuing such operating license or permit;
- (i) The holder of an operating license or permit shall, during the term of such operating license or permit or any extended or renewed term thereof, ensure that such holder is compliant with the law including, but not limited to, corporate laws, employment laws, tax laws, occupational health and safety laws and laws relating to the handling of hazardous substances or dangerous goods;
- (j) The holder of an operating license shall, on written request by the PRE or any representative of the PRE, provide without unreasonable delay all co-operation or information sought by the PRE in order to evaluate the nature and extent of compliance by such holder with sub-regulation (1)(i);

62 (2) The operator must ensure that the following documents are valid throughout term of license:

- (a) Registration or identification documents;
- (b) Valid Professional Drivers Permit (PrDP);
- (c) Vehicle Registration and valid license;
- (d) COR/COF to be validated annually;
- (e) Comprehensive and personal liability insurance; and
- (f) Tax clearance certificate.

63) SPECIAL CONDITIONS

63 (1) **Special Conditions relating to operating licenses for buses:**

- (a) In case of long distance, both departure point and destination planning authorities should consent (comment) to the operation.
- (b) In case of an operational agreement such agreement only comes to effect once and only if approved by the Regulatory Entity (Senior Manager)
- (c) In case of common routes operational agreements must be submitted to the Provincial Regulatory Authority for approval before the route is operated.
- (d) Security and enforcement in ranking facilities, in vehicles, and on the operation as a whole will only be done by designated law enforcement structures being the SAPS and Traffic Police.

63 (2) Special Conditions relating to operating licenses for metered taxis:

- (a) A Metered Taxi must be fitted with SABS approved meter that must be used on every chargeable trip.
- (b) One Meter Taxi to One operating License
- (c) The operating License is valid for three (3) years.
- (d) All metered taxis to comply with all marking and branding requirements per planning authority.
- (e) Operation is limited within the planning authority.
- (f) Operational Agreements will be subjected to review from time to time.
- (g) The holder of this permit is prohibited from entering into any agreement whereby another party is permitted to undertake road transportation for own gain under authority of the permit. The authority is subject to amendment and/or alteration, if necessary.

63 (3) Special Conditions relating to operating licenses for mini-bus taxis:

- (a) In case of long distance, both departure point and destination planning authorities should consent (comment) to the operation.
- (b) In case of an operational agreement such agreement only comes to effect once and only if approved by the Regulatory Entity (Senior Manager)
- (c) In case of common routes operational agreements must be submitted to the Provincial Regulatory Authority for approval before the route is operated.
- (d) Security and enforcement in ranking facilities, in vehicles, and on the operation as a whole will only be done by designated law enforcement structures being the SAPS and Traffic Police.

63 (4) **Special Conditions relating to operating licenses for staff services:**

- (a) As per the definition of staff services in the NLTA, the vehicle specified in the operating License must be used exclusively for the conveyance of employees.
- (b) The operating License is only issued for the validity period of the contract and where the contract is terminated prematurely, the operating License will automatically be cancelled.
- (c) The operating License will only be renewed if a new contract is awarded to the operator to provide the same service.
- (d) The service may not be provided outside of the hours specified in the operating License.
- (e) The operator must only provide the service authorised by the operating License and may not provide any form of minibus-taxi type or scholar services.
- (f) That the service authorised by the operating License is provided on a daily basis. Where the vehicle is inoperative for a period of more than a week, the onus is on the operator to inform the regulatory entity of such inactivity.
- (g) That the service authorized by the operating License is provided with a vehicle that is at all times compliant with the conditions of the National Road Traffic Act (93 of 1996) and the National Land Transport Act (Act 5 of 2009).
- (h) That the service authorized by the operating Licenses is at all times provided in a manner that is safe for passengers and that passengers are at all times treated with respect and dignity.
- (i) That the operating License only be used in respect of the vehicle specified therein.
- (j) The operator must ensure that the driver of the vehicle specified in the operating License is properly licensed and hold the required Professional Driving Permit (PrDP).
- (k) That the operator and his or her authorised employees always maintain good relations with the government departments.
- (l) The operator or his or her authorised employees may not threaten or intimidate any person or fellow operators.
- (m) Where the operator or his or her authorised employees is involved in violent confrontations, the operating License will be summarily cancelled using the provisions of section 79 of the NLTA.

- (n) The operator and his or her authorised employees may not disrupt any government meetings.
- (o) A copy of the identification document of each member of staff is kept in the vehicle as well as a passenger list showing the addresses of these staff members.
- (p) Where the original operating License “marked for the vehicle” is lost or damaged, the holder must immediately apply for a duplicate operating License. The duplicate original operating License marked “for the file” may however be used by the operator during court cases to show that the vehicle is linked to a valid operating License.
- (q) Where the duplicate original operating License marked “for the file” is used to provide a public transport service with a vehicle not specified therein (different registration, chassis or engine number), the operating License will be summarily withdrawn using the provisions of section 79 of the National Land Transport Act (Act no.5 of 2009). In such cases, the operator will have to surrender both original operating Licenses as well as distinguishing marks relating to the service.

63 (5) **Special Conditions relating to operating licenses for midi-buses:**

- (a) In case of long distance, both departure point and destination planning authorities should consent (comment) to the operation.
- (b) In case of an operational agreement such agreement only comes to effect once and only if approved by the Regulatory Entity (Senior Manager).
- (c) In case of common routes operational agreements must be submitted to the Provincial Regulatory Authority for approval before the route is operated.
- (d) Security and enforcement in ranking facilities, in vehicles, and on the operation as a whole will only be done by designated law enforcement structures being the SAPS and Traffic Police.

63 (6) **Special Conditions relating to scholar transport:**

- (a) Scholar transport is designed as a subsidized service provided by an operator/s to scholars, students, teachers and lecturers. These services are normally contracted by government. Requirements of Scholar Transport should be as set out in regulation 42 Chapter 6 of the NLTA Act 5 of 2009.

- (b) Where applicable a contract between the operator and the school or other educational institution or department or certified copy thereof, or a letter from the principal or authorized administrative officer of such institution approving the operator and the transport, a copy of which must be kept in each vehicle being used for such a service
- (c) Professional driving permits of all drivers to be on hand at any given time during the service.
- (d) All drivers to provide proof of eye testing and medical tests above the PrDP requirements.
- (e) Operators to ensure that drivers obtain the following qualifications as prescribed or described:
 - i) Basic first-aid;
 - ii) Defensive driving; or
 - iii) advanced driving;
- (f) And obtain qualifications as prescribed in customer service or basic business management.
- (g) That the service authorized by the operating license is provided with a vehicle that is at all times compliant with the conditions of the National Road Traffic Act and the National Land Transport Act (Act 5 of 2009).
- (h) That the service authorized by the operating license is at all times provided in a manner that is safe for passengers and that passengers are at all times treated with respect and dignity.
- (i) That the operating license only be used in respect of the vehicle specified therein.
- (j) Ensure that all vehicles providing the service are installed with tracking system devices as prescribed or required by the regulatory authority.
- (k) Have vehicles fitted with soft seats.
- (l) All vehicles used for scholar transport must
 - i) Be marked in the manner prescribed or required by the relevant regulatory entity to indicate that scholars or students are being carried;
 - ii) Have a first-aid kit in the vehicle at all times that complies with prescribed requirements or those stipulated by the regulatory entity.

- (m) All schools and other educational institutions must provide areas of busy public roads where scholars and students may be picked up or set down by motor vehicles.
- (n) Where primary or pre-primary school children are being carried in the course of scholar transport, a teacher or other responsible adult must be in the vehicle at all times to supervise them.
- (o) In the case of pre-primary and primary school learners and learners with physical, mental or visual disabilities, a responsible adult (other than the driver) must be on the vehicle to manage learners.
- (p) The vehicle must be marked for the conveyance of scholars.
- (q) Learners may not be loaded or set down at stop streets, traffic intersections, loading zones or any other area prohibited for the loading or off-loading of passengers in terms of the Road Traffic Act (Act 93 of 1996).
- (r) Despite contrary provisions in the National Road Traffic Act, the operator may not load more than the number of learners specified in this operating license.
- (s) The PRE may review or amend these operating license conditions at any time.
- (t) The Operating License is only valid for each school calendar year
- (u) This operating License is not renewable
- (v) Drivers of scholar transport should at all times carry the card that displays the following information:
 - i) Full names and identity number of the driver;
 - ii) Name of the operator;
 - iii) Full, recent colour photograph of the driver; and
 - iv) The code indicating the type of vehicle that the driver may drive.
- (w) Where information is brought to the attention of the PRE that the applicant has submitted false or misleading information, the operating license will be summarily withdrawn using the provisions of section 79 of the Act.
- (x) The Department of Transport reserves a right to call upon a vehicle for inspection at any given moment and time.

PART 7
EXTRAORDINARY MEASURES

64)EXTRAORDINARY MEASURES

64 (1) Where the MEC is of the opinion that urgent steps are necessary to prevent or combat or appropriately manage any condemned outcome or any public disorder or any public transport boycott or any public transport violence, the MEC may, subject to sub-regulation (2), suspend the provision of public transport services in any area considered to be affected or to be likely affected by such condemned outcome or public disorder or public transport boycott or public transport violence.

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

- (a) The MEC must issue a notice to any of the persons who, in the opinion of the MEC, are the direct or proximate cause or in any way blameworthy for the condemned outcome or public disorder or public transport boycott or public transport violence;
- (b) The notice referred to in sub-regulation (2)(a) must be issued within twenty-four (24) hours of the MEC forming the opinion referred to in sub-regulation (1), must state full reasons for the Minister's opinion and must call upon such persons to show cause in writing within forty-eight (48) hours of service of the notice why the MEC may not suspend the provision of public transport services in any area considered to be affected or to be likely affected by such condemned outcome or public disorder or public transport boycott or public transport violence;
- (c) If no demonstration of cause is served on the MEC within the forty-eight hours stipulated in sub-regulation (2)(b), the Minister may suspend the provision of public transport services in any area considered to be affected or to be likely affected by such condemned outcome or public disorder or public transport boycott or public transport violence for any period or extended period deemed necessary by the Minister to stabilise the environment until the Minister is satisfied that the risk of condemned outcomes or public disorder or public

transport boycott or public transport violence has been eliminated or can be properly managed when suspension is uplifted;

(d) If a demonstration of cause is served on the MEC within the forty-eight (48) hours stipulated in sub-regulation (2)(b) and the MEC is satisfied that sufficient cause has been shown, the MEC shall withdraw the notice referred to in sub-regulation (2)(b) in writing;

(e) If a demonstration of cause is served on the MEC within the forty-eight (48) hours stipulated in sub-regulation (2)(b) and the MEC is not satisfied that sufficient cause has been shown, the MEC shall issue a notice in writing confirming its decision to suspend the provision of transport services in terms of sub-regulation (1) and proceed to implement such decision to suspend;

64 (3) In forming the opinion in terms of sub-regulation (1), the Minister must take into account the following:

(a) safety of passengers using the public transport service;

(b) safety of residents;

(c) safety of any other person entering or exiting the affected area;

(d) rights of operators;

(e) rights of the public;

(f) nature and extent of the capacity of law enforcement agencies to guarantee the provision of safe public transportation;

(g) alternative transport means for passengers using the public transport service;

64 (4) A decision to suspend in terms of sub-regulation (3)(c) shall be published in the Provincial Gazette setting out:

(a) the reasons for the opinion;

(b) summary of representations made;

(c) reasons for the decision to suspend the provision of public transport services after receiving representations;

(d) notification that any affected person is entitled to approach a court of law for relief against the decision to suspend the provision of public transport services.

PART 8
STATUS OF SURVIVING REGULATIONS

65)STATUS OF SURVIVING REGULATIONS

65 (1) Subject to sub-regulation (2), all regulations which survived the repeal of the KwaZulu-Natal Public Transport Act 2005 in terms of the KwaZulu-Natal Public Transport Act Repeal Act 5 of 2011 are hereby incorporated into these regulations;

65 (2) If there is an inconsistency between any provision of these regulations and a provision of the surviving regulations referred to in sub-regulation (1) then:

- (a) The provisions of both regulations shall apply concurrently to the extent that it is possible to apply and comply with one of the inconsistent provisions without contravening the other; and
- (b) To the extent that it is impossible to apply or comply with one of the inconsistent provisions without contravening the other, the provisions of these regulations shall prevail over the provisions of the surviving regulations referred to in sub-regulation (1).

**SCHEDULE A
CODE OF CONDUCT**

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1. DEFINITIONS AND INTERPRETATION

1.1. Unless otherwise expressly stated, or the context otherwise requires, the words and expressions listed below shall, when used in this Policy, or in any schedules hereto, bear the meanings ascribed to them below and cognate expressions bear corresponding meanings:

- a) “Condemned Circumstances” means any situation where any Driver or Operator or any agent of any Driver or Operator knew or ought reasonably to have known that any Condemned Outcome would occur or is likely to occur but failed to take reasonable steps to prevent such Condemned Outcome;
- b) “Condemned Outcomes” means loss of human life or injury to any person or intimidation of any person or damage to any property or disruption to the provision of public transport services;
- c) “Constitution” means the Constitution of the Republic of South Africa, 1996;
- d) “Driver” means any person that undertakes driving in the public transport industry strictly in accordance with the NLTTA or the NLTA and any person assisting or acting on behalf of or acting through such Driver or collective of Drivers;
- e) “MEC” means the Member of the Executive Council who is responsible for public transport in the Province of KwaZulu-Natal;
- f) “Material Adverse Event” means any event or circumstance directly or indirectly resulting from any act or omission on the part of any Driver or Operator or any agent thereof which has the effect of or is likely to contravene or undermine or adversely affect any provision of or the implementation of this code of conduct;

- g) "Operator" means any person carrying out the business of a public transport service in terms of a valid operating license or a valid permit in terms of the NLTA or NLTTA and any person assisting or acting on behalf of or acting through such Operator or collective of Operators;
- h) "PRE" means the Provincial Regulatory Entity established in terms of section 23 of the Act;
- i) "The Act" means the National Land Transport Act 5 of 2009;
- j) "code of conduct" means this code of conduct in terms of regulation 3 of the regulations to which this code of conduct constitutes Schedule A;
- k) "Unrest" means a state of unlawful or illegal disturbance in the provision of public transport.

1.2. In this code of conduct:

- a) the table of contents and paragraph headings are for purposes of reference only and shall not be used in interpretation;
- b) unless the context clearly indicates a contrary intention, any word connoting any gender includes the other genders, and the singular includes the plural and vice versa;
- c) when a number of days are prescribed such number shall be limited to business days and shall exclude the first and include the last day unless the last day is not a business day, in which case the last day shall be the next succeeding business day.
- d) a reference to a business day is a reference to any day excluding Saturday, Sunday and a public holiday in the RSA.

2. INTRODUCTION

- 2.1. The NLTA maintains that an MEC may make regulations with regard to a code of conduct for Drivers or Operators of public transport vehicles¹, which may differ according to the mode of transport concerned. The need exists to provide direction to Drivers or Operators with regard to their relationship with the PRE, the public and other relevant stakeholders in the public transport industry and to professionalise the public transport industry in a view to improving adherence to acceptable behaviour, customer relations, identification and combating of deviant behaviour and invoking consequence management.
- 2.2. Although this code of conduct seeks to be as comprehensive as possible, it is not exhaustive in regulating standards of conduct and may need improvement from time to time. The MEC may, from time to time, effect any emendations to this code of conduct to the extent reasonably necessary in order to improve or adapt this code of conduct to ever evolving developments in the public transport industry.
- 2.3. Adherence to the code of conduct by Drivers and Operators will lead to increased respect and support for the industry from its users, the public at large and Government. Drivers and Operators should conduct their public transport related activities and business with due care to ensure the safety of the public. This means that Drivers and Operators should do everything in their power to ensure that the provision of transport services places the interests of the passenger and the public as the highest priority, particularly ensuring that the provision of public transport, at all times:
 - 2.3.1. is lawful;
 - 2.3.2. is efficient;
 - 2.3.3. is effective;
 - 2.3.4. is affordable;

¹ See section 10(1)(b) of the National Land Transport Act 5 of 2009.

- 2.3.5. is safe;
- 2.3.6. is sensitive and responsive to passengers with special needs;
- 2.3.7. is respectful;
- 2.3.8. is in a stable and peaceful environment where any Condemned Outcome does not occur or does not have the likelihood of occurring;
- 2.3.9. is in a manner that prevents any Condemned Circumstance; and
- 2.3.10. generally aligns to this code of conduct.

3. PURPOSE

- 3.1. The purpose of this code of conduct is to:
 - 3.1.1. give effect to the letter and spirit of the provisions of paragraph 1 to this code of conduct;
 - 3.1.2. professionalise the provision of public transport related services;
 - 3.1.3. to record, enable and detect acceptable standards of behaviour in the public transport industry; and
 - 3.1.4. generally improve stakeholder relations in the public transport industry.
- 3.2. This code of conduct constitutes material terms and conditions under which Drivers and Operators are permitted to operate, conduct business and provide or undertake any public transport related services or activities.
- 3.3. Any conduct on the part of any Operator or any Driver or any agent of such Operator or Driver that deviates from the standards set out in this code of conduct shall constitute a Material Adverse Event.

4. RELATIONSHIP WITH THE PRE

- 4.1. All Drivers and Operators carry on business and undertake activities as such by virtue of authority from the PRE.
- 4.2. The authority from the PRE to such Drivers and Operators creates not only rights but obligations on the part of such Drivers and Operators.

- 4.3. This code of conduct constitutes part of the obligations, roles and responsibilities of Drivers and Operators in carrying on business and undertaking activities as such.
- 4.4. Beyond granting authority, the PRE is entitled, in certain circumstances, to make decisions including renewal, non-renewal, suspension or revocation of any rights flowing from the granting of authority to such Drivers and Operators.
- 4.5. The conduct of any Driver or Operator in relation to the standards set out in this code of conduct is material in the determination by the PRE of any of the matters set out in paragraph 4.4 to this code of conduct.

5. RELATIONSHIP WITH THE PASSENGER

- 5.1. **All Drivers and Operators, in carrying out activities and conducting business as such, must at all times:**
 - 5.1.1. consider the general interests of the passengers as of paramount importance;
 - 5.1.2. serve the passengers in an honest, polite, responsive, friendly, courteous, dignified, unbiased and impartial manner;
 - 5.1.3. strive for excellence in providing the experience of safe, user friendly and best value for money experience for the passengers;
 - 5.1.4. have regard for the circumstances and concerns of the passengers;
 - 5.1.5. affirm the passengers as clients/customers who are the direct contributor to the financial sustainability and well-being of the Operators and Drivers;
 - 5.1.6. affirm the passengers as stakeholders who have a critical say in how government and its agencies implement legislative and other reforms in the public transport industry; and

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

6. RELATIONSHIP AMONG DRIVERS AND OPERATORS

6.1. All Drivers and Operators, in carrying out activities and conducting business as such, must at all times:

- 6.1.1. place at the centre of their interaction the general interests of passengers as the upper most priority;
- 6.1.2. engage in a constructive, peaceful, cordial and solutions driven manner that seeks to advance the interests of the passengers; and
- 6.1.3. hold each other/ one another accountable for ensuring appropriate behaviour stipulated in this code of conduct.

7. PERFORMANCE OF DUTIES

7.1. All Drivers and Operators, in carrying out activities and conducting business as such, must at all times:

- 7.1.1. strive to achieve the stated purposes of this code of conduct and the general standards set out in this code of conduct;
- 7.1.2. take reasonable steps to detect or combat any circumstances that may result in any Condemned Circumstance or Condemned Outcome or Material Adverse Event;
- 7.1.3. execute their duties in a professional and competent manner;
- 7.1.4. not engage in any unlawful activity;
- 7.1.5. not engage in any activity that does or will or may create a conflict of interest; and
- 7.1.6. take steps to better understand the business environment and opportunity available in the public transport industry and undergo regular training to upskill themselves and improve their respective career progression or business opportunity prospects.

8. PERSONAL CONDUCT AND PRIVATE INTEREST

8.1. All Drivers and Operators, in carrying out activities and conducting business as such, must at all times:

- 8.1.1. during official duties behave in a manner consistent with this code of conduct and in a manner that improves the reputation of the entire public transport industry;
- 8.1.2. desist from any conduct that brings or is likely to bring the name of the public transport industry into disrepute.

9. GENERALLY ACCEPTABLE STANDARDS OF CONDUCT

- 9.1. The professionalization of the public transport industry is an imperative of paramount importance in the improvement of the image of the industry, end-user satisfaction and the enhancement of efficiencies, effectiveness and affordability in the provision of public transport.
- 9.2. This code of conduct seeks to create uniform standards aligned to generally acceptable standards of behaviour in a professional business environment, underscore the importance of the users of public transport as an important stakeholder, prescribe recourse in relation to deviation from generally accepted standards and generally disincentivise operators and drivers in the public transport industry from any conduct that constitutes a detour from accepted standards of behaviour.
- 9.3. The adherence to the following code of conduct by Operators and Drivers would lead to increased respect and support for the industry from its users, the public at large and Government. It is also likely to be instrumental in bringing out much needed peace and unity in enhancing professionalism, stability, customer satisfaction and uniformity in the industry.
 - 9.3.1. Operators must conduct their business with due care for the safety of the public.
 - 9.3.2. Operators must ensure that their vehicles are clean and roadworthy at all times, and have a valid certificate of fitness or roadworthy certificate.

- 9.3.3. Operators must ensure that their vehicles are kept in good working order and, in the case of a breakdown of a vehicle while transporting passenger, take all possible steps to arrange the timeous repair of the vehicle or for some other means for the onward conveyance of the passengers.
- 9.3.4. Operators must listen carefully to passenger complaints, identify problem areas and, if appropriate take action to remedy the situation.
- 9.3.5. Operators must ensure that their vehicles at all times carry or display the relevant public permit, certificate of fitness or roadworthy certificate, distinguishing marks (if issued by the authorities), and other documents required by law. Their association's logo and number, rank token and the operator's name, address and telephone number.
- 9.3.6. Operators must at all times strive to maintain a good relationship with the authorities and law enforcement officers.
- 9.3.7. Operators must co-operate with any police officer, traffic officer or transport inspector carrying out their official duty.
- 9.3.8. Operators may not employ drivers who are not in possession of a valid Public Driving Permit or Professional Driving Permit.
- 9.3.9. Operators must have an agreed clear understanding with their drivers regarding control measures for driver performance.
- 9.3.10. Operators may not discourage or prevent their drivers from joining a driver's association, organisation or union.
- 9.3.11. Operators may not participate in any violent activities or action that could in any way lead to violence.
- 9.3.12. Operators may not carry unlicensed firearms or allow the display of a weapon in their vehicle.
- 9.3.13. Operators may not threaten or intimidate any person or group.
- 9.3.14. Operators must adhere to the relevant provisions of the Act, the Regulations and the code of conduct;
- 9.3.15. Operators must adhere to the rules and procedures of the Act, the Regulations and the code of conduct;
- 9.3.16. Operators must maintain confidentiality with regard to internal affairs of the PRE;

- 9.3.17. Operators must not operate on the on a route for which they do not have an operating license;
- 9.3.18. Operators may not fail to attend meetings of the PRE, when reasonably expected of them without good cause.
- 9.3.19. Operators must avail themselves of opportunities provided by Government to participate in training courses.
- 9.3.20. Operators must encourage and facilitate the attendance of their drivers in Government sponsored training courses.
- 9.3.21. Operators are to adhere to the above requirements.
- 9.4. Drivers are to observe the following:
 - 9.4.1. Drivers must adhere to the rules of the road and obey all laws in respect of the driving and roadworthiness of vehicles on public areas.
 - 9.4.2. Drivers may not operate a vehicle for public conveyance, which such vehicle is unsafe or unfit to be so operated.
 - 9.4.3. Drivers may not operate a vehicle for public conveyance, while being unfit for any reasons whatsoever to operate such vehicle safely.
 - 9.4.4. Drivers must under no circumstances participate in blockades or disrupt the normal operations of road traffic in any manner.
 - 9.4.5. Drivers must not use foul language or engage in any disorderly conduct in public. They must be clean, sober and neatly dressed.
 - 9.4.6. Drivers must at all times treat passengers with dignity, respect and courtesy and take great care to ensure the comfort and safety of passengers.
 - 9.4.7. Drivers may not charge passengers unauthorised fares.
 - 9.4.8. Drivers may not obstruct operations at any rank.
 - 9.4.9. Drivers of the first three (3) vehicles in a loading queue must be in or in the immediate vicinity of their vehicles.
 - 9.4.10. Drivers may not repair or maintain vehicles at ranks (except at especially demarcated areas) and stopping places.
 - 9.4.11. Drivers may not gamble or use intoxicating substances at taxi facilities or while on duty.
 - 9.4.12. Drivers may not litter or allow passengers to do so;
 - 9.4.13. Drivers and Operators may not commit or cause or permit to be committed any of the offences stipulated in section 90 of the Act.

- 9.5. Should a breach of this code of conduct come to the attention of any operator, driver, commuter, authority or law enforcement official, it must be reported to the PRE.
- 9.6. Drivers and Operators have the responsibility of ensuring that all persons assisting them or acting on behalf of them or acting through them conduct themselves in a manner aligned to this code of conduct and have a responsibility to take appropriate steps to prevent or combat or otherwise manage deviant behaviour by any such person as, beyond recourse against any such person, the conduct of such person is attributable to the relevant Driver or Operator or collective of Drivers or collective of Operators and accordingly shall give rise to disciplinary proceedings against such Driver or Operator or collective of Drivers or collective of Operators in terms of this code of conduct.

EXPLANATORY MANUAL

10. INTRODUCTION

- 10.1. The purpose of this Manual is to explain the contents of the code of conduct more fully. The phrasing of the official code of conduct required brevity, precision and official terminology. This Manual is aimed at making the code of conduct more understandable to all Drivers and Operators.
- 10.2. This Manual does not introduce any new principles. When using this Manual, Parties should try to add examples of their own, related to their particular environment.
- 10.3. It should be emphasised that the development of this Manual is a dynamic process and that it may require revision from time to time, like the code of conduct itself.

11. TRAINING

- 11.1. In order to promote a high standard of professional ethics, Drivers and Operators should be encouraged to think and behave ethically. This Manual should therefore serve as an aid in developing and presenting short training courses for all Drivers and Operators. This Manual also contains many examples which illustrate ethical complexities in the worldly environment, which may serve as a basis for training and case studies.
- 11.2. As a companion to the code of conduct, this Manual can assist in maintaining the public's confidence in the integrity, professionalism and total quality service by providing minimum expectations about acceptable behaviour and benchmarks for ethical practises.

12. RESPONSIBILITY OF PRE AND DRIVER OR OPERATOR

- 12.1. It is an accepted fact that human beings learn by observation and experience. A special responsibility is therefore placed on the PRE to create an appropriate environment in which values are established and exemplary models are set for all Drivers and Operators.
- 12.2. As the code of conduct forms the main basis on which productive, corrective and even disciplinary actions rests, the PRE must do everything possible to ensure that the contents of the code of conduct are known to all Drivers and Operators.

13. RELATIONSHIP WITH PRE

- 13.1. All Drivers and Operators must recognise the PRE as an authorising entity that has, beyond the point authorised the power to renew, not to renew, suspend or revoke any authority granted by it:
 - 13.1.1. This means that Drivers and Operators must have a clean bill of health on matters pertaining to compliance with the Act and this code of conduct in order to avoid adverse determinations by the PRE.

- 13.2. All Drivers and Operators must loyally abide by the standards set out in this code of conduct and submit to such standard as one of the bases on which the PRE can make any determinations set out in paragraph 4.4 of this Code of Conduct.
- 13.3. All Drivers and Operators must strive to be familiar with and abide by the Act and the Regulations to which this code of conduct constitutes Schedule A, this code of conduct and/or statutory and other instructions applicable to their conduct and duties.
- 13.4. All Drivers and Operators must co-operate with stakeholders in the public transport industry including the PRE, fellow Drivers or Operators, passengers, the Public and service providers in executing their various roles and responsibilities.

14. RELATIONSHIP WITH THE PASSENGERS

- 14.1. **All Drivers and Operators must understand that the passengers are the source of income that keeps the public transport industry going;**
- 14.1.1. The starting point is that Drivers and Operators undertake activities and business as such for financial reward. Passengers are the persons that provide such rewards to the Drivers and Operators. Without passengers there is no public transport industry. That is the end of the matter.
- 14.2. **All Drivers and Operators must treat passengers in a proper manner in order to retain such passengers as their client/customers and principally because it is correct to do so.**
- 14.2.1. The PRE serves the public, and the public expect to be treated equally, efficiently, professionally and in a friendly manner. Drivers and Operators are therefore required to live up to this expectation by treating those with whom they work and those they serve

equally, in a manner that will not only create trust in the public transport industry PRE and KZN DOT, but will also establish an appreciation for the quality and efficiency of services rendered.

14.3. All Drivers and Operators must be proactive and solutions driven in dealing with passengers and must strive for customer satisfaction at all levels.

14.3.1. It is important for Drivers and Operators to realise that, by abiding by this code of conduct, they have committed themselves to serving the passengers.

14.3.2. The public expect to be served, and require Drivers and Operators to be available and to help them in a friendly and efficient manner.

14.4. All Drivers and Operators must have regard for the special circumstances and concerns of passengers in performing their official duties and in the making of decisions affecting them.

14.4.1. Passengers are not a homogeneous group and some have particular needs. Passengers with disabilities, elderly passengers and child passengers require special care and attention. Drivers and Operators must therefore not provide a generic service but a customary service.

14.4.2. The public expect to be served, and require Drivers and Operators to be available and to help them in a friendly and efficient manner.

14.5. All Drivers and Operators must be committed to adding value to the livelihood, quality of life and general welfare of the passengers.

14.5.1. People access Constitutional services arrive at work on time or conduct their trade as efficiently as the public transport services, in turn, are responsive. This illustrates the need to understand the

cause and effect relationship between value added public transport solutions and mediocrity as the former enhances value for the passenger and the latter has catastrophic consequences for the passenger. Consequently the public transport industry and the economy at large benefit or lose as the case may be. There lies the detail of market preservation.

- 14.6. **All Drivers and Operators must not unfairly discriminate against any passenger of the public on account of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language.**

14.6.1. As has already been stated, the PRE serves the general public in South Africa. Each passenger is entitled to be treated properly. Discrimination of passengers is a condemned practice.

- 14.7. **All Drivers and Operators must not abuse their position of authority or influence over passengers.**

14.7.1. With authority granted by the PRE comes a responsibility of humility in service of the passengers.

- 14.8. **All Drivers and Operators must respect and observe the passengers dignity and their rights as contained in the Constitution.**

14.8.1. Drivers and Operators must behave in a respectful manner towards all their colleagues and the passengers, irrespective of who they are, how they look, what their status is, etc. Drivers and Operators' behaviour towards others should always be friendly, helpful and efficient.

15. **RELATIONSHIPS AMONGST DRIVERS AND/OR OPERATORS**

15.1. All Drivers and Operators must co-operate fully with other Drivers and/or Operators to advance the best interest of the passengers.

15.1.1. The maintenance of a peaceful and stable environment for constructive engagement and the placing of the interest of the passengers at the core of such engagements is the best approach for the provision of sustainable public transport services.

15.2. All Drivers and Operators must execute all reasonable instructions by persons officially assigned to give them, provided these are not contrary to the provisions of the Constitution and/or the Act and/or the Regulations, and/or any other law:

15.2.1. It is absolutely necessary that Drivers and Operators comply with the law and lawful instructions. Equally, Drivers and Operators are not entitled to act unlawfully or accept or implement unlawful instructions.

15.3. All Drivers and Operators must use the appropriate channels to air their grievances or to direct representations.

15.3.1. The use of appropriate channels ensures that correct information is communicated through the correct channels to the correct recipient, thereby facilitating informed and meaningful engagement or holding people to account. In formal channels only perpetuate mistrust, hostilities, miscommunication, and duplication of effort and misdirected engagements which make resolution and accountability a distant prospect.

15.4. All Drivers and Operators must be committed to their development and the promotion of sound labour and interpersonal relations.

15.4.1. In order to achieve the overall objective of this code of conduct, which is to render excellent services to the public, all Drivers and Operators must have the expertise, knowledge and skills to perform their tasks

at the required level and must be motivated to deliver excellent outcomes and must be willing and able to promote sound relations.

15.5. The PRE is a crucial stakeholder to the successful provision of public transport services. In this regard, Drivers and Operators are entitled to insist on being treated fairly, professionally and equitably by the PRE irrespective of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language.

15.5.1. Freedoms relating to economic activity, trade and occupational engagement are Constitutional rights which cannot be interfered with lightly and it is for this reason that the PRE must observe due process before taking any steps that may have an adverse effect on such rights.

15.5.2. To fairly engage with Drivers and Operators requires the PRE to:

15.5.2.1. always respect the established rights (in terms of Common Law, the Constitution, Labour Law, the Act, the Regulations and any other law that may apply) of Drivers and Operators;

15.5.2.2. always grant Drivers and Operators the opportunity to state their side of a case;

15.5.2.3. always allow Drivers and Operators representation if requested;

15.5.2.4. always be willing to discuss/consult/negotiate openly; and

15.5.2.5. generally observe administrative law standards set out in the Promotion of Administrative Justice Act 3 of 2000

15.5.3. Where a Driver or Operator is, for instance, charged with any misconduct in relation to the Act, regulations, this code of conduct or any other law, they should be treated procedurally, as well as substantively fairly.

15.5.3.1. *Procedural fairness* implies that a specific Disciplinary Procedure should be followed whereby a Driver or Operator should:

- a) Be informed timeously about any charge against him;
- b) Be granted the opportunity to state his case in a hearing;
- c) Have the right to be represented;
- d) Have access to all relevant information;
- e) Have the right to cross question witnesses; and
- f) Have the right to appeal.

15.5.3.2. *Substantive fairness* implies that all the facts on the table should be taken into consideration as objectively as possible before a decision is made.

15.5.3.3. Constructive engagement with Drivers and Operators requires the PRE to:

- a) have sufficient knowledge about the subject matter of concern;
- b) respond quickly to instructions/requests;
- c) apply their minds fully to the relevant issues;
- d) participate actively in a teamwork situation in order to deliver services/solve problems;
- e) respect the rights of Drivers and Operators; and
- f) consider all competing interests of affected persons and afford them the opportunity to be heard before a decision affecting them is taken.

15.5.3.4. To deal equitably with Drivers and Operators the PRE must:

- a) not unfairly discriminate directly or indirectly against Drivers and Operators on any grounds; and
- b) be totally objective and apply the same criteria in taking decisions that affect others.

16. PERFORMANCE OF DUTIES

16.1. All Drivers and Operators strive to achieve the objectives of this code of conduct and the best interests of the passengers.

16.1.1. In their day to day functioning, Drivers and Operators should continually ask themselves whether what they are doing really contributes to delivering the services and results for the benefit of the passengers. This, in turn, requires Drivers and Operators to be fully familiar with this Code of conduct and to develop solutions with stakeholders that seek to continuously improve passenger satisfaction.

16.2. All Drivers and Operators execute their duties in a professional and competent manner.

16.2.1. Drivers' and Operators' ability to render services in a professional and competent manner will also depend on their level of knowledge of the duties to be performed, which again emphasises the responsibility of both PRE and Drivers and Operators to attend to training.

16.3. All Drivers and Operators must not engage in any transaction or action that is in conflict with or infringes on the execution of their respective roles and responsibilities.

16.3.1. In order to bring about and maintain trust in the public transport environment, all Drivers and Operators are expected to serve in a loyal and dedicated manner. This requires Drivers and Operators not to get involved, either on or off duty, in matters or activities that could:

16.3.1.1. be regarded as being fraud or theft;

16.3.1.2. interfere with the carrying out of their roles and responsibilities;

16.3.1.3. result in undue influence being perpetrated by or against them;

16.3.1.4. compromise their integrity in conducting themselves; or

16.3.1.5. bring the name of the public transport industry into disrepute.

16.3.2. Drivers' and Operators' behaviour on and off duty should be such that they are exemplary and conduce to public confidence and pride in the public transport industry.

16.4. All Drivers and Operators must accept the responsibility to avail themselves for on-going training and self-development throughout their careers.

16.4.1. The public transport industry has evolved from an unregulated to a highly regulated industry. This requires constant capacitation to deal with the ever evolving regulatory environment, commercial environment and generally acceptable standards in order to ensure sustainability and best yield. All Drivers and Operators have a responsibility to ensure that they:

16.4.1.1. Have up to date knowledge and understanding of the environment in which they operate as it evolves from time to time; and

16.4.1.2. Upskill in order to improve prospects of upward mobility in their respective occupations and business engagements.

BREACH AND DISCIPLINARY PROCEDURE

17. DISCIPLINARY PROCEDURE

17.1. The PRE must investigate complaints of breach of this code of conduct by any Driver or Operator;

17.2. The PRE shall only consider action against any Driver or Operator after having received a complaint in writing from any person. All written complaints must be

in the form of sworn affidavits, containing full details and supporting evidence where possible.

- 17.3. Any complaint relating to Condemned Circumstances, Condemned Outcomes, Unrest or Material Adverse Events must be dealt with under paragraph 2 to this code of conduct.
- 17.4. After receipt of a complaint, the PRE must inform the concerned Driver or Operator in writing of the nature of the complaint and allow him/her a reasonable opportunity to furnish a written reply. Whether the Driver or Operator does not reply in writing, the PRE may, if it considers the matter to be of a sufficiently serious nature, call upon the complainant and the Driver or Operator, to attend a hearing at such time and place as the PRE shall decide.
- 17.5. When holding an inquiry, the PRE must allow both sides a fair and equal opportunity to present their case. The rules of natural justice shall apply, including the following:
 - 17.5.1. The Driver or Operator must be given a proper hearing by the PRE;
 - 17.5.2. The Driver or Operator must be given an opportunity of producing his/her evidence and of correcting or contradicting any prejudicial statement or allegation made against him/her;
 - 17.5.3. The PRE must listen fairly to both sides and observe the principles of fair play;
 - 17.5.4. The PRE must discharge its duties honestly and impartially;
 - 17.5.5. The PRE must make it's finding on the facts and the ruling legal framework; and
 - 17.5.6. The decision of the PRE must be fair and bona fide.
- 17.6. Any Driver or Operator or the complaining party is entitled to represent him/herself in person or through any other person.

- 17.7. The findings of the PRE, including any sanction, must be timeously provided to the Driver or Operator concerned.
- 17.8. In the event that a Driver or Operator has been found guilty of contravening the code of conduct, the PRE may mete out any of the following sentences to such Driver or Operator :
- 17.8.1. A written warning with any conditions;
 - 17.8.2. A fine up to a maximum of R1 000.00;
 - 17.8.3. Suspension of the Operating License or any authority by which such Driver or Operator participates in the provision of public transport services for a period not exceeding ___ (__) year; and/or
 - 17.8.4. Revocation of the Operating License or any authority by which such Driver or Operator participates in the provision of public transport services for a period not exceeding ___ (__) year.
- 17.9. In addition to any sentence imposed in terms of paragraph 17.8 to this Code, any person that contravenes any provision of regulations issued in terms of section 10 of the Act or this code of conduct is guilty of an offence and on conviction liable to imprisonment not exceeding three months or to a fine not exceeding R25 000, 00.²
- 17.10. Drivers and Operators remain liable, upon conviction to sentences prescribed in terms of sections 90 of the Act and in the event of any conflict or inconsistency with the provision of this clause and paragraph 17.9, then the provisions of this clause shall prevail.

² See Section 10(2) of the NLTA.