

# **KWAZULU-NATAL INTERIM MINIBUS TAXI ACT**

## **NO. 4 OF 1998**

[ASSENTED TO BY THE PREMIER ON THE 5 JUNE, 1998 – ENGLISH TEXT SIGNED.]

[DATE OF COMMENCEMENT: 25 JUNE, 1998]

### **ACT**

**To enact interim legislation regulating the minibus taxi industry; and to formalise, restructure and legalise minibus taxi registration and services during the period leading up to the enactment of national and provincial land transport legislation; and to provide for matters incidental thereto.**

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BE IT ENACTED in the Parliament of the Province of KwaZulu-Natal, as follows:

#### PART I

##### DEFINITIONS

**1. Definitions.**—In this Act, unless inconsistent with the context—

**“area-defined permit”** means a permit issued by the Board and which authorises operations within a defined geographical area;

**“authorised officer”** means an authorised officer as defined in the Road Transportation Act, 1977 (Act No. 74 of 1977);

**“authorised operator”** means an operator referred to in section 42;

**“Board”** means a local road transportation board established in terms of the Road Transportation Act, 1977 (Act No. 74 of 1977);

**“charter service”** means a customised minibus taxi service involving the charter of a vehicle and driver for a prearranged journey to a common destination where—

- (a) neither the operator nor the driver receives individual fares and payment is made by way of a lump sum paid by the charterer;
- (b) the charterer has the right to decide the route, date and time of travel; and
- (c) there is no picking up and setting down of passengers along the route;

**“Constitution”** means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

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

**“Executive Council”** means the council as contemplated in section 132 of the Constitution;

**“financial year”** means the period extending from 1 April of any year to 31 March of the next year as contemplated in the KwaZulu-Natal Exchequer Act, 1994 (Act No. 1 of 1994);

**“full registration”** means the unconditional recognition of a minibus taxi association by the Provincial Taxi Registrar;

**“Gazette”** means the *Provincial Gazette of KwaZulu-Natal*;

**“interim operating authority”** means an identifiable disc which shall be displayed on a minibus taxi vehicle, the form of which shall be prescribed by regulation and which classifies the operator as an authorised operator in terms of section 42 (1);

**“minibus taxi association”** means a collective body of minibus taxi operators formed on a non-profit basis to represent and promote the interests of its members;

**“minibus taxi service”** means a service with no prescribed timetable or fare rendered by means of a motor vehicle with a carrying capacity of between 10 and 16 persons including the driver and for which individual fares are charged;

**“Minister”** means the member of the Executive Council responsible for transport in the Province;

**“Minister of Finance”** means the member of the Executive Council responsible for finance in the Province;

**“municipality”** means any local government structure contemplated in section 1 of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable law;

**“offence”** means an act or omission punishable by law in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or in terms of this Act;

**“official language”** means Zulu, English and Afrikaans for the purposes of this Act;

**“operator”** means a minibus taxi operator providing a minibus taxi service in the Province;

**“Panel of Assessors”** means the Panel of Assessors established in terms of section 13 and the word **“assessor”** has a corresponding meaning;

**“Parliament”** means the KwaZulu-Natal Provincial Legislature established in terms of section 104 of the Constitution;

**“permit”** means any public road carrier permit issued by a local road transportation board in

terms of the Road Transportation Act, 1977 (Act No. 74 of 1977), or this Act;

**“Portfolio Committee”** means a committee of Parliament whose subject includes transport matters;

**“Premier”** means the member of the Executive Council as contemplated in section 125 (1) of the Constitution;

**“Province”** means the Province of KwaZulu-Natal as defined in terms of section 103 (1) (d) of the Constitution;

**“Provincial Taxi Registrar”** means the person appointed in terms of section 5;

**“provisional registration”** means the conditional status of registration granted by the Provincial Taxi Registrar pending compliance with the requirements for full registration;

**“radius permit”** means a permit issued by a local road transportation board which authorises operations within a radius measured in terms of a given distance from a central point;

**“regulation”** means any regulation promulgated under this Act;

**“route-based permit”** means a permit issued by a local road transportation board which broadly describes the route or combination of routes by specifying the origin and destination of the service and any intermediate point necessary for proper identification of the service;

**“Secretary for Transport”** means the Secretary for the Department;

**“service user”** means any individual who uses minibus taxi services available to the public;

**“this Act”** means this Act and the regulations thereunder; and

**“Tribunal”** means the KwaZulu-Natal Interim Minibus Taxi Tribunal established in terms of section 25.

## PART II

### APPLICATION OF THIS ACT

**2. Application of this Act.**—(1) This Act shall apply to minibus taxi services operating within and from the Province of KwaZulu-Natal.

(2) In the event of conflict between this Act and any other provincial law dealing with minibus taxis in the Province, this Act shall prevail.

## PART III

### STATEMENT OF PROVINCIAL INTERIM MINIBUS TAXI PRINCIPLES AND POLICY

**3. Principles governing provincial interim minibus taxi policy.**—The principles governing this Act are the—

- (a) eradication of the culture of illegal operation prevalent in the minibus taxi industry to—
  - (i) prevent unauthorised operators from interfering with the provision of essential and socially desirable public transport services;
  - (ii) prevent encroachment on services provided by duly authorised operators and

promote operation within the law;

- (iii) assist with the objectives of the registration process to formalise and restructure the minibus taxi industry;
  - (iv) establish a process to legitimise *bona fide* operators providing a minibus taxi service without the necessary public road carrier permits;
  - (v) ensure coordination among enforcement agencies with a view to effective regulation, monitoring and enforcement of the activities of operators; and
  - (vi) ensure that existing radius permits held by operators are converted to route-based or area-defined permits, which eliminate the opportunity for encroachment on services rendered by duly authorised operators;
- (b) creation of effective mechanisms and structures to regulate the minibus taxi industry.

## PART IV

### MINISTERIAL POWERS

**4. Ministerial Powers.**—(1) The Minister, in consultation with the Premier in Executive Council, shall be responsible for formulating and developing provincial interim minibus taxi policy.

(2) The Minister shall be responsible for implementing provincial interim minibus taxi policy.

(3) The Minister may investigate any matter which has or is likely to have an effect on provincial interim minibus taxi policy.

(4) The Minister may convene meetings and liaise with municipalities and provincial governments and, where necessary, engage in consultation and coordinate intersectoral cooperation with the national government, other provinces, municipalities, departments, the private sector, non-governmental organisations and any other group or person.

(5) The Minister may make recommendations to all levels of government where he or she considers legislation or action advisable to promote provincial interim minibus taxi policy.

(6) The Minister may make regulations to implement and administer provincial interim minibus taxi policy.

(7) The Minister shall ensure that the Department, Tribunal, Provincial Taxi Registrar and Panel of Assessors exercise the highest professional standards with respect to provincial minibus taxi policy, allocation and use of funds and accountability for funds received from the national government, provincial government or any other source, in accordance with the KwaZulu-Natal Exchequer Act, 1994 (Act No. 1 of 1994).

(8) The Minister may delegate any authority, excluding the authority to develop policy and regulations, to any officer in the Department and may also withdraw such delegation of authority.

(9) The Minister may make regulations to amend process deadlines referred to in sections 42, 48, 49, 50, 52, 55, 57 and any other matter related to this Act.

(10) The Minister may make regulations regarding the conditions of appointment of the Tribunal and Panel of Assessors.

(11) The Minister is empowered to undertake all responsibilities and assume all functions required in terms of this Act.

PART V  
PROVINCIAL TAXI REGISTRAR

**5. Appointment of Provincial Taxi Registrar.**—(1) The Minister shall—

- (a) subject to the laws governing the public service, appoint a Provincial Taxi Registrar who shall exercise the powers and perform the duties assigned to him or her by this Act; and
- (b) advise the Premier in Executive Council of the appointment.

(2) Due to the sensitivity of minibus taxi operations, the Minister shall consult with the Premier in Executive Council, if the Provincial Taxi Registrar is to be appointed from outside the public service.

(3) The Minister shall, subject to laws governing the public service, provide the staff necessary to assist the Provincial Taxi Registrar in the performance of his or her functions and duties.

**6. Term of appointment of Provincial Taxi Registrar.**—(1) The Provincial Taxi Registrar shall be appointed for an initial term of 3 years.

(2) Any person appointed as the Provincial Taxi Registrar shall be eligible for reappointment for one additional term.

**7. Powers of the Provincial Taxi Registrar.**—(1) The Provincial Taxi Registrar shall have the power to—

- (a) consider and decide any application for registration made by an association;
- (b) grant provisional registration to any qualifying minibus taxi association and its members;
- (c) grant full registration to any qualifying minibus taxi association and its members;
- (d) decide on the form of the register to be maintained and certificates to be issued to minibus taxi associations and members;
- (e) take all reasonable steps to monitor and receive information with respect to the compliance or non-compliance of registered minibus taxi associations and their members with the conditions of registration;
- (f) suspend and deregister minibus taxi associations and their members for failure to comply with provisions of this Act;
- (g) instruct a minibus taxi association to reinstate membership of a suspended or expelled member after a hearing conducted in terms of section 8 (5) (f);
- (h) instruct a minibus taxi association to grant membership to an operator who is authorised to operate over routes or areas for which the minibus taxi association has been recognised by the Provincial Taxi Registrar, where the minibus taxi association unreasonably refuses membership;
- (i) instruct the relevant parties, where there is a dispute over routes, to appear before him or her to hear and decide the matter in dispute;
- (j) refer any matter to the Tribunal for resolution;
- (k) instruct parties to submit their permits to the Boards for conversion as contemplated in section 55 (4); and

(l) advise the Minister on any matter falling within the scope of this Act.

(2) The Provincial Taxi Registrar shall perform all duties required of him or her in terms of this Act and may consult with the Panel of Assessors in the performance of his or her duties.

(3) The Provincial Taxi Registrar shall exercise any other powers as may be assigned or delegated by the Minister in terms of this Act.

**8. Duties of Provincial Taxi Registrar.**—(1) The Provincial Taxi Registrar shall provide advice and assistance to minibus taxi associations and their members regarding registration.

(2) The Provincial Taxi Registrar shall recommend registration requirements for provisional and full registration to be prescribed by regulation.

(3) The Provincial Taxi Registrar shall publicise in the media information on registration contemplated in section 49 (2) (a).

(4) The Provincial Taxi Registrar shall receive and decide all applications for registration submitted by minibus taxi associations and members, and register such minibus taxi associations and members if they comply with prescribed registration requirements.

(5) The Provincial Taxi Registrar shall, in consultation with the Panel of Assessors, hear and make a decision regarding—

- (a) the suspension or deregistration of any registered member or registered minibus taxi association;
- (b) any application submitted by a minibus taxi association for reconsideration of its suspension;
- (c) any application submitted by a member of a minibus taxi association for reconsideration of the suspension of his or her registration;
- (d) any application submitted by a minibus taxi association for reconsideration of its deregistration;
- (e) any application submitted by a member of a minibus taxi association for reconsideration of his or her deregistration;
- (f) appeals by a suspended or expelled member of a minibus taxi association made after the member has exhausted all internal remedies available through the relevant minibus taxi association's constitution, rules, protocols and procedures;
- (g) complaints concerning the unreasonable refusal by a minibus taxi association to grant membership to an operator who is authorised to operate over the routes or areas for which the minibus taxi association has been recognised by the Provincial Taxi Registrar; and
- (h) complaints arising out of issues relating to operation of minibus taxi services.

(6) Any hearing and decision contemplated in subsection (5) shall include the Provincial Taxi Registrar and a maximum of 2 assessors, one of whom shall be a person nominated in terms of section 14 (1) (a).

(7) The Provincial Taxi Registrar shall assist registered minibus taxi associations and their members with developing standards and codes of practice for the minibus taxi industry.

(8) The Provincial Taxi Registrar shall no later than 60 days after the end of the financial year, submit an annual report to the Minister on—

- (a) his or her activities;



- (b) activities of the Panel of Assessors;
- (c) registration of minibus taxi associations and their members;
- (d) deregistration and suspension of any minibus taxi association or members;
- (e) any information the Provincial Taxi Registrar believes is necessary to provide an accurate reflection of activities of the minibus taxi industry; and
- (f) any other matter which the Minister directs shall be included.

**9. Recusal.**—(1) The Provincial Taxi Registrar shall recuse himself or herself in any matter or proceeding where he or she or his or her spouse, immediate family members, dependants or any business partner has or could reasonably be expected to have a financial or other conflict of interest in the outcome of any decision by the Provincial Taxi Registrar.

(2) (a) A party may make a written request that the Provincial Taxi Registrar recuse himself or herself where the party has reason to believe that the Provincial Taxi Registrar or his or her spouse, immediate family members, dependants or any business partner has or could reasonably be expected to have a financial or other conflict of interest in the outcome of any decision by the Provincial Taxi Registrar.

(b) Any written request by a party for the Provincial Taxi Registrar to recuse himself or herself shall specify detailed reasons.

(3) In the event of a written request in terms of subsection (2), the Provincial Taxi Registrar shall consider and decide whether to recuse himself or herself.

**10. Appointment of Acting Provincial Taxi Registrar.**—(1) The Minister shall appoint an Acting Provincial Taxi Registrar from the Panel of Assessors where the Provincial Taxi Registrar—

- (a) has recused himself or herself in terms of section 9 (1); or
- (b) has been requested in terms of section 9 (2) to recuse himself or herself and has complied with this request in terms of section 9 (3); or
- (c) is temporarily absent or is otherwise unavailable to perform his or her duties.

(2) An Acting Provincial Taxi Registrar appointed in terms of subsection (1) (a) or (b) shall hear the matter for which the Provincial Taxi Registrar has been recused.

(3) An Acting Provincial Taxi Registrar appointed in terms of subsection (1) (c) shall serve until the Provincial Taxi Registrar is available to resume his or her duties.

**11. Financial accountability.**—The Provincial Taxi Registrar shall, subject to the KwaZulu-Natal Exchequer Act, 1994 (Act No. 1 of 1994)—

- (a) be charged with the responsibility of accounting for State and any other funds received or paid out for or on account of the Provincial Taxi Registrar and Panel of Assessors; and
- (b) cause the necessary accounting and other records to be kept.

**12. Annual report.**—The Provincial Taxi Registrar shall submit an annual report on the activities and expenditure of the Provincial Taxi Registrar and Panel of Assessors to the Minister within 60 (sixty) days after the end of the financial year.

## PART VI

### PANEL OF ASSESSORS

**13. Establishment of Panel of Assessors.**—The Minister shall establish a Panel of Assessors to assist the Provincial Taxi Registrar.

**14. Appointment of assessors.**—(1) The Panel of Assessors shall consist of 4 assessors, comprising—

- (a) 3 assessors nominated in terms of section 14 (2); and
- (b) 1 assessor who is a member of the Department appointed by the Minister to serve as an assessor.

(2) The Minister shall, using a method designed to reach the greatest number of residents in KwaZulu-Natal, invite nominations for appointment to the Panel of Assessors as contemplated in subsection (1) (a).

(3) All invitations for nominations in terms of subsection (1) shall specify the nomination procedure and date by which any nomination is to be submitted to the Minister.

(4) The Minister shall, from among the nominations received in terms of subsection (2), appoint three assessors to serve on the Panel of Assessors.

(5) The Minister shall appoint in terms of subsection (1) (b) one member of staff from the Department to serve on the Panel of Assessors.

**15. Term of appointment of assessors.**—(1) The Minister shall appoint the Panel of Assessors for an initial term of 3 years.

(2) Any person appointed to the Panel of Assessors shall be eligible for reappointment for one additional term.

**16. Declaration of financial or other interests.**—(1) Any person nominated to serve on the Panel of Assessors in terms of section 14 shall—

- (a) within 10 days of receiving notice of his or her nomination and acceptance of the nomination, be required to submit a written declaration of any financial or other interests which are or could be related to or are in conflict with such appointment, which declaration shall include relevant information about any conviction for a Schedule 1 offence in terms of the Criminal Procedure Act, 1977 (No. 51 of 1977); and
- (b) not be considered for appointment as an assessor where he or she has failed to submit the declaration of financial or other interests in terms of this section.

(2) The declaration of financial and other possible conflicts of interest by a person nominated to serve as an assessor shall include past, present or reasonably foreseeable future financial or other interests by the nominee and his or her immediate family in matters related to the provision of public transport.

(3) Where any assessor or a member of the assessor's immediate family experiences a change in financial or any other circumstances which might affect the ability of the assessor to consider any matter impartially, the assessor shall, within 10 (ten) days from the date of the changed circumstances submit a written notice of change of financial or other interests to the Minister.

(4) The Minister shall terminate the appointment of an assessor who fails to advise the Minister timeously of any change of financial or other interests which might affect the ability of the assessor to consider any matter impartially.

(5) Any declaration submitted to the Minister in terms of subsection (1), (2) or (3) shall be for the sole purpose of determining whether such financial or other possible conflicts of interest may

preclude the nominee's appointment or continuing in office as an assessor.

(6) The Minister shall ensure that any declaration submitted in terms of subsection (1), (2) or (3) is confidential in nature and not subject to public disclosure.

(7) Any person who discloses confidential information in contravention of subsection (6) shall be guilty of an offence and liable to a maximum fine of R20,000.

(8) Any assessor who fails to provide the full declaration of financial or other possible conflicts of interest in terms of subsection (1), (2) or (3) shall be—

- (a) guilty of an offence;
- (b) liable to dismissal; and
- (c) liable to a maximum fine of R10,000.

**17. Assessors not to promote financial or other interests.**—No assessor may use his or her appointed position to promote any financial or other interest, including but not limited to the interests of any individual, company or other entity.

**18. Recusal of an assessor.**—(1) Where an assessor or a member of his or her family has a financial or other potential conflict of interest in the outcome of a hearing, the assessor shall timeously recuse himself or herself.

(2) Where an assessor has recused himself or herself, the Minister shall appoint an alternate assessor in terms of section 14.

(3) An assessor who fails to advise the Minister of any financial or other potential conflict of interest in the outcome of a hearing shall be—

- (a) guilty of an offence;
- (b) liable to dismissal; and
- (c) liable to a maximum fine of R10,000.

**19. Resignation of an Assessor.**—An assessor may, at any time and upon not less than 30 days' written notice, resign as an assessor.

**20. Termination of appointment.**—Notwithstanding the provisions of section 15 of this Act, the Minister may terminate an appointment with immediate effect if the assessor—

- (a) is or becomes an unrehabilitated insolvent;
- (b) fails to declare his or her financial or other possible conflicts of interest or fails to recuse himself or herself where he or she or an immediate family member has an interest in the outcome of the hearing;
- (c) is suffering from an infirmity of mind or body which prevents him or her from the proper discharge of his or her duties as an assessor;
- (d) has engaged in conduct which, in the opinion of the Minister, brings or could bring the office of the member or the activities of the Panel of Assessors into disrepute or threatens the integrity of the Panel of Assessors;
- (e) fails to attend three consecutive meetings without having been granted leave of absence by the Provincial Taxi Registrar; or
- (f) fails to carry out the duties and functions of the Panel of Assessors to the best of his or her ability.

**21. Panel of Assessors staff.**—The Minister shall second staff from the Department to provide such administrative assistance as the Panel of Assessors may require.

**22. Funds of the Panel of Assessors.**—The funds of the Panel of Assessors shall consist of monies budgeted by the Minister out of appropriations from the Provincial Revenue Fund in terms of section 226 (2) of the Constitution.

**23. Authority of the Panel of Assessors.**—(1) Assessors shall exercise authority in a fair and impartial manner without fear, favour or prejudice.

(2) Assessors shall have authority, in conjunction with the Provincial Taxi Registrar, to hear and decide matters in section 8 (5).

(3) The Panel of Assessors may, at the request of the Provincial Taxi Registrar, advise and assist the Provincial Taxi Registrar in the performance of his or her duties.

**24. Remuneration and allowances.**—Members of the Panel of Assessors shall be entitled to such remuneration and allowances as may be determined by the Minister in consultation with the Minister of Finance.

## PART VII

### KWAZULU-NATAL INTERIM MINIBUS TAXI TRIBUNAL

**25. Establishment of KwaZulu-Natal Interim Minibus Taxi Tribunal.**—There is hereby established the KwaZulu-Natal Interim Minibus Taxi Tribunal.

**26. Nominations for members of the Tribunal.**—(1) The Minister shall, using a method designed to reach the greatest number of residents in KwaZulu-Natal, invite the nomination of persons for the Tribunal.

(2) All invitations for nominations in terms of subsection (1) shall specify the nomination procedure and date by which any nomination is to be submitted to the Minister.

(3) The Minister shall appoint a selection panel to review all nominations for the Tribunal.

(4) The selection panel appointed by the Minister in terms of subsection (3) consists of—

- (a) 2 representatives from the Department, one of whom shall be the Secretary for Transport;
- (b) 1 qualified attorney or advocate;
- (c) 2 members of the transport industry, one of whom shall be a member of the minibus taxi industry;
- (d) 1 person with extensive labour experience; and
- (e) 1 person with extensive business experience.

(5) The selection panel shall provide a short list of nominations to the Minister to be considered for appointment in terms of section 27.

(6) The selection panel shall be entitled to such allowances as may be determined by the Minister in consultation with the Minister of Finance.

**27. Appointment of Tribunal members.**—(1) The Minister shall, after consultation with the Portfolio Committee, appoint 5 members to the Tribunal from the nominees nominated in terms of

section 26 and such members shall have experience in public transport, industrial, commercial, financial or legal matters and shall include 1—

- (a) qualified attorney or advocate;
- (b) person with extensive commercial and financial experience;
- (c) person with extensive labour experience;
- (d) person with transport expertise; and
- (e) person from a commuter representative body or a municipality.

(2) The Minister shall appoint to the Tribunal 2 alternate members, who shall be available to serve on the Tribunal in the place of any member who has a conflict of interest in a particular matter before the Tribunal or is otherwise unavailable for a hearing.

(3) The alternate members referred to in subsection (2) shall be—

- (a) 1 qualified attorney or advocate to fill a vacancy in terms of subsection 1 (a); and
- (b) 1 person from any of the categories listed in terms of subsection (1) (b) to (e) to fill a vacancy in any category of subsection (1) (b) to (e).

(4) No person who is an officer or employee in the public service may be appointed to serve as a member or alternate member of the Tribunal.

**28. Term of appointment of Tribunal members and alternate Tribunal members.**—The Minister shall appoint Tribunal members and alternate members for a term of 3 years.

**29. Appointment of Chairperson and Deputy Chairperson.**—The Minister shall appoint the—

- (a) Chairperson of the Tribunal who must be a qualified attorney or advocate; and
- (b) Deputy Chairperson,

from among the Tribunal members.

**30. Declaration of financial or other interests.**—(1) All persons nominated to serve on the Tribunal shall—

- (a) be required, within 10 days of receiving notice of his or her nomination and acceptance of the nomination, to submit a written declaration of any and all financial or other interests which are or could be related to or are in conflict with such appointment, which declaration shall include relevant information about any conviction for a Schedule 1 offence in the Criminal Procedure Act, 1977 (No. 51 of 1977); and
- (b) not be considered for an appointment as a Tribunal member where he or she has failed to submit the declaration of financial or other interests in terms of this section.

(2) The declaration of financial and other possible conflicts of interest by a person nominated to serve on the Tribunal shall include past, present or reasonably foreseeable future financial or other interests by the nominee and his or her immediate family in matters related to the provision of public transport.

(3) Where any member of the Tribunal or a member of his or her immediate family experiences a change in financial or any other circumstances which might affect the ability of the Tribunal member to consider any matter impartially, the Tribunal member shall, within 10 days from the date of the changed circumstances submit a written notice of change of financial or other interests to the Minister.

(4) The Minister shall terminate the appointment of a Tribunal member who fails to advise the Minister timeously of any change of financial or other interests which might affect the ability of the Tribunal member to consider any matter impartially.

(5) Any declaration submitted to the Minister in terms of subsection (1), (2) or (3) shall be for the sole purpose of determining whether such financial or other possible conflicts of interest may preclude the nominee's appointment or continuing in office as a Tribunal member.

(6) The Minister shall ensure that any declaration submitted in terms of subsection (1), (2) or (3) is confidential in nature and not subject to public disclosure.

(7) Any person who discloses confidential information in contravention of subsection (6) shall be guilty of an offence and liable to a maximum fine of R20,000.

(8) Any Tribunal member who fails to provide the full declaration of financial or other possible conflicts of interest in terms of subsection (1), (2) or (3) shall be—

- (a) guilty of an offence;
- (b) liable to dismissal; and
- (c) liable to a maximum fine of R10,000.

**31. Tribunal members not to promote financial or other interests.**—No member of the Tribunal may use his or her appointed position to promote any financial or other interest, including but not limited to the interests of any individual, company or other entity.

**32. Recusal of a Tribunal member.**—(1) Where a Tribunal member or a member of his or her family has a financial or other potential conflict of interest in the outcome of a hearing, the Tribunal member shall timeously recuse himself or herself.

(2) Where a Tribunal member has recused himself or herself, the Minister shall appoint an alternate Tribunal member in terms of section 27 (2) and (3).

(3) A Tribunal member who fails to advise the Minister of any financial or other potential conflict of interest in the outcome of a hearing shall be—

- (a) guilty of an offence;
- (b) liable to dismissal; and
- (c) liable to a maximum fine of R10,000.

**33. Resignation of member of Tribunal.**—A member of the Tribunal may, at any time and upon not less than 30 days' written notice, resign as a Tribunal member.

**34. Termination of appointment.**—Notwithstanding the provisions of section 28, the Minister may terminate the appointment of a Tribunal member with immediate effect if such member—

- (a) is or becomes an unrehabilitated insolvent;
- (b) fails to declare his or her financial or other possible conflicts of interest or fails to recuse himself or herself where he or she or an immediate family member has an interest in the outcome of the hearing;
- (c) is suffering from an infirmity of mind or body which prevents him or her from properly discharging his or her duties as an assessor;
- (d) has engaged in conduct which, in the opinion of the Minister, brings or could bring the office of the member or the activities of the Tribunal into disrepute or threatens the integrity of the Tribunal;

- (e) fails to attend three consecutive hearings without having been granted leave of absence by the Chairperson; or
- (f) fails to carry out the duties and functions of the Tribunal to the best of his or her ability.

**35. Tribunal staff.**—The Minister shall second staff from the Department to provide such administrative assistance as the Tribunal may require.

**36. Funds of the Tribunal.**—The funds of the Tribunal shall consist of monies budgeted by the Minister out of appropriations from the Provincial Revenue Fund in terms of section 226 (2) of the Constitution.

**37. Authority of the Tribunal.**—(1) The Tribunal shall be an independent body which must exercise its authority in a fair and impartial manner without fear, favour or prejudice.

(2) The procedures to be followed by the Tribunal shall be prescribed by the Chairperson of the Tribunal.

(3) The quorum for any proceedings conducted by the Tribunal shall be no less than 3 members and shall include the person referred to in section 27 (1) (a) or 27 (3) (a).

(4) The Tribunal shall have the authority to hear and decide—

- (a) appeals referred by the Provincial Taxi Registrar in terms of section 50 (4);
- (b) appeals against any decision of the Provincial Taxi Registrar relating to disputes about the operation of minibus taxi services;
- (c) appeals against any decision of the Provincial Taxi Registrar relating to allegations of incorrect or fraudulent registration information;
- (d) any decision of the Provincial Taxi Registrar made in terms of section 8 (5) (a) to (g); and
- (e) any other matter relating to the registration of minibus taxi associations and members referred to the Tribunal by the Provincial Taxi Registrar.

(5) Any appeal in terms of subsection (4)—

- (a) shall be submitted to the Tribunal within 14 days of the decision of the Provincial Taxi Registrar, except a challenge in terms of section 50 (4) which shall be submitted within 7 days; and
- (b) shall be submitted in writing by the appellant in the format prescribed by regulations and shall set out briefly the disputed decision and factual and legal issues relating to the appeal.

(6) The Tribunal shall, if it considers it necessary, set a date for a hearing.

(7) (a) The Tribunal shall not hear or decide any matter which is—

- (i) frivolous or does not clearly state the nature of the claim; or
- (ii) a potential offence under any criminal statute.

(b) Where the Tribunal declines to hear or decide a matter, the Chairperson of the Tribunal shall provide written reasons for this decision within 14 days of the request to hear an appeal.

(8) The Tribunal may hold hearings anywhere in the Province.

(9) All proceedings of the Tribunal shall be open to the public, except where the Tribunal has good reason to believe that the interests of justice would require the hearing or testimony of a specific

witness to be held behind closed doors.

(10) Any of the official languages of the Province may be used at any stage of the proceedings and a competent interpreter may be called by the Tribunal where required.

(11) The documents of the Tribunal shall be available for inspection by members of the public under the supervision of staff seconded to the Tribunal by the Department at prescribed times and upon payment of prescribed fees.

(12) The area of jurisdiction of the Tribunal shall be the Province.

(13) The Tribunal may uphold or reject an appeal, in whole or in part, and in the event of an appeal being upheld, the Tribunal may—

- (a) reverse the decision of the Provincial Taxi Registrar;
- (b) amend the decision of the Provincial Taxi Registrar;
- (c) refer the matter back to the Provincial Taxi Registrar for further consideration; or
- (d) redirect the appellant to a competent authority.

(14) The Tribunal's decisions shall be served in writing on all interested parties within 14 days of the decision.

(15) No appeal shall lie from a decision of the Tribunal.

(16) Any person who disrupts the proceedings of the Tribunal shall be guilty of an offence and shall be liable—

- (a) to a fine not exceeding R5,000; or
- (b) to imprisonment without the option of a fine.

**38. Order as to costs.**—(1) The Tribunal may, in its discretion, make an order as to costs.

(2) No order as to costs shall be made unless the Tribunal finds that the appeal or opposition thereto was frivolous, vexatious, needlessly delayed or unduly protracted.

(3) In the event of a dispute about an amount payable in terms of this section, either party may require the Chairperson of the Tribunal to tax the bill of costs, in which event the principles, procedures and tariffs applicable when taxing a bill of costs in a civil action in the magistrate's court shall be followed in so far as it is practicable in the circumstances.

**39. Financial accountability.**—The Chairperson of the Tribunal shall, subject to the KwaZulu-Natal Exchequer Act, 1994 (Act No. 1 of 1994)—

- (a) be charged with the responsibility of accounting for State and any other funds received or paid out for or on account of the Tribunal; and
- (b) cause the necessary accounting and other records to be kept.

**40. Annual report.**—(1) The Chairperson of the Tribunal shall submit an annual report on the Tribunal's activities and expenditures annually to the Minister within 60 days of the end of the financial year.

(2) The Chairperson may, in the annual report, recommend necessary legislative, regulatory and procedural amendments to this Act for consideration by the Minister.

**41. Remuneration and allowances.**—Members of the Tribunal shall be entitled to such remuneration and allowances as may be determined by the Minister in consultation with the Minister of Finance.



## PART VIII

### CLASSIFICATION OF AUTHORISED MINIBUS TAXI OPERATORS

**42. Classification of authorised minibus taxi operators.**—(1) An authorised operator shall, from the date of the commencement of this Act until the last day of the ninth month, be required to produce—

- (a) a valid permit issued in terms of the Road Transportation Act, 1977 (Act No. 74 of 1977); or
- (b) an interim operating authority issued by the Board as confirmation that the operator has made application for registration; or
- (c) an interim operating authority issued by the Board as confirmation that the operator has made application for legalisation.

(2) An authorised operator shall, from the first day of the tenth month until the last day of the twelfth month after the date of the commencement of this Act, be required to produce a route-based permit, area-defined permit or radius permit.

(3) An authorised operator shall, from the first day of the thirteenth month from the date of the commencement of this Act, be required to produce a permit describing the minibus taxi service to be rendered as a route-based or area-defined service, but not a radius permit.

## PART IX

### REGISTRATION OF MINIBUS TAXI ASSOCIATIONS AND MEMBERS

**43. Provisional registration of minibus taxi associations and members.**—(1) A minibus taxi association seeking provisional registration shall submit an application, including all information required by the Provincial Taxi Registrar, in the manner prescribed by the Provincial Taxi Registrar.

(2) The Provincial Taxi Registrar shall grant a certificate of provisional registration and a registration number to any minibus taxi association which satisfies the Provincial Taxi Registrar that—

- (a) the number of members in the minibus taxi association fairly reflects the requirements for the route or routes covered by the association; and
- (b) all information required by the Provincial Taxi Registrar for provisional registration has been provided by the minibus taxi association in the manner prescribed by regulation.

(3) Provisional registration in terms of this section shall lapse if the minibus taxi association has not fully registered as required in terms of section 44 within the period prescribed by the Minister in regulations, on the recommendation of the Provincial Taxi Registrar.

**44. Full registration of minibus taxi associations and members.**—(1) The Provincial Taxi Registrar shall grant full registration and a certificate including a registration number, to any minibus taxi association which satisfies and each of its members who satisfy the Provincial Taxi Registrar that—

- (a) the number of members fairly reflects the requirements for the route or routes covered;
- (b) each member in respect of whom application for registration is made holds a permit for each vehicle that he or she operates;

- (c) each member is operating legally within the authority of such permit;
- (d) all information required by the Provincial Taxi Registrar as prescribed in terms of this Act has been provided by the minibus taxi association; and
- (e) the minibus taxi association and each of its members has complied with principles established for the minibus taxi industry in respect of minibus taxi associations and minibus taxi industry codes of conduct.

**45. Failure to meet requirements prescribed by the Provincial Taxi Registrar.**—If, after consideration of an application submitted by a minibus taxi association, the Provincial Taxi Registrar is not satisfied that the applicant has met the requirements contemplated in section 43 or 44, the Provincial Taxi Registrar must notify the applicant of the requirements the applicant has failed to meet.

**46. Suspension or deregistration of a minibus taxi association.**—The Provincial Taxi Registrar may, in consultation with the Panel of Assessors, suspend or deregister a minibus taxi association which—

- (a) fails to comply with this Act;
- (b) submits false information; or
- (c) has ceased to exist.

## PART X

### LEGITIMISATION PROCESS FOR MEMBERS OF REGISTERED MINIBUS TAXI ASSOCIATIONS

**47. Objective of legitimisation process.**—The objective of the legitimisation process is to legitimise the operations of *bona fide* members of provisionally registered minibus taxi associations and to enable such members to acquire permits in terms of the Road Transportation Act, 1977 (Act No. 74 of 1977).

**48. Provisional registration required for legitimisation.**—(1) A minibus taxi association which has not applied for registration shall apply for provisional registration within 30 days of the date of the commencement of this Act to enable its members to be considered for legitimisation in terms of this Act.

(2) An operator, to be eligible for legitimisation, shall be—

- (a) a member in good standing of a provisionally registered minibus taxi association in terms of section 43 or fully registered minibus taxi association in terms of section 44; and
- (b) actively providing a minibus taxi service over the routes or areas for which the Provincial Taxi Registrar has recognised his or her minibus taxi association.

**49. Minibus taxi association information and publication by Provincial Taxi Registrar.**—(1) Each minibus taxi association shall be responsible for submitting the prescribed information within 60 days of the date of the commencement of this Act, including information about the date of establishment, history, membership and routes which the Provincial Taxi Registrar specifies for implementation of legitimisation.

(2) The Provincial Taxi Registrar shall, no later than 75 days after the commencement of this Act—

- (a) publish information which he or she considers necessary to verify the validity and authenticity of claims made by minibus taxi associations when applying for provisional registration in terms of section 43, including its—
  - (i) name;
  - (ii) certificate number;
  - (iii) date of establishment;
  - (iv) claimed number of members; and
  - (v) details of the routes it services;
- (b) recommend to the Board the issuing of interim operating authorities to members of minibus taxi associations who applied for provisional registration in terms of section 48 (1).

(3) Any minibus taxi association which fails to submit information required in terms of subsection (1) or submits false information to the Provincial Taxi Registrar shall—

- (a) be guilty of an offence and shall be liable to a fine not exceeding R20,000; and
- (b) be subject to deregistration without further notice after 60 days from the date of the commencement of this Act.

**50. Challenges by affected parties.**—(1) Any affected party may challenge the granting of provisional registration or incorrect or fraudulent information regarding registration submitted by a minibus taxi association.

(2) Any challenge contemplated in subsection (1) shall be submitted to the Provincial Taxi Registrar within 15 days after publication of the information in terms of section 49 (2) (a).

(3) The Provincial Taxi Registrar shall, within 30 days of the receipt of any challenge with respect to the granting of provisional registration, hear and decide the challenge.

(4) In the event that a minibus taxi association or any affected party is dissatisfied with the Provincial Taxi Registrar's decision in terms of subsection (3) and indicates in writing within 7 days that it wishes to appeal against the Provincial Taxi Registrar's decision, the Provincial Taxi Registrar shall submit the case to the Tribunal for resolution.

(5) The Tribunal shall hear and decide appeals in terms of section 37 (4) (a) referred by the Provincial Taxi Registrar within 30 days.

**51. Finality of information and confirmation of provisional registration.**—In the event that the granting of provisional registration to a minibus taxi association is not challenged within the period referred to in section 50 (2), it shall be presumed that the minibus taxi association is legitimate and all information provided by the minibus taxi association, including minibus taxi association routes, is valid.

**52. Period and procedures for granting legitimisation permits.**—(1) The Provincial Taxi Registrar shall submit his or her recommendations with respect to the granting of legitimisation permits to the Board no later than the last day of the sixth month after the date of the commencement of this Act.

(2) The Provincial Taxi Registrar shall determine administrative procedures to refer requests for the legitimisation of members of registered minibus taxi associations to the Board.

(3) The Board, when deciding whether to grant a legitimisation permit to an operator, shall—

- (a) consider the recommendations of the Provincial Taxi Registrar;

- (b) consider recommendations by any affected party, including but not limited to minibus taxi associations; and
- (c) consult affected municipalities.

(4) The Board shall issue all legitimisation permits within 270 days of the date of the commencement of this Act.

**53. Manner of granting and issuing permits.**—(1) All minibus taxi permits shall from the date of the commencement of this Act be—

- (a) route-based; or
- (b) area-defined.

(2) The period of validity of minibus taxi permits granted in terms of the legitimisation process shall be prescribed by regulation.

(3) After the commencement of this Act—

- (a) no minibus taxi permit describing the service to be rendered in terms of a radius shall be issued by the Board; and
- (b) no minibus taxi permit transfer shall be permissible except a permit transfer—
  - (i) from an operator's deceased estate; and
  - (ii) between members of the same association: provided that the transfer has been authorised by the association and any challenge contemplated in section 50 has been resolved.

**54. Fees.**—An operator shall be liable for payment of a fee prescribed by regulation for permits issued in terms of section 52 (4).

## PART XI

### CONVERSION OF RADIUS PERMITS

**55. Conversion of radius permits.**—(1) Each holder of a radius permit shall submit an application to the Board for conversion of such permit to a route-based or area-defined permit within 180 days after the date of the commencement of this Act, failing which the permit shall lapse.

(2) The Board shall consider and make a decision on all applications for conversion from a radius permit to a route-based or area-defined permit no later than 365 days after the date of the commencement of this Act.

(3) A radius permit shall be converted to a route-based permit, provided that in the following exceptional circumstances—

- (a) operation within an informal settlement; or
- (b) feeder services confined to a given area,

the permit may specify a defined area.

(4) Where more than one minibus taxi association is authorised to operate within a geographically defined area and there is a dispute over routes, the Provincial Taxi Registrar shall have the power to—

- (a) instruct the relevant parties to appear before him or her to hear and decide the matter in dispute; or

(b) refer the matter to the Tribunal for resolution,

and may instruct the parties to submit their permits to the Board for conversion to reflect any decision or agreement over operational arrangements.

(5) The Provincial Taxi Registrar may deregister an association and its members where the association fails to appear as contemplated in subsection (4).

(6) Each permit holder who applies for conversion of his or her radius permit in terms of subsection (1) shall simultaneously with the successful conversion of his or her permit be automatically granted authority by the Board to operate charter services within the Province.

(7) The procedure for and manner of lodging applications to be made under subsection (1) shall be prescribed by regulation.

## PART XII

### ENFORCEMENT AND PENALTIES

**56. Enforcement.**—Enforcement shall be the joint responsibility of all levels of government and the Minister may request the assistance of any other level of government to enforce this Act.

**57. Offences and penalties.**—(1) Any operator not classified as an authorised operator in terms of section 42 (1), from the first day of the fourth month until the last day of the ninth month from the date of the commencement of this Act, shall be guilty of an offence and liable to impoundment of the vehicle he or she was using as a minibus taxi—

- (a) for a period of 30 days; or
- (b) until he or she can comply with the requirements to qualify as an authorised operator in terms of section 42 (1).

(2) Any operator not classified as an authorised operator in terms of section 42 (2), from the first day of the tenth month until the last day of the twelfth month from the date of the commencement of this Act, shall be guilty of an offence and liable to—

- (a) impoundment of the vehicle he or she was using as a minibus taxi for a period of 30 days or until he or she can comply with the requirements to qualify as an authorised operator in terms of section 42 (2); and
- (b) a fine of R10,000 payable before or on collection of the impounded vehicle.

(3) Any operator not classified as an authorised operator in terms of section 42 (3), from the first day of the thirteenth month after the date of the commencement of this Act shall be guilty of an offence and liable to—

- (a) impoundment of the vehicle he or she was using as a minibus taxi for a period of 30 days; and
- (b) a fine of R20,000 payable before or on collection of the impounded vehicle.

(4) (a) Any permit which has lapsed in terms of section 55 (1) shall be submitted to the Board for cancellation within 21 days.

(b) Any operator who fails to submit a lapsed permit for cancellation in terms of subsection (a) shall—

- (i) be guilty of an offence; and
- (ii) be liable to a fine of R2,000.

(c) An operator providing a minibus taxi service with a permit which has lapsed or has been rendered invalid in terms of this Act shall have his or her permit confiscated.

### PART XIII

#### SERVICE USER RIGHTS AND OBLIGATIONS

**58. Service user rights.**—All service users shall be entitled to—

- (a) respect for constitutionally recognised rights;
- (b) information in one of the official languages of the Province about minibus taxi resources, services and conditions governing access to services and resources; and
- (c) participate, where reasonably practical, in any decision affecting minibus taxi services.

**59. Service user obligations.**—Service users shall—

- (a) respect the rights of other service users;
- (b) not fail or refuse to pay prescribed fares;
- (c) obey any reasonable request, the purpose of which is to maintain order or to control an emergency;
- (d) not knowingly act in such a manner as to inconvenience any service user in an unreasonable manner; and
- (e) not perform an act which could endanger or cause the injury or death of a person or damage to property.

### PART XIV

#### OBLIGATIONS OF MINIBUS TAXI OPERATORS

**60. Obligations of minibus taxi operators.**—(1) It is the responsibility of each operator to conduct his or her business in a manner that ensures the safety of service users and the public.

(2) Each operator shall at all times abide by the laws and regulations of the Republic of South Africa and the Province.

### PART XV

#### REGULATIONS

**61. Regulations.**—(1) The Minister may make regulations regarding any matter which he or she considers necessary or expedient to achieve the purposes or objects of this Act.

(2) The Minister may make different regulations under subsection (1) in respect of different minibus taxi services and such regulations may prescribe offences and penalties.

(3) All regulations of a financial nature shall be made in conjunction with the Minister of Finance.

### PART XVI

#### SHORT TITLE

**62. Short title.**—This Act shall be called the KwaZulu-Natal Interim Minibus Taxi Act, 1998.

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