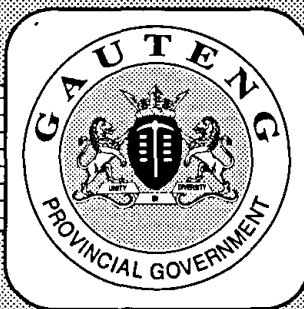


**THE PROVINCE OF
GAUTENG**



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Vol. 4

PRETORIA, 22 APRIL 1998

No. 482

PROCLAMATION

No. 14 (Premier's), 1998

PROCLAMATION

by the

Premier of the Province of Gauteng

GAUTENG INTERIM ROAD TRANSPORT ACT, 1998 (ACT No. 2 OF 1998)

In terms of section 43 (1) of the Gauteng Interim Road Transport Act (Act No. 2 of 1998), I hereby determine **22 April 1998** as the date on which the said Act shall come into operation.

Given under my hand at Johannesburg this 15th day of April in the year One thousand Nine hundred and Ninety-eight (1998).

MATHOLE S. MOTSHEKGA
Premier, Gauteng Province

ACT

To provide for the interim regulation of public passenger road transport other than minibus taxi-type services, and for matters connected therewith.

*(English text signed by the Premier)
(Assented to 15 April 1998)*

BE IT ENACTED by the Provincial Legislature of Gauteng, as follows:—

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1. Definitions

In this Act, unless the context indicates otherwise—

“authorized official” means an inspector, a member of the South African Police Services, or a person in the service of the Province or a municipality whose duty it is to inspect motor vehicles or licences for motor vehicles or to control traffic;

“Board” means the Gauteng Transport Permit Board referred to in section 3;

“bus” means a motor vehicle designed or adapted for the conveyance of more than nine persons (including the driver);

“carrier” means a person whose business it is to convey persons for reward;

“Commission” means the Provincial Transport Commission established in terms of section 27 of the Gauteng Interim Minibus Taxi-Type Services Act, 1997 (Act No. 11 of 1997);

“Department” means the Gauteng Department of Transport and Public Works;

“distinguishing mark” means a distinguishing mark contemplated in section 19(1)(e);

“Head of Department” means the head of the Department responsible for transport in Gauteng;

“holder”, in relation to a permit, means the person in whose favour the permit was issued;

“inspector” means a road transport inspector designated under section 28;

“international service” means a service in respect of which transport takes place partly within the Republic and partly within another country or in transit through the Republic or another country;

"inter-provincial service" means a transport service partly within the area of Gauteng Province and partly within the area of another province or provinces, or in transit through Gauteng or another province, and excludes an international service;

"MEC" means the Member of the Executive Council responsible for transport in Gauteng;

"metropolitan authority" means

- the Greater Johannesburg Metropolitan Council;
- the Greater Pretoria Metropolitan Council;
- the Lekoa-Vaal Metropolitan Council;
- the Khayalami Metropolitan Council,
- the West Gauteng Services Council;
- the East Gauteng Services Council;

or their successors in title as metropolitan authorities or other similar authorities established within Gauteng;

"metropolitan area" means the area of jurisdiction of a metropolitan authority;

"municipality" means a local government body as defined in the Local Government Transition Act, 1993 (Act 209 of 1993) and includes a metropolitan authority, a services council and substructures of those authorities;

"motor-car" means a motor vehicle designed or adapted for the conveyance of not more than nine persons (including the driver);

"motor vehicle" means a motor vehicle as defined in the Road Traffic Act, 1989 (Act 29 of 1989);

"owner", in relation to a motor vehicle registered in an area under the law governing the registration of motor vehicles in force in that area, means the person who qualifies as owner under that law;

"PAS" means the computerised Permit Administration System operated by the national Department of Transport or by the Province;

"permit" means a public permit or temporary permit;

"prescribed" means prescribed by regulation by notice in the *Provincial Gazette*;

"public permit" means a public road carrier permit granted under section 10;

"public road" means a road declared or recognized as a public road under a law, and includes a road, street or thoroughfare or other place (whether a thoroughfare or not) to which the public or a section of the public has a right of access;

"railway service" means a transport service operated over a line of railway, whether constructed by or on behalf of a State-owned body or a private person;

"RAS" means the Registration Administration System administered by the Department;

"regulation" means a regulation made under section 27;

"road transport" means, subject to the provisions of section 7—

- (a) the conveyance of persons by means of a motor vehicle for reward on a public road;
- (b) the conveyance of persons by means of a motor vehicle on a public road in the course of an industry or trade or business;
- (c) the conveyance of persons by means of a hired bus on a public road;

"road transport service" means a transport service operated on a public road, by means of a motor vehicle and for reward, under a public permit;

"temporary permit" means a temporary road carrier permit granted under section 14;

"this Act" includes the regulations;

"TPAB" means a transport permit administrative body;

"trailer" means a vehicle designed or adapted for the conveyance of persons;

"transport facilities" means a railway service or road transport service;

"transport permit administrative body" means a transport permit administrative body defined in and established by the Gauteng Interim Minibus Taxi-Type Services Act 1997 (Act No. 11 of 1997);

"Tribunal" means the Road Transport Appeal Tribunal established by the national Transport Appeal Tribunal Act, 1998;

"unauthorized road transport" means road transport not authorized by a permit and includes road transport undertaken by the holder of a permit otherwise than in accordance with the conditions of the permit.

"vehicle" means a motor vehicle.

2. Establishment and constitution of Gauteng Transport Permit Board

(1) There is hereby established a Gauteng Transport Permit Board.

(2) The Board must consist of a chairperson and between three and five other members prescribed by the MEC who shall be persons who possess wide experience of, and have shown ability in, public transport, industrial, commercial, financial or legal matters or in the conduct of public affairs.

(3) Other members of the Board must be appointed for a period not exceeding two years, and, subject to the provisions of this Act, hold office on conditions as to remuneration and otherwise, as the MEC may determine when the member is appointed.

(4) Whenever a member of the Board vacates his or her office or is removed therefrom or is temporarily unable to perform his or her functions, the MEC may appoint a person he or she considers suitable, to act in place of the member for the period the MEC determines.

(5) A person whose period of office as a member of the Board has expired, shall be eligible for re-appointment.

(6) The Advisory Panel established by section 14 of the Gauteng Interim Minibus Taxi-Type Services Act, 1997 (Act No. 11 of 1997), and the Transport Permit Administrative Bodies established by section 15 of that Act, must perform their functions in relation to the Board in terms of this Act and that Act will apply with the necessary changes to the functions of the Board under this Act.

(7) The Head of Department must, subject to the laws governing the public service, provide the staff necessary to assist the Board in the performance of its functions.

3. Powers of the Board

Apart from the other powers conferred by this Act, the Board may-

- (a) investigate a matter falling within the scope of this Act, and submit recommendations thereon to the MEC;
- (b) consider and give a decision on, or otherwise deal with, in accordance with the provisions of this Act, an application made to it thereunder—
 - (i) for the grant of a permit authorizing road transport within Gauteng;
 - (ii) for the grant of a permit authorizing road transport which commences in Gauteng and also takes place in another province in agreement with the board of the other province;
 - (iii) subject to the provisions of section 9, for the renewal, amendment or transfer of a permit granted by it;
- (c) issue, in accordance with the provisions of this Act, a permit granted, renewed, amended or transferred by it;
- (d) amend a permit that was issued by the National Transport Commission in respect of transport that takes place in Gauteng, notwithstanding the other provisions of this Act, if application for the amendment is made under this Act, except in the case of a permit authorizing an international service.

4. Disqualification for office as, and termination of office of, member of the board

- (1) No person may be appointed as a member of the board—
 - (a) if he or she is an unrehabilitated insolvent; or
 - (b) if he or she has been convicted of an offence involving dishonesty; or
 - (c) if he or she or his or her near relation holds a financial interest in a business of road transport or is engaged in an activity connected with road transport which, in the opinion of the MEC, may interfere with the impartial discharge by the member of the duties of his or her office.
- (2) A member of the Board must vacate his or her office if he or she becomes subject to a disqualification for appointment mentioned in subsection (1).
- (3) The MEC may remove from office a member of the Board—
 - (a) who has failed to comply with a condition of his or her appointment; or
 - (b) who, in the opinion of the MEC, has been guilty of improper conduct or has neglected his or her duties as a member of the Board; or
 - (c) who, in the opinion of the MEC, is unable to perform efficiently his or her duties as a member of the Board.

5. Meetings and decisions of the Board

- (1) Three members of the Board form a quorum for meetings of the Board.
- (2) The decision of any three members of the Board present at a meeting of the Board, constitutes a decision of the Board: provided that in the event of an equal number of votes, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative or normal vote.
- (3) If the chairperson of the Board, or a person appointed to act in place of the chairperson, is unable to attend a meeting of the Board, the chairperson or that person may designate another member of the Board to act as chairperson at that meeting.
- (4) No act, direction or decision of the Board may be held to be invalid by reason only of the fact that, when the act was performed or the direction or decision was given, a vacancy existed on the Board or a person was a member of the Board who was disqualified under section 4 from being a member, whether or not that person's concurrence was necessary to the performance of that act or the giving of that direction or decision.

6. Application in respect of a public permit

- (1) A person who desires to undertake road transport within Gauteng or which commences in Gauteng and also takes place in another province, other than road transport in respect of a temporary permit contemplated in section 14, must apply in the manner prescribed to the Board for a public permit to do so.
- (2) A holder of a public permit may apply to the Board for the renewal or amendment of the permit in the manner prescribed.
- (3) A person who desires to take transfer of a public permit, must apply in the manner prescribed and with the written consent of the holder of the permit in question, to the Board for the transfer of that permit.

7. Exemptions

For the purposes of this Act, the conveyance of persons contemplated in the definition of "road transport" in section 1 shall be deemed not to include the following, namely—

- (a) an individual farmer (including a partnership or company carrying on farming operations) who uses a suitable motor vehicle owned solely by him, her or it, to convey the farm's labourers—
 - (i) from a place where they have been recruited to where the farmer requires them for farming operations;
 - (ii) from a place where the farmer is or has been employing them in farming operations to another place where they may be required in the farming operations or where another farmer may require them in farming operations, or to the place where they have been recruited;
 - (iii) between a place where they have been or are to be so employed and the railway station or bus stop most convenient for their conveyance

- to another place to which they are to be conveyed by rail or by bus or to the place where they are to be so employed; or
- (iv) between the place where they are so employed and another place within the Republic to do shopping or to attend a church service or funeral or for purposes of a sports or recreational meeting; or
 - (v) between a place where the farmer has recruited them and the railway station or bus stop most convenient for their conveyance to another place to which they are to be conveyed by rail or by bus, and for the purposes of this paragraph labourers employed by a co-operative society, registered under the law relating to co-operative societies, of which the farmer is a member, or prisoners as defined in section 1 of the Correctional Services Act, 1959 (Act 8 of 1959), who are or have been or are to be employed by a farmer in his, her or its farming operations, shall be deemed to be the farmer's farm labourers;
- (b) a municipality conveying (other than the conveyance of persons for reward) by means of a motor vehicle which it owns, within its area of jurisdiction and between that area and another area which the municipality controls or in which it provides a public service or carries on an undertaking;
 - (c) a municipality conveying prisoners as defined in section 1 of the Correctional Services Act, 1959 (Act 8 of 1959), whom it employs or has employed or will employ in a motor vehicle which it owns;
 - (d) the conveyance, by means of a motor vehicle, of a patient to a place where he or she is to receive medical treatment from a person authorized to administer the treatment in terms of a law relating to the medical profession, or from a place where he or she has received treatment;
 - (e) the conveyance (including the towing), by means of a motor vehicle, of another motor vehicle that has become defective, to a place for its repair or storage, or of persons who were being conveyed by means of the other motor vehicle at the time when it became defective, to that place or another place, provided, if the conveyance of the persons by means of the other motor vehicle at the time when it became defective constituted road transport, the conveyance was authorized by a permit, and their conveyance by means of the first-mentioned motor vehicle is undertaken in accordance with the provisions of the permit and the permit is carried on the first-mentioned motor vehicle for production on demand to an authorized official;
 - (f) the conveyance of persons as contemplated in the definition of "lift club" in section 1 of the Road Accident Fund Act, 1996 (Act 56 of 1996);
 - (g) an hotel conveying its own guests only and their personal effects between the hotel and the nearest or most convenient railway station, airways terminal, airport or port, in a motor vehicle identified in the manner prescribed by regulation which the hotel owns solely;
 - (h) the conveyance, in the course of a industry or trade or business, of persons (excluding the conveyance of an employee between his or her place of residence and place of work) by means of a motor vehicle if no reward is received for the conveyance;
 - (i) a person who carries on an industry, trade or business conveying his or her employees from a place where they perform work in the course of that industry, trade or business, to another place where they will perform work, in a motor vehicle which the person owns;
 - (j) an employee of the State or Gauteng or a State aided body or a company of which the State or Gauteng is the sole member and shareholder or a municipality conveying, in connection with the performance of his or her duties, in a motor vehicle which the employee owns in the performance of those duties, of a person in respect of whose conveyance that employee is entitled to receive a reward from the State or Gauteng or the State aided body or company or municipality;
 - (k) the conveyance on school days of school children and teachers to or from the school which they attend, as well as the conveyance of school children and teachers for the purpose of sport or recreation or on holiday, sightseeing or educational tours by means of a motor vehicle of which the school is the sole owner. Where a vehicle is set apart for the use of a school in terms of an

agreement, the school shall require a special permit as prescribed by regulation;

- (l) the conveyance by a university, technikon, technical college or teachers' training college (hereinafter referred to as an educational institution) of its own students and staff for educational, cultural or sports purposes by means of a motor vehicle of which that educational institution is the owner. Where a vehicle is set apart for the use of an educational institution in terms of an agreement, it shall require a special permit as prescribed by regulation;
- (m) the conveyance for reward by a person who has been summoned to appear at a place as a witness in a criminal case, of another person who has been summoned to appear as a witness in that case or in another criminal case, whether at the same place and on the same day or at another place or on another day, to or from the place at which the person conveyed has been summoned to appear, by means of a motor vehicle of which the first-mentioned person is the owner;
- (n) the conveyance for reward, by a person who has been summoned to appear to give evidence before a commission with reference to which the provisions of the Commissions Act, 1947 (Act 8 of 1947), have been declared to be applicable, or before a body established under a law in terms of which that body is empowered to summon persons to appear before it to give evidence, to or from the place at which the person has been summoned to appear, of another person who has been summoned to appear before the commission or body to give evidence on the same day and at the same place, by means of a motor vehicle of which the first-mentioned person is the owner;
- (o) the conveyance of a person who must necessarily be conveyed in connection with the conveyance of persons, which in terms of paragraphs (a) to (n) does not constitute minibus taxi-type services.

8. Inter-provincial transport

(1) Applicants for public permits concerning inter-provincial transport must apply to the Board only if the transport in question commences in Gauteng, or in Gauteng as well as in another province.

(2) For the purposes of this section road transport shall be deemed to commence at a place where persons board a motor vehicle by means of which the road transport is effected, for the purpose of being conveyed to another place, and to terminate at that other place.

(3) In the case of doubt as to where the transport commences, the application must be made in the province where the vehicle in question is registered.

(4) The Board may not grant an application for a permit authorizing road transport which commences in another province, or for the renewal or transfer of that permit, or for an amendment of that permit affecting the conducting of road transport within another province, except with the agreement of the board established for the other province.

(5) Appeals concerning inter-provincial services must be made to the National Transport Commission in terms of the Road Transportation Act, 1977 (Act No. 74 of 1977), or to the Tribunal in terms of national legislation, whichever is applicable.

(6) Where the Board is unable to obtain the necessary responses from the board of another province in a referral contemplated in subsection (4), or the agreement of the other board within the prescribed period, the matter must be submitted to the National Transport Commission or Tribunal referred to in subsection (5), whichever is applicable, as an appeal.

9. International transport

(1) Applicants for public permits concerning international transport must apply to the National Transport Commission in terms of the Road Transportation Act, 1977 (Act No. 74 of 1977) or the Regulatory Committee in terms of the national Cross-Border Road Transport Act, 1998, whichever is applicable.

(2) Persons noting appeals concerning international transport must do so to the National Transport Commission in terms of the Road Transportation Act, 1977 (Act No. 74 of 1977) or the Tribunal in terms of national legislation, whichever is applicable.

10. Disposal of application in respect of a public permit

(1) Subject to the provisions of this Act, the Board through the relevant TPAB must receive and consider an application for the grant, renewal, amendment or transfer of a public permit made to it thereunder, and may thereafter, in its discretion grant the application in full or in part subject to the conditions it may deem necessary, or refuse the application.

(2) (a) The Board may refuse to consider an application for the grant, renewal, amendment or transfer of a permit if it has considered and refused a previous application, which in its opinion had the same or substantially the same object as the first-mentioned application, within six months preceding the date on which the first-mentioned application was received.

(b) The Board may refuse to consider an application for the grant, amendment or transfer of a public permit or representations objecting to the application if the applicant or the person who submits those representations, as the case may be, has not paid the fee prescribed for that application or those representations, as the case may be.

(c) The Board may not consider an application for the renewal of a public permit granted for a fixed period unless the Board has received the application, together with the fee prescribed before the date on which that permit expires.

(d) The Board may refuse to consider an application for the grant, renewal, amendment or transfer of a public permit if the application form concerned is not completed in full in the manner prescribed.

(e) The Board may not consider an application for the grant of a public permit for a motor vehicle with regard to which a public permit has already been issued to some person other than the applicant.

(f) No person may appeal to the Commission against an act, direction or decision performed or given by the Board under paragraph (a).

11. Publication of application in respect of a public permit

(1) The Board—

(a) must, before considering an application for the grant, amendment (other than an amendment referred to in paragraph (b)) or transfer of a public permit;

(b) may, before considering an application for—

- (i) the renewal of a public permit; or
- (ii) the amendment as contemplated in section 23 of that permit; or
- (iii) the amendment of that permit to authorize the permanent replacement of a motor vehicle specified in that permit, by a motor vehicle of which, in the case of a bus, the passenger capacity, and in the case of a motor-car, the seating capacity is equal to or smaller than or exceeds that of the first-mentioned motor vehicle by not more than 20 per cent,

publish in the *Provincial Gazette* those particulars of the application as may be prescribed and place a notice of the application on the notice board at the offices of the Board and the relevant TPAB, also in the manner prescribed.

(2) An interested person who desires to submit representations to the Board objecting to or supporting an application published under subsection (1), must do so in the manner and within the time prescribed to the Board, and the Board—

(a) must allow a person who, within the time prescribed, submits representations objecting to an application, to inspect free of charge, and to make copies of, the completed application form of the applicant, together with other documentation which the applicant has submitted with his, her or its application form, at the office of the Board; and

(b) may, at the request of a person who so submits representations, provide him or her with copies of the application form in question and of other documentation, on payment of the fee prescribed.

(3) In the case of an application published under subsection (1), the Board must allow the applicant to inspect free of charge representations objecting to or supporting the application at the office of the Board, and may, at the request of that applicant, provide him, her or it with copies of the representations referred to, on payment of the fee prescribed.

(4) Before granting a public permit authorizing the regular conveyance of persons for reward within the area of jurisdiction of a municipality, or amending the permit by

altering the points between which or the route or routes upon which the motor vehicle for which the permit was issued may be used in road transport, the Board must afford the municipality concerned an opportunity to submit representations, in the manner and within the time prescribed, regarding the points between and the route or routes upon which the holder may use the motor vehicle and another condition which may be applied to a permit.

12. Matters which the Board must take into consideration in disposing of an application in respect of a public permit

(1) Subject to the other provisions of this Act, the Board must take into consideration the following in deciding whether an application for the grant, renewal, amendment or transfer of a public permit should be granted or refused and in determining conditions to which a public permit shall be made subject:

- (a) the extent to which the transport is necessary or desirable in the public interest;
- (b) the requirements of the public for transport within the area or along the route or between the points in or on or between which the applicant proposes to operate;
- (c) the existing transport facilities available to the public in that area or over that route or between those points;
- (d) a new railway service which has been planned or is contemplated for the conveyance of persons within that area or on that route or between those points;
- (e) the co-ordination of all forms of transport, including transport by rail, on an economically sound basis and with due regard to the public interest;
- (f) the ability of the applicant to provide in a manner satisfactory to the public the transport for which the permit is sought;
- (g) a relevant previous conviction of the applicant for an offence in terms of this Act or as prescribed, and other failures by the applicant as an operator of road transport;
- (h) the existence of a prohibition, limitation or restriction imposed by law on the use of motor vehicles in an area or on a street or road on the route on which the applicant proposes to operate;
- (i) representations duly submitted in connection with the application;
- (j) other factors which, in the opinion of the Board may affect the question whether it is desirable to grant the application or to attach or vary a condition.

(2) (a) When an applicant applies for a public permit to undertake road transport within an area or over a route or between two or more points already served by existing transport facilities, the onus shall rest upon the applicant to prove that—

- (i) the existing transport facilities are not satisfactory and sufficient to meet the transport requirements of the public in that area or along that route or between those points; and
- (ii) he or she or it has the ability to provide in a manner satisfactory to the public the transport for which he, she or it requires the permit; and
- (iii) having regard to the circumstances, it will be expedient in the public interest to grant the permit.

(b) When an applicant applies for a public permit to undertake road transport in circumstances not contemplated in paragraph (a), the onus shall rest upon the applicant to prove that—

- (i) there is a need for transport within the area or along the route or between the points in or over or between which he, she or it proposes to undertake the transport; and
- (ii) he or she has the ability to provide in a manner satisfactory to the public the transport for which he, she or it requires the permit.

(3) For the purposes of this section transport shall be deemed to be capable of being co-ordinated with existing transport facilities if the transport is to be provided to or from a place or area situated on or along a route, or included in an area, served by the existing transport facilities.

13. Period of a public permit

(1) The Board may grant or renew a public permit in its discretion for the period it determines.

(2) If at the date on which a public permit granted for a fixed period expires, an application for its renewal is pending before the Board, the permit shall continue in force until the Board has disposed of the application.

14. Application for a temporary permit and disposal thereof

(1) A person who desires to undertake road transport of a temporary nature, must in the manner prescribed apply to the Board through the relevant TPAB for the grant of a temporary permit authorizing the road transport upon a particular date or in connection with a particular occurrence, and the onus of proving the necessity for the intended road transport rests on the applicant.

(2) Subject to the provisions of this Act, the Board must receive and consider an application for a temporary permit contemplated in subsection (1) made to it thereunder, and may thereafter, in its discretion grant the application in full or in part subject to the conditions it may deem necessary, or refuse the application.

(3) The Board may not grant an application for a temporary permit if, in its opinion, reasonable transport facilities exist by means of which the persons in respect of which the permit is sought can be conveyed.

(4) The Board may grant a temporary permit for the fixed period not exceeding fourteen days as it may determine.

(5) Notwithstanding anything to the contrary contained in this Act, the powers and duties of the Board in terms of this section may, in those circumstances, or in respect of the categories of applications for temporary permits as may be prescribed, be exercised or performed on its behalf by its chairperson or a member or official nominated for that purpose by its chairperson.

15. Issue of a permit, and provisions thereof

(1) Subject to the provisions of subsection (2), the Board through the relevant TPAB must issue, in the manner prescribed, a permit granted, renewed, amended or transferred in terms of this Act.

(2) The Board may not issue a public permit granted, renewed, amended or transferred by it in terms of this Act, unless—

- (a) it is satisfied that every motor vehicle in respect of which the permit was so granted, renewed, amended or transferred, is suitable for the type of road transport for which it is to be used; and
- (b) the applicant submits a valid certificate of fitness or roadworthy certificate, issued on or after a date specified by regulation, or a copy of the certificate authenticated in the manner prescribed.

(3) Permits issued by the Board must specify the following:

- (a) the name and address of the holder;
- (b) the period for which it was granted;
- (c) the number of passengers allowed to be carried in terms of the relevant certificate of fitness or roadworthy certificate, provided that the maximum number of passengers approved by the Board shall not be exceeded;
- (d) the registration number, make, chassis number, year of manufacture, type, seating or passenger capacity of the motor vehicle for which the Board granted the permit;
- (e) the certificate of fitness or roadworthy certificate number and date of expiry;
- (f) the detailed route(s) or network(s) on which or the area or areas within which the relevant transport may be undertaken, as well as the points of origin and destination, all points where passengers may be picked up or set down and ranks and other facilities that may be used;
- (g) the manner in which tariffs, if approved or laid down by the Board must be published or exhibited;
- (h) other conditions which the Board in its discretion may impose.

(4) The Board may direct the holder in a permit—

- (a) to operate a motor vehicle for which the permit was issued, according to a specified time table as approved or laid down by the Board upon the grant of

- the permit or as altered from time to time in the manner prescribed by regulation;
- (b) to furnish the Board with the name and address of every person authorized to advertise on behalf of the holder;
 - (c) to comply with a requirement or condition imposed under another provision of this Act.

16. Records of permits

(1) The Board must keep at its place of business a copy of every permit issued in terms of this Act and of every amendment made to permits, and must allow a person who is in any way affected by a permit or amendment, to inspect it and make copies of it free of charge, and may, on request furnish the person with a copy of the permit concerned and every amendment thereof upon payment of the prescribed fee.

(2) The records kept in terms of subsection (1) must be capable of accessing the National Traffic Information System (NaTIS).

17. Additional authority conferred by a permit

In addition to the transport expressly authorized by it, a permit also authorizes the conveyance of persons necessary in connection with the expressly authorized transport.

18. Temporary replacement of motor vehicle to which permit relates

(1) Where a motor vehicle used under a permit has become defective or is not being used temporarily because of an accident, the Board or a member thereof designated by the chairperson, may grant written permission for another motor vehicle to be used in its place, subject to subsections (2) and (3).

(2) The passenger capacity of the replacing vehicle must be equal to or smaller than or not exceed by more than 20 percent that of the vehicle to which the permit relates.

(3) The replacing vehicle may be used for a fixed period not exceeding 42 days as the Board or member determines which period may be extended at the Board's discretion on further application.

(4) The replacing vehicle shall, during the period of replacement, be deemed to be the vehicle for which the permit was issued.

19. Duties of the holder of a permit

(1) The holder of a permit must—

- (a) carry the written permission referred to in section 18, if any, and the permit in the motor vehicle for which they were issued, and produce them on demand to an authorized official;
- (b) protect and keep the permit in such a condition that all letters and figures on it are clearly legible and, if the permit is damaged or ceases to be clearly legible, apply for a duplicate in the manner prescribed by regulation;
- (c) in the case of a public permit (except a permit issued for types of road transport as the Board may in its discretion determine), display the name, address and nature of the business of the holder, to be borne on the motor vehicle for which the permit was issued, in a conspicuous place, in the manner prescribed or in the other manner the Board may in a particular case approve in writing;
- (d) exhibit other particulars prescribed by the Board in its discretion;
- (e) in a case where the Board has issued a distinguishing mark, affix it and keep it affixed in the manner prescribed, on the relevant motor vehicle or vehicles.

(2) A permit issued by the Board under this Act may not—

- (a) authorize the holder thereof to undertake road transport on a public road within the area of jurisdiction of a municipality, if it is unlawful under an ordinance, regulation or by-law in force in the area, or as a result of action taken by the municipality under the ordinance, regulation or by-law, to use a motor vehicle on that road or to undertake on that road transport of the type to which the permit relates;

- (b) exempt the holder thereof from the obligation to comply with a requirement imposed under another law or under a licence or permit issued by another authority.

20. Appeal to the Commission against an act, direction or decision of the Board

(1) Save as otherwise provided in this Act, a person who—

- (a) has applied to the Board for the grant, renewal, amendment or transfer of a permit;
- (b) is the holder of a permit issued by the Board;
- (c) in the manner and within the time prescribed by regulation, submitted representations to the Board objecting to or supporting an application published under section 11,

and is affected by an act, direction or decision of the Board, may, in the manner and within the time prescribed, after the Board has performed the act or given the direction or decision, appeal against that act, direction or decision to the Commission.

(2) Where the Board notifies a person of a direction or decision contemplated in subsection (1) by means of a written document, the date of that document shall, for the purpose of subsections (1) and (3), be deemed to be the date on which the Board gave that direction or decision.

(3) The Commission must receive and, subject to the provisions of subsection (4) and the regulations, consider an appeal lodged with it in terms of subsection (1) and may, in its discretion—

- (a) reject the appeal and confirm the act, direction or decision appealed against; or
- (b) uphold the appeal, set aside the act, direction or decision appealed against, and—
 - (i) substitute therefor another act, direction or decision which the Board could have performed or given; or
 - (ii) remit the matter which gave rise to the appeal to the Board for consideration afresh; or
- (c) uphold the appeal partially and vary the act, direction or decision appealed against.

(4) The chairperson of the Commission or a Commission member nominated by the chairperson, may in his or her discretion and without giving prior notice to or hearing an interested party—

- (a) grant an application for condonation of the late filing of a notice or appeal, provided the appeal is lodged in the manner prescribed within forty-two days after the Board performed the act or gave the direction or decision appealed against, or refuse it;
- (b) grant or refuse an application to suspend the operation of an act, direction or decision of the Board appealed against;
- (c) set aside an act, direction or decision of the Board appealed against and remit the matter to the Board for consideration afresh.

(5) An act, direction or decision of the Commission under subsection (3)(b)(i) or (c) shall, except for the purposes of subsection (1), be deemed to be an act, direction or decision of the Board.

21. Procedure

(1) The Commission or Board may, for the purpose of dealing with a matter before it in terms of this Act—

- (a) in its discretion, but subject to the provisions of section 24(2)(b), allow a person affected by or interested in the matter, or the duly authorized representative of that person, to appear before it and—
 - (i) to give evidence or make oral representations relevant to the matter; or
 - (ii) to call witnesses and lead evidence on a question relevant to the matter; or
 - (iii) to question a person who testified as a witness in the matter;
- (b) by written notice prescribed by regulation and served in the manner prescribed, 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;

- (c) call upon a person present in or at the place where the Commission or Board deals with the matter, to appear before it to give evidence or to hand over a book, plan or other document or article which the person has in their possession;
- (d) question a person appearing before it as a witness;
- (e) refuse to hear a person appearing before it as a witness who refuses to be sworn in or to be affirmed.

(2) The person presiding at a meeting of the Commission or Board at which a person appears as a witness as contemplated in subsection (1), may administer an oath or affirmation to the person so appearing.

(3) A member of the Commission exercising or performing under section 20(4) a power or duty of the Commission, shall for the purpose of the power or duty have the powers conferred by this section on the Commission and the person presiding at a meeting of the Commission, respectively.

(4) The Board must provide interested parties on request with written reasons for a decision it has taken.

22. Coming into operation of certain tariff increases not to be suspended pending judgment in court proceedings in connection with the increases

Whenever a permit authorizing the conveyance of persons for reward stipulates that the conveyance must be undertaken subject to tariffs set out in the permit or approved or laid down by the Board or the National Transport Commission, and the Board thereafter on application amends that requirement or condition by increasing the tariffs approved or laid down, the coming into operation of the tariffs so increased shall not be suspended pending final judgment in proceedings in a court of law in connection with that amendment.

23. Increase of certain tariffs prior to application for amendment of relevant permit

Whenever a public permit authorizing the conveyance of persons for reward stipulates that the holder must comply with a condition that the conveyance must be undertaken at tariffs approved or laid down by the Board or the National Transport Commission, that holder may at any time after an increase in the price of petroleum fuel in the Republic, increase the tariffs by so much, but by not more than 10%, as will allow recovery of the increased expenditure on petroleum fuel resulting directly from that increase in the price of petroleum fuel, provided that within 10 days after the coming into effect of a tariff so increased, the holder applies to the Board for an appropriate amendment of the relevant permit under this Act.

24. Withdrawal, suspension or variation of a permit

(1) Subject to the provisions of subsection (2), the Board may at any time—

- (a) withdraw or suspend for the period it may deem fit, a public permit granted by it—
 - (i) if the holder of the permit or an employee of the holder has been convicted of an offence under this Act or under a law relating to motor vehicles or the regulation of traffic, or, in the case of a holder who carries on a road transport business, of a contravention or failure to comply with the provisions of a determination, agreement, award, licence or exemption which relates to remuneration for work or hours of work and which is in terms of law binding on the holder as an employer, and upon the holder's employees in the business; or
 - (ii) if, in the opinion of the Board, the holder of the permit has not carried out faithfully the conditions of the permit; or
- (b) in its discretion withdraw, or suspend for the period it may deem fit, a permit, if the circumstances under which the permit was granted have materially changed; or
- (c) if the Board deems it necessary, of its own accord cancel or vary a condition of, or add any condition to, or define, redefine, curtail or otherwise amend, the authority contained in a public permit granted by it.

(2) The Board may not under subsection (1) withdraw or suspend a public permit, or

cancel or vary a condition or requirement of, or add a condition to, or amend, the authority contained in the permit, unless—

- (a) the Board has given at least twenty-one days' written notice of its intention to do so, together with the reasons therefor, to the holder of the permit by registered or certified post; and
- (b) the Board has given the holder an opportunity, either personally or through a duly authorized representative, to appear before the Board and adduce evidence and submit representations in regard to the proposed action; and
- (c) in the case of a public permit authorizing the daily conveyance of persons within or to or from the area of jurisdiction of a municipality, the Board gives the municipality an opportunity to submit representations, in the manner and within the time prescribed, to the Board regarding the proposed action.

25. Withdrawal or substitution of a public permit after inquiry

(1) Whenever the MEC has reason to believe that, in order to bring about improvements in transport facilities within an area or over a route, or for another reason, it may be expedient in the public interest that a public permit be withdrawn or that a permit be withdrawn and in lieu thereof one or more permits be issued to a person other than the holder of the permit, the MEC may cause a public inquiry in regard to the position to be instituted by the Board.

(2) Notice of an inquiry must be given in the manner prescribed, and all interested persons must be afforded an opportunity to attend and to be heard at the inquiry.

(3) The Board must in connection with the institution of the inquiry have due regard to the provisions of section 12(1).

(4) After consideration of the report submitted to him or her in pursuance of the inquiry the MEC may, subject to the provisions of subsection (5), direct that the permit which was the subject of the inquiry—

- (a) be withdrawn; or
- (b) that it be withdrawn and that in lieu thereof one or more public permits be issued to a person or persons other than the holder of the permit,

and this direction shall take effect on a date to be determined by the MEC and notified in writing to the persons concerned, not being less than one month or more than twelve months after the date of the notification.

(5) If a permit is to be withdrawn, the MEC may not give a direction under subsection (4) unless—

- (a) if no public permit is to be issued in lieu thereof to another person, the person or persons (to be designated by the MEC) providing transport within the area or over the route in or on which transport is being provided by the person whose permit is to be withdrawn; or
- (b) if one or more public permits are to be issued in lieu thereof to another person or persons, that other person or those other persons,

have given an undertaking to the satisfaction of the MEC to compensate the person whose permit is to be withdrawn for the loss he or she is likely to suffer as a result of the withdrawal of that permit.

(6) An arbitrator or arbitrators appointed in the manner prescribed must determine the amount of the compensation payable in terms of subsection (5), in the absence of agreement between the parties concerned, by arbitration in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), but may not include an amount for the loss of possible profits in respect of a period longer than twelve months subsequent to the date of withdrawal of the permit in question.

26. Lapsing of certain permits

(1) If the Board requires, by written notice sent by registered or certified post, the holder of a public permit, at any time after the issue of the permit, to commence the road transport in respect of which it granted the permit in question, before a date specified in the notice or a later date the Board may allow in writing, the permit in question shall lapse on the date so specified or, as the case may be, on such later date, unless the Board has in writing declared itself satisfied that the holder has commenced the road transport before the date in question.

(2) (a) If a person acquires a controlling interest in a company after a public permit has been granted or issued to the company, without the prior approval of the Board,

obtained in the manner prescribed, the granting of the permit shall lapse notwithstanding the provisions of section 15, or the permit which has been issued shall lapse with effect from the date of acquisition of a controlling interest, as the case may be.

(b) A permit which has lapsed in terms of paragraph (a), together with the distinguishing mark required in respect of a motor vehicle for which that permit was issued, shall within seven days after the permit has so lapsed, be returned by the company to which it was issued by registered or certified post to the Board.

(c) In considering an application for the approval of the acquisition of a controlling interest in a company to which a public permit has been granted or issued, the Board must take into account—

- (i) whether the acquisition is likely to create a monopoly which will not serve the public interest;
- (ii) other permits held by the applicant;
- (iii) the interests which the applicant holds in other transport undertakings;
- (iv) the interests which the applicant holds in another company, partnership, industry, trade or business;
- (v) the provisions of section 12(1);
- (vi) other factors which in the opinion of the Board may affect the question whether it is desirable to grant the application.

(d) A company which contravenes the provisions of paragraph (b) shall be guilty of an offence and liable on conviction to a fine not exceeding R1000.

(e) For the purposes of paragraph (a) the expression 'controlling interest', in relation to a company, means an interest held in that company by another company by virtue of which the other company is, in relation to the first-mentioned company, a controlling company as defined in the Companies Act, 1973 (Act No. 61 of 1973), and includes a like interest held in that company by a natural person.

27. Regulations

(1) The MEC may make regulations—

(a) with reference to—

- (i) the information which applicants must submit with an application to the Board for the grant, renewal, amendment or transfer of a permit;
- (ii) the procedure which the Board must follow in dealing with an application;
- (iii) the information which an appellant must submit with an appeal to the Commission against an act, direction or decision of the Board;
- (iv) the information which the Board must supply to the Commission or the appellant in connection with an appeal, and the manner in which and time within which the information must be supplied;
- (v) the procedure to be followed by the Commission in dealing with an appeal;

(b) requiring the payment of fees in connection with—

- (i) an application to the Board for the grant, renewal, amendment or transfer of a permit; or
- (ii) an appeal to the Commission against an act, direction or a decision of the Board; or
- (iii) the issue by a TPAB of a permit, distinguishing mark or other document or any duplicate thereof,

and prescribing the amount of the fee, the circumstances in which an amount paid by way of the fee shall be forfeited or refunded in whole or in part, the amount of a partial refund and the circumstances in which an amount so paid may in the discretion of the Board be forfeited in whole or be refunded in whole or in part;

- (c) requiring the payment of an annual fee in respect of a permit granted or renewed for an indefinite period or for a period longer than twelve months, and prescribing the amount of the fee and the times at which and manner in which it is to be paid;
- (d) prescribing specifications and requirements to which a motor vehicle used in road transport for the conveyance of persons must conform, and prohibiting the use in road transport for that purpose of a motor vehicle which does not conform to the specifications or requirements;

- (e) prescribing the manner in which a distinguishing mark, identification, permit, notice or other document or writing which is required to be displayed or carried on or in a motor vehicle in terms of this Act or a condition imposed thereunder, must be displayed or carried, and the position thereof on or in the motor vehicle;
- (f) for the surrender or handing over to the Board, under specified circumstances or at the request of the Board, of a permit that has expired or lapsed or has been withdrawn or suspended in terms of this Act or of which the provisions do not correspond with the authority as contained in the decision of the Board, or in respect of which the authority has been amended;
- (g) prescribing records to be kept by a person engaged in road transport and returns and information to be submitted by that person to the Board or an official of Gauteng;
- (h) prescribing the nature and form of a distinguishing mark, identification, permit, notice or other document or writing issued or required in terms of this Act, including the form, shape, size and colour of, and the information to be contained in, that distinguishing mark, identification, permit, notice or other document or writing, or empowering the Board to prescribe the form thereof;
- (i) prescribing fees or allowances payable to a person who has been required to appear before the Commission or Board to give evidence or to produce a book, plan or other document or article;
- (j) prescribing or otherwise dealing with a matter which in terms of a provision of this Act is required to be or may be prescribed or otherwise dealt with by regulation.

(2) The MEC may not under subsection (1)(b), (c) or (i) prescribe a fee or allowance or circumstances in which fees must or may be refunded or the amount of a refund, except with the concurrence of the MEC responsible for finance.

(3) Regulations made under subsection (1) may prescribe for a contravention thereof or a failure to comply therewith, penalties not exceeding those prescribed by section 35.

(4) Different regulations may be made under subsection (1) in respect of different permits, areas, places, types of motor vehicles, forms, modes of road transport, circumstances in which, times during which or purposes for which a motor vehicle is used in road transport.

28. Designation of inspectors

The Head of Department may designate an officer or employee of the Department as an inspector of transport.

29. Powers of authorized officials

(1) An authorized official may seize by order of the Board, a permit that has expired or has been withdrawn or suspended in terms of this Act.

(2) An inspector or a member of the South African Police Services may seize a motor vehicle suspected on reasonable grounds to have been used in unauthorized road transport, and the MEC may make regulations providing for the manner in which a motor vehicle so seized must be dealt with pending the disposal of criminal proceedings in respect of the unauthorized road transport.

(3) Apart from the duties and powers referred to in this Act, an authorized official may in relation to road transport—

- (a) cause a motor vehicle to be stopped by means of—
 - (i) a stop sign of the prescribed design;
 - (ii) a klaxon which is mounted on the authorized official's vehicle; or
 - (iii) a lamp emitting an intermittently flashing blue light in any direction and which is mounted on the authorized official's vehicle,
 and enter the vehicle and examine it as well as the documentation authorising the transport in order to establish whether that vehicle is being used for road transport or in order to exercise a power or perform a duty or authorized act;
- (b) require the driver of a motor vehicle to furnish his or her name and address and documentary evidence in support thereof and the name and address of the owner of the vehicle, as well as the particulars of the business in connection with which the vehicle is being used;

- (c) require that the driver or other person in charge of a motor vehicle forthwith produce for inspection documents or other records in or on the vehicle or in his or her possession that in any way relate to the persons being conveyed by means of that vehicle;
- (d) require that a person on a motor vehicle believed to be used for road transport, or a person believed to have been on the vehicle recently, furnish their full name and address and documentary evidence in support thereof and that they state whether they have paid or have to pay a consideration for the conveyance on the vehicle, and that they furnish the name and address of the person to whom they had or have to make the payment;
- (e) require that the records to be kept in terms of this Act be produced by the driver of a motor vehicle or by the conductor, if any, for inspection;
- (f) enter premises at a reasonable time to conduct an investigation within the ambit of his or her duties as authorized official, and may, while he or she is on or in the premises or at another reasonable time, question a person who, in his or her opinion, may be able to furnish information required by him or her; and he or she may require that a person forthwith, or at the time and place he or she may determine, hand over to him or her all books and documents which, in his or her opinion, may serve as proof of the commission of an offence or an alleged offence in terms of the Act, and he or she may examine the book or document and make extracts therefrom or copies thereof, and demand an explanation of entries therein: provided that a person thus questioned or required to furnish an explanation is entitled to all the privileges to which a person testifying before a court of law would be entitled;
- (g) require that the driver or other person in charge of a motor vehicle used for road transport produce documents which have been issued by the Board in respect of that vehicle or the transport for which it is being used and which are required by law to be kept on that vehicle;
- (h) require that the driver or other person in charge of a motor vehicle which is used for road transport and which is so defective as to be a possible danger to persons and property, forthwith hand over the current permit, as well as the distinguishing mark relating to the vehicle, and that he or she ceases his or her activities until the defect has been remedied;
- (i) upon the order of the Board impound every permit specified in the order and hand it over to the Board.

(4) Apart from the duties and powers specified in this Act an inspector, and a member of the South African Police Services may impound a motor vehicle reasonably suspected of having been used in connection with the conduct of unauthorized road transport.

(5) Upon the impoundment of a motor vehicle in terms of subsection (3), the person who impounded it must forthwith cause the vehicle to be taken to a police station whereupon the matter must be dealt with in accordance with the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

30. Offences and prohibitions relating to road transport

(1) A person who—

- (a) undertakes road transport except under the authority of a permit authorizing it; or
- (b) being the holder of a permit, undertakes road transport otherwise than in accordance with the provisions of the permit, or, subject to the provisions of section 23, contravenes or fails to comply with a condition of a permit or a provision of section 19; or
- (c) being the holder of a public permit authorizing the conveyance of persons for reward—
 - (i) refuses without sufficient reason (the onus of proof whereof rests upon him or her) to convey a person which the permit authorizes him or her to convey; or
 - (ii) subject to the provisions of section 23, makes a charge for the conveyance which is not in accordance with a tariff set forth in the permit or which the person may have been required to publish in terms of the permit; or
 - (iii) claims or accepts for the conveyance remuneration other than money; or

(d) being the holder of a permit, makes it available to another person to undertake road transport not authorized under this Act, shall be guilty of an offence.

(2) The holder of a permit may not be convicted under subsection (1)(c)(i) in respect of a refusal to convey if, at the time of refusal, he, she or it had discontinued the road transport authorized by the permit or a part of the road transport after having given the prescribed notice.

(3) No person shall, without authority in writing granted by the Board, make known whether by means of a notice published in a newspaper or in another manner—

- (a) that he or she is willing to undertake road transport, unless he or she is the holder of a permit which authorizes the conveyance; or
- (b) that another person is willing to undertake road transport, unless the other person is the holder of a permit which authorizes the conveyance and the first-mentioned person has been authorized by the other person to advertise his or her willingness to undertake the conveyance, and the advertisement in question discloses the name of the other person.

(4) A person who contravenes a provision of subsection (3), shall be guilty of an offence.

31. Offences generally

A person shall be guilty of an offence who—

- (a) with intent to deceive, makes a writing falsely purporting to be a permit or other document issued under this Act, or alters or defaces or mutilates or adds anything to a permit or other document issued under this Act; or
- (b) knowing that a writing is not a permit or document issued under this Act, or that a permit or other document issued under this Act has been altered, defaced, mutilated or added to in contravention of the provisions of paragraph (a), utters the writing, permit or other document or uses it for the purposes of this Act; or
- (c) except as specially provided in this Act, transfers a permit or distinguishing mark, without the consent in writing of the Board, to a motor vehicle or person other than a motor vehicle or person referred to or named in the permit or distinguishing mark; or
- (d) not being an inspector, by words, conduct or demeanour attempts to exercise the powers of an inspector; or
- (e) wilfully obstructs or hinders or interferes with an inspector in the exercise of his or her powers or the performance of his or her duties in terms of this Act; or
- (f) without sufficient reason (the onus of proof whereof rests upon him or her) fails or refuses to appear before the Commission or Board after having been required under section 21(1)(b) or (c) to so do, or, having so appeared, fails or refuses to answer to the best of his or her knowledge a question lawfully put to him or her or to produce a book, plan or other document or article which he or she has been required to produce; or
- (g) in connection with an application, appeal, inquiry or investigation under this Act makes a false statement, whether orally or in writing, knowing it to be false; or
- (h) obtains a public permit from the Board knowing that a public permit has already been issued to some other person in respect of the vehicle concerned.

32. Act or omission of a manager, agent or employee of the holder of a permit

(1) Whenever a manager, agent or employee of the holder of a permit does or omits to do an act which it would be an offence under this Act for the holder to do or omit to do, then, unless the holder proves that—

- (a) he or she did not connive at or permit the act or omission; and
- (b) he or she took all reasonable measures to prevent an act or omission of the nature in question; or
- (c) an act or omission, whether legal or illegal, of the character of the act or omission charged did not under any conditions or in any circumstances fall within the scope of the authority or the course of the employment of the manager, agent or employee,

the holder shall him- or herself be guilty of an offence in relation to that act or omission and be liable to be convicted and sentenced in respect thereof, and for the purposes of paragraph (b) the fact that he or she forbade an act or omission of the nature in question shall not by itself be regarded as sufficient proof that he or she took all reasonable measures to prevent the act or omission.

(2) Whenever a manager, agent or employee of a holder does or omits to do an act which it would be an offence under this Act for the holder to do or omit to do, the manager, agent or employee shall be liable to be convicted and sentenced in respect thereof as if he or she were the holder.

33. Penalties

A person convicted of an offence under this Act for which no other penalty is expressly provided, shall be liable to a fine not exceeding R20000 or to imprisonment for a period not exceeding two years or to both a fine and imprisonment.

34. Forfeiture

(1) The court convicting a person of an offence under this Act involving the undertaking of unauthorized road transport may declare the motor vehicle used in the transport or the convicted person's rights in the motor vehicle, to be forfeited to Gauteng Province: provided that the declaration shall not affect any rights which a person other than the convicted person may have to the motor vehicle in question, if it is proved that the other person did not know that the motor vehicle was being or would be used in unauthorized road transport or that he or she could not prevent its use.

(2) Section 35 (4) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall apply with the necessary changes with reference to a forfeiture under subsection (1).

35. Effect of second or subsequent conviction of certain offences

(1) On a second or subsequent conviction of a person of an offence involving the undertaking of unauthorized road transport the Board may—

- (a) by notice in writing sent by registered or certified post, summarily withdraw a permit held by that person and issued by the Board; and
- (b) during the period the Board may deem fit, and irrespective of whether or not a permit held by that person has been withdrawn under paragraph (a), refuse to consider an application for the grant or transfer of a permit to him or her or to a company of which he or she is a director, or for the renewal of a permit held by him or her or such a company.

(2) For the purposes of subsection (1) a conviction of a company of an offence mentioned in that subsection shall be deemed to be a conviction also of every person who was a director of that company at the time if the commission of the offence in question.

36. Presumptions, and proof of certain facts

(1) In a prosecution under this Act—

- (a) a person who has conveyed a person by means of a motor vehicle, or who has permitted the conveyance by that means of a person in addition to the driver of the motor vehicle, shall be presumed thereby to have undertaken road transport, unless the contrary is proved;
- (b) if it is proved that a person was conveyed in contravention of the provisions of section 30(1)(a) by means of a particular motor vehicle, the owner of that motor vehicle shall be presumed to have conveyed that person, unless it is proved that he or she was not the driver of the motor vehicle at the time of the conveyance in question and did not authorize or permit the use of the motor vehicle for the conveyance;
- (c) a person in whose possession a document falsely purporting to be a permit issued under this Act is found, or in whose possession a permit which has been altered, defaced, mutilated or added to in contravention of the provisions of this Act is found, shall be presumed to have made the document or to have altered, defaced, mutilated or added to the permit, unless the contrary is proved.

(2) A document which purports to be a permit issued under this Act, or a copy of the a permit certified as a true copy by a person who purports to be an officer of the Board, shall on its production by a person in a prosecution under this Act, be admissible in evidence and be *prima facie* proof that it is a permit which has been validly issued under this Act, or that it is a true copy of a permit, as the case may be, and that every statement contained therein is correct.

(3) A document which states that a motor vehicle described therein is, under the relevant law relating to the registration of motor vehicles, registered in the name of a person named therein, and which purports to have been issued by the authority charged with the registration of motor vehicles under that law at the place where the motor vehicle is registered thereunder, shall on its production by a person in a prosecution under this Act, be admissible in evidence and be *prima facie* proof of the correctness of the statements contained therein.

37. Jurisdiction

A magistrate's court shall have jurisdiction to impose a penalty provided for in this Act.

38. Limitation of liability

No civil or criminal proceedings shall be instituted or continued in a court of law against an authorized official or the employer of an authorized official by reason of an act done in good faith by an authorized official or the employer of an authorized official in terms of this Act.

39. Finance

All moneys received by the Commission or Board under this Act must be paid into the Provincial Revenue Fund, and all expenditure incurred in the administration of this Act, must be defrayed from moneys appropriated out of that Fund by the Provincial Legislature: provided that expenditure incurred in connection with the performance of the functions of an authorized official, must be defrayed by the employer of the authorized official.

40. Relation of Act to other laws

The provisions of this Act shall be additional to and not in substitution of other laws related to motor vehicles.

41. Repeal

(1) The Road Transportation Act, 1977 (Act No. 74 of 1977) is hereby repealed insofar as it applies in Gauteng Province.

(2) The provisions of the National Land Transport Act, 1998 shall not apply in Gauteng Province insofar as they are inconsistent with the provisions of this Act or the Gauteng Interim Minibus Taxi-Type Services Act, 1997 (Act No. 11 of 1997).

42. Transitional provisions

(1) (a) Subject to the provisions of subsections (2) and (3), an appointment, designation, regulation, notice or document made, published or issued, or another thing done, under the provisions of the Road Transportation Act, 1977 or similar legislation, shall be deemed to have been declared, established, made, published, issued or done under the corresponding provisions of this Act.

(b) For the purposes of paragraph (a)—

- (i) a permit which was issued under the Road Transportation Act, 1977 or similar legislation and which, according to the nature of the road transport authorized by it, could be granted and issued under this Act, as a public permit, shall be deemed to be a public permit granted and issued under the relevant provisions of this Act; and

- (ii) an application for the issue or grant of such a permit which has not been disposed of at the commencement of this Act, shall be deemed to be an application under this act for the grant of the appropriate permit.

(2) The MEC, acting upon the recommendation of the Board, may at any time by notice in the *Provincial Gazette* and with effect from a date specified in the notice terminate the validity of every permit mentioned in subsection (1)(b) which was issued or granted for an indefinite period and which belongs to a type or category of permits specified in the notice.

(3) The Board may, by notice in writing sent by registered or certified post to the holder of a permit mentioned in subsection (1)(b) (irrespective of whether it was issued or granted for a fixed period or for an indefinite period), withdraw the permit with effect from a date specified in the notice.

(4) The Board may, if it deems it expedient to do so—

- (a) in the case of a permit mentioned in subsection (1)(b) of which the validity has been terminated by a notice under subsection (2) or which has been withdrawn by a notice under subsection (3), at the request in writing of the holder of the permit made before the date specified in the relevant notice as the date of the termination or withdrawal, or within the period after that date as the Board may allow; or
- (b) at the request in writing of the holder of a permit so mentioned, made at any time; or
- (c) after having duly considered, in accordance with the provisions of this Act, an application for the renewal, amendment or transfer of a permit so referred to, issue, in substitution for the permit in question, an appropriate permit subject to the conditions the Board may deem fit, as if the request or application, as the case may be, were an application for the grant of the request or application, as the case may be, for the grant of the permit duly made, published and considered under the relevant provisions of this Act.

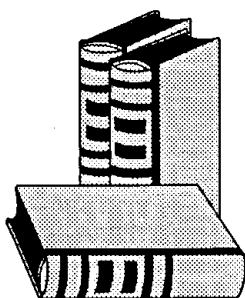
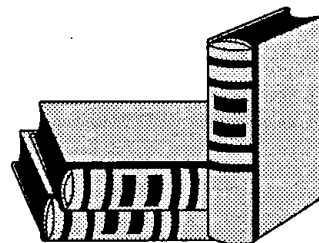
(5) The provisions of subsections (2), (3) and (4) shall not be construed as limiting a power conferred on the MEC or the Commission or the Board in respect of a permit by another provision of this Act, or as requiring the giving of prior notice, or an opportunity to be heard, to a person affected by their application, and the fact that the validity of a permit has been terminated under subsection (2), or a permit has been withdrawn under subsection (3), shall not prejudice an application for the grant of a permit made by the person who was the holder of the permit in question.

43. Short title and commencement

(1) This Act shall be called the Gauteng Interim Road Transport Act, 1998, and shall come into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.

(2) This Act shall terminate on the date of commencement of more comprehensive provincial public passenger transport legislation.

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Department of Environmental Affairs and Tourism
Departement van Omgewingsake en Toerisme

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