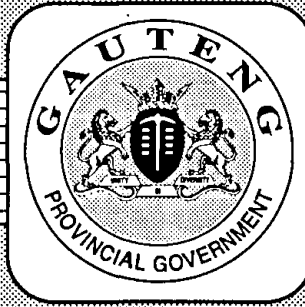


**THE PROVINCE OF
GAUTENG**



**DIE PROVINSIE
GAUTENG**

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PRETORIA, 22 APRIL 1998

No. 483

PREMIER'S NOTICE

OFFICE OF THE PREMIER

No. 35

22 April 1998

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:

No. 11 of 1997: Gauteng Interim Minibus Taxi-Type Services Act

ACT

To provide for the interim regulation of minibus taxi-type services; to provide for the establishment of a Provincial Transport Commission and a Provincial Taxi Registrar; to exclude the provisions of the Road Transportation Act, 1977, from applying to minibus taxi-type services; and to provide for matters connected therewith.

(English text signed by the Premier)
(Assented to 18 December 1997)

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—

“*Ad hoc* authorization” means an authorization to undertake minibus taxi-type transport on an *ad hoc* basis as contemplated in section 26;

“Advisory Panel” or “Panel” means the Gauteng Permit Board Advisory Panel established by section 14;

“association” means a formal grouping of minibus-taxi operators or body to which two or more of these groupings are affiliated, which is formed not for gain, its main object being to promote the group interests of its members, and which intends to apply its income in promoting those interests;

“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 established as a local road transportation board under section 4 of the Road Transportation Act, 1977 (Act No. 74 of 1977);

“business partner” means a partner in the case of a partnership agreement, a co-director in the case of a company or a co-member in the case of a close corporation;

“Commission” means the Provincial Transport Commission established in terms of section 27;

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

“forum” means a grouping of officials, representatives of the minibus taxi industry and others established by a metropolitan authority in terms of section 10;

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

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

“inspector” means an inspector contemplated in section 57;

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

“inter-provincial association” means an association whose members pick up or set down passengers in two or more different provinces;

“inter-provincial service” means a minibus taxi-type transport service partly within the area of the Province and partly within the area of another province or provinces, and excludes an international service;

“liaison committee” means a local taxi liaison committee;

“local taxi liaison committee” means a committee of officials, representatives of the minibus taxi industry and others established by a non-metropolitan municipality or substructure under section 11;

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

“metered taxi service” means a public transport service by means of a motor vehicle with a seating capacity defined in other legislation or by regulation where the vehicle—

- (a) is able to be hailed for hire;
- (b) may stand for hire at a rank; and

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(c) is equipped with a sealed meter in working order to charge fares;

"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;

"minibus taxi" means a motor vehicle used for a minibus taxi-type service;

"minibus taxi management system" means a system contemplated in section 3 that facilitates the planning of minibus taxi-type services;

"minibus taxi operator" means a person authorized by a permit to provide a minibus taxi-type service;

"minibus taxi-type service" means a regular or frequent non-scheduled public passenger road transport service authorized by a valid permit, provided on a fixed route or network of routes by means of a motor vehicle designed or adapted solely or principally for the conveyance of not more than 16 persons, including the driver in respect of which a valid certificate of fitness or roadworthy certificate has been issued under applicable legislation which authorizes the carrying of passengers, and that is not subject to restrictions in respect of fares and time tables and excludes a metered taxi service: provided that the MEC may exclude from this definition services or vehicle types by regulation in the *Provincial Gazette*;

"minibus taxi-type transport" means "road transportation" as defined in the Road Transportation Act, 1977 (Act No. 74 of 1977) insofar as it relates to minibus taxi-type services;

"motor vehicle" means a motor vehicle as defined in the Road Traffic Act, 1989 (Act No. 29 of 1989);

"municipality" means a local government body as defined in the Local Government Transition Act, 1993 (Act No. 209 of 1993) and includes a metropolitan authority and a substructure of a metropolitan authority;

"National Transport Commission" means the National Transport Commission defined in the Road Transportation Act, 1977 (Act No. 74 of 1977);

"non-member" means the holder of a permit who does not belong to an association;

"permit" means a permit authorizing minibus taxi-type services;

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

"permit consultant" means a person who is qualified by registration in terms of section 52 to assist applicants for permits with the submission of forms and appearances;

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

"primary association" means an association to which no registered associations are affiliated;

"Province" means the Province of Gauteng unless the context indicates otherwise;

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

"registered" means registered or conditionally registered under section 5(3) or (4);

"Registrar" means the Provincial Registrar appointed under section 4;

"relevant metropolitan authority" means a metropolitan authority in whose area of jurisdiction passengers are picked up or set down;

"relevant municipality" means a municipality in whose area of jurisdiction passengers are picked up or set down;

"relevant provincial authority" means a provincial administration in whose area of jurisdiction passengers are picked up or set down;

"relevant taxi association" in relation to a permit application means a taxi association which operates on the route, routes or route network or area to which the application relates;

"secondary association" means an association to which two or more other registered associations are affiliated;

"TPAB" means a transport permit administrative body;

"transport authority" means the Department or a municipality responsible for preparing integrated transport plans or development plans in terms of provincial or national legislation;

"transport permit administrative body" means a transport permit administrative body contemplated in section 15;

"Tribunal" means the Road Transport Appeal Tribunal established by the National Land Transport Act, 1977;

"unauthorized minibus taxi-type transport" means transport not authorized by a permit and includes transport undertaken by the holder of a permit otherwise than in accordance with the provisions of the permit.

2. Planning for minibus taxi-type services

(1) Every transport authority and every municipality required to do so by a metropolitan authority must undertake planning for minibus taxi-type services for its area of jurisdiction, in the manner prescribed, on a route or network basis, as an initial step to form part of the integrated transport plan for Gauteng to—

- (a) incorporate taxi route plans to rationalise and co-ordinate minibus taxis on routes or networks;
- (b) co-ordinate and upgrade the quality of minibus taxi-type transport within, to or from its area;
- (c) ensure the provision of passenger transport to all sectors of the population subject to economic constraints.

(2) In planning for minibus taxi-type services the transport authority must consult, including consultation with the relevant taxi forum, and undertake a public participation process in the manner prescribed.

(3) In the planning process a transport authority may research or investigate as necessary or expedient for the effective carrying out of the objects of this Act.

3. Establishment of management systems and data banks

(1) The Department and every metropolitan authority must establish a taxi management system as part of its public transport management system, for the Province or its area of jurisdiction, as the case may be, in the manner prescribed.

(2) The Department and every metropolitan authority must establish a computerised data bank to accommodate at least the following information:

- (a) the names, addresses, office holders and members of all registered associations;
- (b) details of permits with their date of issue and the holder thereof and the motor vehicles to which they relate;
- (c) the names, identity numbers and addresses of holders, and the associations of which they are members, where applicable;
- (d) in the case of a partnership that is a holder, the names, addresses and identity

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- numbers of all partners;
 - (e) in the case of a company or close corporation, the name, address and identity number of the person authorised to represent it, and
 - (f) other information specified by the MEC in regulations.
- (3) The data banks referred to in subsection (2) must be capable of accessing the national Land Transport Permit System (LTPS), the National Traffic Information System (NaTIS) and the provincial Registration Administration System (RAS).
- (4) Subject to the protection of privacy afforded by the Constitution, the Department, transport permit administrative bodies and metropolitan authorities must have access to the information in the various data banks.

4. Appointment of Registrar

- (1) The MEC must, subject to the laws governing the public service, appoint a provincial Registrar who is or has been a judge or magistrate, or an attorney or advocate who has practised as such for at least five years, or who, in the opinion of the MEC, has equivalent legal background or experience, to perform the functions assigned to him or her under this Act.
- (2) The Head of Department must, subject to the laws governing the Public Service, make staff available to assist the Registrar in the performance of his or her functions.
- (3) No person may be appointed as Registrar if he or she or his or her spouse or partner, immediate family, dependants, business partner or employer, has a financial interest in a business of public transport or is an elected office bearer in an association, or is engaged in an activity which, in the opinion of the MEC, will interfere with the impartial discharge of the functions of his or her office.
- (4) When the office of Registrar is vacant or when the Registrar is absent or is for another reason unable to perform his or her functions, the MEC may appoint an acting registrar who must act in the Registrar's stead.

5. Powers and duties of the Registrar

- (1) The Registrar may—
- (a) consider and decide upon an application for registration in terms of this Act;
 - (b) grant conditional registration to a primary association or inter-provincial association and their members in terms of this Act;
 - (c) grant full registration to a primary association or inter-provincial association and their members, secondary association or non-member in terms of this Act;
 - (d) decide upon the form of the register and certificates to be kept, maintained or issued under this Act;
 - (e) take all reasonable steps to monitor and receive information with respect to the compliance or non-compliance of registered associations and their members with the provisions of the Standard Minimum Constitution required in terms of this section, or in the case of a registered non-member, with the prescribed Code of Conduct for Non-Members, and
 - (f) supply the MEC with information regarding minibus taxi matters.
- (2) The Registrar must—
- (a) assist in the promotion of professional practices by registered associations and their members and by non-members;
 - (b) take all reasonable steps to encourage associations and eligible non-members to register in terms of this section;
 - (c) provide as much advice and assistance to associations and eligible non-members as is reasonably possible to enable them to apply successfully for registration, and
 - (d) receive and consider applications for registration from associations and non-members.
- (3) The Registrar must grant a certificate of conditional registration and a registration number to a primary association or secondary association and each of its members who upon application satisfies him or her—
- (a) that it has been in existence for a period not less than the minimum period prescribed by the MEC;
 - (b) that the number of members meets the minimum prescribed by the MEC, and
 - (c) that all of the information required by the Registrar has been provided and this information has been verified in the manner prescribed:

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provided that conditional registration shall lapse if the association has not obtained registration within the prescribed period.

(4) The Registrar must grant a certificate of registration and a registration number to a primary association and each of its members who upon application satisfies him or her—

- (a) that it has been in existence for a period not less than the minimum period prescribed by the MEC;
- (b) that the number of members meets the minimum prescribed by the MEC;
- (c) that the constitution and code of conduct submitted by the association has been signed and accepted by each of its members as binding upon the member;
- (d) that the said constitution and code of conduct are consistent with and encompass the provisions of the Standard Minimum Constitution prescribed in terms of this section;
- (e) that the association enjoys the support of relevant municipalities;
- (f) that each member holds a valid permit for each motor vehicle that he or she operates and that his or her operations are within the authority of the permit, and
- (g) that all of the information required by the Registrar in terms of this section has been provided and this information has been verified in the manner prescribed.

(5) The Registrar must grant a certificate of registration to a new member of a registered association who upon application made by the association on his or her behalf satisfies him or her—

- (a) that he or she holds a valid permit for each motor vehicle that he or she operates and that his or her operations are within the authority of the permit;
- (b) that he or she has signed and agreed to abide by the constitution of the association of which he or she is a member, and
- (c) that all of the information required by the Registrar in terms of this section has been provided and verified in the manner prescribed.

(6) The Registrar must grant a certificate of registration to a secondary association who upon application satisfies him or her—

- (a) that each of its affiliated associations has been registered;
- (b) that each member holds a valid permit for each motor vehicle that he or she operates and that the operations are within the authority of the permit;
- (c) that its office bearers and the office bearers of each of its affiliated associations have signed and accepted the constitution submitted by the secondary association as binding upon themselves;
- (d) that the constitution is consistent with and encompasses the provisions of the Standard Minimum Constitution prescribed in terms of this section, and
- (e) that all of the information required by the Registrar in terms of this section has been provided and verified in the manner prescribed.

(7) The Registrar must grant a certificate of registration to a non-member who upon application made by him or her satisfies him or her that—

- (a) no primary association operates on the route or routes on which he or she operates; or
- (b) although a primary association operates on the route or routes on which he or she operates, the conditions set by the association for membership are unfair in terms of the criteria prescribed in the Standard Minimum Constitution or in regulations; or
- (c) although a primary association operates on the route or routes on which he or she operates, the association has failed to obtain registration; and
- (d) he or she holds a valid permit for each motor vehicle that he or she operates and that his or her operations are within the authority of the permit;
- (e) he or she has signed and agreed to abide by the Code of Conduct for Non-Members prescribed in terms of this section, and
- (f) all of the information required by the Registrar in terms of this section has been provided and verified in the manner prescribed.

(8) The Registrar must consider and give a decision on—

- (a) the suspension, as contemplated in section 8 of the registration of a registered association, member or non-member;
- (b) the deregistration, as contemplated in section 8, of a registered association, member or non-member.

(9) The Registrar must in every calendar year submit to the MEC an annual report

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containing information concerning the activities of his or her office, registration of associations and their members, the registration of non-members and other matters as the MEC may direct.

(10) The Registrar must establish and keep up to date a Register of registered Taxi Associations, Members and Non-Members, and link it electronically to the Permit Administration System, the RAS and the data banks contemplated in section 3, in the manner prescribed.

(11) The Registrar must, on request and on payment of the prescribed fee, provide any person with statistical information from the Register.

6. Powers of the MEC regarding registration

(1) The MEC may prescribe a Standard Minimum Constitution for associations and a Code of Conduct for Non-Members, and may make additional rules governing the manner in which—

- (a) a registered association and its members must conduct their affairs;
- (b) a registered non-member must conduct his or her business.

(2) The MEC may make regulations—

- (a) prescribing—
 - (i) the minimum number of members associations must have in order to be eligible for registration;
 - (ii) the minimum period of time for which associations must have existed in order to be eligible for registration;
 - (iii) other additional requirements with which an association must comply in order to qualify for registration;
- (b) determining the method of inquiry into allegations of improper conduct by registered associations, members or non-members;
- (c) providing that assistance by the Gauteng Government must be reserved for persons and associations registered under this section;
- (d) prescribing the manner in which an association or non-member must apply for registration, the fees payable to the Registrar in respect of an application and annual fees which an association or non-member must pay to the Registrar: provided that different regulations may apply to different areas in Gauteng and for new associations as opposed to established ones.

7. Application for registration

(1) An association or non-member who desires to be registered must lodge with the Registrar in the manner prescribed a written application for registration, accompanied by the prescribed application fee, if any, and the information required by the Registrar or by this Act.

(2) If after considering the application and verifying the information submitted, the Registrar is satisfied that the applicant has complied with the relevant requirements, the Registrar must register the applicant and issue to the applicant a certificate of registration or conditional registration and registration number as appropriate.

(3) If after considering the application the Registrar is not satisfied that the applicant has complied with the relevant requirements, the Registrar must inform the applicant of the requirements the applicant has failed to meet, and may provide the applicant with advice and assistance to enable the applicant to meet the requirements.

(4) Upon registration of an inter-provincial association, the Registrar must forward a copy of the certificate of registration and all registered details of the association to the registrar or department responsible for transport affairs in each province to or from which the members of the association operate.

(5) Upon receiving an application from an inter-provincial association which has already obtained registration in another province, the Registrar may register the association if it meets the relevant requirements specified in this Act, but may exempt the association from the obligation to pay an application fee and annual registration fees, if it has paid or will have to pay similar fees in another province.

8. Disciplinary measures

(1) On receipt of a complaint, accusation or allegation or on the ground of information which has come to his or her notice and which may point to the failure of an association

or non-member registered in terms of this section to comply with the rules set out in the Standard Minimum Constitution or Code of Conduct for Non-Members as appropriate, the Registrar may conduct an inquiry in the manner prescribed in terms of this section.

(2) The Registrar may send a written warning to a registered association or registered non-member found in terms of the inquiry to have failed to comply with the rules set out in the Standard Minimum Constitution or Code of Conduct for Non-Members, as appropriate, for reasons within the control of the association or non-member, directing that the Standard Minimum Constitution be complied with and setting out the steps to be followed within a stated period.

(3) If an association or non-member fails to comply with the warning referred to in subsection (2), the Registrar may—

- (a) impose a fine not exceeding the amount prescribed, or
- (b) send a written order signed by him or her of temporary suspension of the certificate of registration; or
- (c) send a written order signed by him or her withdrawing the certificate of registration.

(4) Immediately after issuing an order that the name of an association or non-member be struck off the Register, the Registrar must forward a certified copy thereof to a senior official in a government department or institution providing benefits or assistance to that association or its members or that non-member.

(5) A person who is dissatisfied with a decision of the Registrar, may take the matter on appeal to the MEC within the time and in the manner prescribed by regulation before resorting to a court of law.

9. Panel of assessors

(1) The MEC may establish a panel of assessors for the Registrar and determine its constitution and functioning by regulation.

(2) The Panel must advise the Registrar on the performance of his or her functions.

(3) No person may be appointed as an assessor if he or she or his or her spouse or partner, immediate family, dependants, business partner or employer holds a financial interest in a business of public transport or is an elected office bearer in an association, or is engaged in an activity which, in the opinion of the MEC, will interfere with the impartial discharge of his or her duties.

10. Establishment of taxi forums

(1) Each metropolitan authority must establish a taxi forum.

(2) The following bodies must be represented on the forum in the manner prescribed by regulation or recommended in guidelines—

- (a) the metropolitan authority;
- (b) each local taxi liaison committee in the metropolitan area;
- (c) registered taxi associations operating in the metropolitan area;
- (d) representatives of relevant driver unions;
- (e) representatives of relevant passenger associations or groups;
- (f) other persons and bodies as prescribed.

(3) The forum must elect one of its members as chairperson of the forum.

(4) Forums must meet at times and in the manner and according to procedures prescribed by regulation.

11. Establishment of local taxi liaison committees

(1) Each municipality that is not a metropolitan authority must establish a local taxi liaison committee for its area of jurisdiction.

(2) The following bodies must be represented on the committee in the manner prescribed by regulation or recommended in guidelines—

- (a) the metropolitan authority;
- (b) the local authority in question;
- (c) registered taxi associations operating in the municipal area;
- (d) representatives of relevant driver unions;
- (e) representatives of relevant passenger associations or groups;
- (f) other persons and bodies as prescribed.

(3) The committee must elect one of its members as chairperson of the committee.

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(4) Local taxi liaison committees must meet at times and in the manner and according to procedures prescribed by regulation.

12. Functions of taxi forums and liaison committees

Taxi forums and local taxi liaison committees must—

- (a) act as a means of liaison between municipalities and taxi associations;
- (b) act as a means of liaison between taxi associations themselves;
- (c) act as a means of resolving problems and issues in the taxi industry and facilitating conflict resolution;
- (d) disseminate information on new developments and other matters affecting the taxi industry;
- (e) formulate joint policy and action plans on matters such as, but not limited to—
 - (i) training and skills development;
 - (ii) regulation and control;
 - (iii) conflict resolution;
 - (iv) fare structures;
 - (v) driver and employee relations;
 - (vi) modal integration;
 - (vii) information and data banks;
 - (viii) ranks and other facilities and their development, and
 - (ix) safety issues;
- (f) provide input to passenger transport planning authorities, the Permit Board and other authorities, and
- (g) undertake other functions prescribed in municipal by-laws or recommended in guidelines.

13. Board responsible for applications relating to permits for minibus taxi-type services

(1) The Board shall be responsible for dealing with all applications relating to permits in respect of minibus taxi-type services, subject to the provisions of this Act.

(2) Regarding the constitution and procedures of the Board, the provisions of the Road Transportation Act, 1977 (Act No. 74 of 1977) shall apply except insofar as modified or supplanted by the provisions of this Act.

14. Establishment of Advisory Panel to the Board

(1) An advisory panel to the Board is hereby established, to be called the Gauteng Permit Board Advisory Panel.

(2) The Advisory Panel must advise the Board on policy matters: it must not participate in individual decisions of the Board unless specifically requested by the Board, and, if requested, must provide only advice of a general and policy nature.

(3) The Advisory Panel shall consist of the members of the Board and the following members, who must be nominated by their respective organizations and appointed by the MEC:

- (a) one representative from the Department;
- (b) one representative from each metropolitan authority;
- (c) one representative from the minibus taxi industry;
- (d) one representative from the metered taxi industry;
- (e) one representative from the organized bus industry;
- (f) one representative from the emerging or small bus industry;
- (g) one representative from the South African Rail Commuter Corporation Limited;
- (h) one person who is capable, in the opinion of the MEC, of representing the interests of passengers;
- (i) one representative from organised labour relating to the minibus taxi industry;
- (j) one representative from organised labour relating to the bus industry.

(4) The MEC must appoint one of the Panel members as chairperson.

(5) The chairperson must designate another member of the Panel to act as chairperson if he or she is unable to attend a meeting of the Panel.

(6) A member of the Panel who is a member of the public service shall hold office at the MEC's pleasure and other members must be appointed for a period not exceeding

two years and shall, subject to the provisions of this Act, hold office upon conditions as to remuneration and otherwise, as the MEC may, with the concurrence of the Member of the Executive Committee for Finance, determine when the member is appointed.

(7) The MEC may make regulations regarding meetings of the Panel and procedures at meetings.

15. Establishment of Transport Permit Administrative Bodies

(1) The Head of Department must designate one or more staff members to be stationed at the offices of each metropolitan authority to fulfil the functions of transport permit administrative bodies, in the manner prescribed by regulation.

(2) The TPAB must receive completed application forms for permits in respect of services commencing in its metropolitan area together with the application fees, and must check to see that the application forms have been properly completed and that all of the necessary accompanying documentation has been submitted and is valid and acceptable, and enter details of the applications into the relevant data banks in the manner prescribed.

(3) The TPAB must then submit the applications to its metropolitan authority, relevant municipalities in the metropolitan area, the relevant forum and relevant liaison committees for recommendations.

(4) In making recommendations, metropolitan authorities must ensure that the application is in accordance with relevant integrated transport plans and other relevant transport and land use plans, and consider factors such as demand (needs) on a route basis, availability of ranking space and traffic and other metropolitan or local considerations.

(5) If no forum or liaison committee exists in respect of a route or area at the relevant time, the TPAB must submit the application for comment and recommendations to all relevant associations, unless the association has already provided comments on the application form.

(6) The TPAB must collect all of the representations and submit them with the application form and other supporting documentation to the Board for a decision.

(7) Where the proposed transport will also take place in the metropolitan area of another TPAB, the first TPAB must submit the application to the other TPAB, which must take the steps contemplated in subsections (3) to (6) and return the application with applicable recommendations to the first TPAB.

(8) Where the board of another province has referred an application to the Board for comment in respect of an applicant based in another province, the Board must refer the application to the relevant TPAB for the latter to obtain the comments and recommendations contemplated in subsection (3).

(9) Initially, transport permit administrative bodies shall be responsible only for dealing with matters contemplated in this Act, but the MEC may extend their activities to cover procedures required by the Road Transportation Act, 1977 (Act No. 74 of 1977) and other legislation.

16. Application in respect of a permit

(1) A person who desires to undertake minibus taxi-type transport other than transport which may be authorized by the issue of an *ad hoc* authorization, must apply in the manner prescribed by this Act and by regulation to the Board for a permit. No one may undertake minibus taxi-type services without obtaining the necessary permit or *ad hoc* authorization under this Act.

(2) A holder of a permit may apply to the Board for the renewal or amendment of the permit in the manner prescribed by regulation.

(3) A person who desires to take transfer of a permit must apply in the manner prescribed by regulation and with the written consent of the holder of the permit in question, to the Board, for the transfer of the permit.

(4) All applications contemplated in subsections (1), (2) and (3) must include a detailed description of the route or routes on which the applicant operates or intends to operate and all points where passengers are being or will be picked up or set down.

(5) All applications contemplated in subsections (1), (2) and (3) must be lodged with the transport permit administrative body established for the relevant metropolitan area.

(6) The application form in respect of applications contemplated in subsections (1),

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(2) and (3) must make provision for recommendations from the taxi association operating on the route, routes or network in question of which the applicant is a member, which must be completed by the association before submission of the application, or a statement to the effect that no association exists.

(7) Applicants must state on the application form whether they have been convicted of criminal offences of a nature prescribed by regulation, and if so, to list the convictions, and to state whether they or their spouses or partners or their immediate family members, dependants, business partners or employers are authorized officials or officials of the Public Service or Provincial Administration or of a municipal administration.

(8) In the case of applications for inter-provincial services, the Board must also refer the application to the Permit Board of each relevant province for recommendations.

(9) If no response is received from the board of another province as contemplated in subsection (8) within 21 days, the Board must submit the matter to the National Transport Commission or Tribunal, whichever is applicable, as an appeal. The applicant shall be exempt from paying fees relating to this type of appeal.

(10) Where application is made to the Permit Board of another province for inter-provincial transport where passengers will be picked up or set down in Gauteng, the Board must provide recommendations regarding the application to the other Permit Board, after obtaining recommendations from all relevant municipalities, forums, liaison committees and, where no forums or liaison committees exist, from the relevant associations.

(11) The Board may issue an interim permit for not more than 60 days where—

- (a) an applicant is awaiting prescribed documentation for a replacement motor vehicle; or
- (b) an application for the transfer of a permit is pending.

17. Exemptions

For the purposes of this Act, the definition of "minibus taxi-type transport" shall be deemed to exclude the following—

- (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 No. of 1959), who are or have been or are to be employed by a farmer in his/her/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 No. 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 any place where he or she is to receive medical treatment from a person authorized to administer the treatment in terms of any law relating to the medical profession, or from any 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 minibus taxi-type 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 No. 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 No. 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

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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.

18. Inter-provincial transport

(1) Applicants for inter-provincial transport must apply to the Board if the minibus taxi-type transport in question commences in Gauteng, or in Gauteng as well as in another province.

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

(3) In the case of doubt as to where the transport commences, the applicant must apply in the province where the motor vehicle in question is registered.

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

(5) Where the Board is unable to obtain the necessary responses from the board of another province in a referral contemplated in subsection (4), or cannot obtain the agreement of the other board within the prescribed period, the Board must submit the matter as an appeal to the National Transport Commission or Tribunal, as required by the Road Transportation Act, 1977 (Act No. 74 of 1977) or the National Land Transport Act, 1997, whichever is in force, in the manner prescribed by those Acts.

(6) Appeals concerning inter-provincial services must be made to the National Transport Commission or Tribunal as required by the Road Transportation Act, 1977 (Act No. 74 of 1977) or the National Land Transport Act, 1997, whichever is in force, in the manner prescribed by those Acts.

(7) In the case of inter-provincial services, passengers may not be picked up or set down except at points of origin and destination, unless there is no alternative service between the origin or destination and the drop off or pick up point, or relevant associations operating on the route(s) have agreed to the contrary.

19. International transport

Applications for international minibus taxi-type transport and appeals relating thereto must be made to the National Transport Commission in terms of the Road Transportation Act, 1977 (Act No. 74 of 1977), or to the Regulatory Committee or Tribunal in terms of the Cross-Border Road Transport Act, 1997, whichever is in force, in the manner prescribed by those Acts.

20. Disposal of application in respect of a 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 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) The Board may not issue a permit on a radius or casual basis, and area permits shall be issued only in the case of—

- (a) feeder services provided in confined areas around a destination point, if the area is limited and defined, and
- (b) what the Board regards in its discretion as exceptional circumstances.

(3) For the purposes of subsection (2), "casual basis" shall mean a permit which authorizes the undertaking of trips on an *ad hoc* basis.

(4) The Board may not grant a transfer of a permit which authorizes conveyance in an area or within a radius of a specified point unless the authority is converted to a route or network based authority.

(5) Where an application referred to in subsection (1) is supported by recommendations from all relevant municipalities, and, where applicable, the permit boards of all

other relevant provinces, the Board must grant the application in full or in part, as may be recommended, subject to the conditions it may deem fit.

(6) 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.

(7) The Board must refuse to consider an application for the grant, renewal, amendment or transfer of a permit if all of the following are opposed to the application:

- (a) the relevant municipalities;
- (b) relevant forums and liaison committees, and
- (c) relevant associations.

(8) The Board must give preference to applicants who are resident in the metropolitan area from which the services will be operated.

(9) The Board must determine the ranks and other facilities that an applicant may use based on recommendations from relevant municipalities, and stipulate these in the permit.

(10) No permit may be granted unless the applicant is a member of an association that has been registered by the Registrar under section 7 and the application is supported in writing by the association, or the Registrar certifies in writing that the applicant qualifies as a registered non-member under that section and has applied for registration as such.

21. Publication of application and representations in respect of a permit

(1) The TPAB receiving an application—

- (a) must, in the case of an application for the grant or amendment (other than an amendment referred to in paragraph (b)) of a permit;
- (b) may, in the case of an application for the amendment of a permit so as to authorize the permanent replacement of a motor vehicle specified in the permit by a motor vehicle of which the passenger capacity is equal to or smaller than or exceeds that of the firstmentioned motor vehicle by not more than twenty percent or in the case of transfer of a permit,

publish in the *Provincial Gazette* and in at least one newspaper circulating in each area where passengers will be picked up or set down, the particulars of the application as may be prescribed by regulation, and place a notice of the application on the notice board at the offices of the Permit Board and the relevant TPAB, also in the manner prescribed.

(2) Where the applicant has not submitted recommendations from the relevant taxi forum, the TPAB must inform that forum, which must put the matter on the agenda of its next meeting for discussion, and convey its recommendations regarding the application to the TPAB.

(3) The MEC may by regulation prescribe procedures and time limits for the provision of recommendations to the Board by interested parties in respect of applications published under subsection (1).

22. Matters to be taken into consideration in disposing of an application in respect of a permit

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

- (a) the provisions of an applicable integrated transport plan;
- (b) representations from relevant municipalities;
- (c) representations from relevant forums, liaison committees and taxi associations;
- (d) all other representations duly submitted in relation to the application;
- (e) the extent to which the transport is necessary or desirable in the public interest;
- (f) the requirements of the public for transportation along the route(s) or between the points that the applicant proposes to operate, or in the area in which the applicant proposes to operate;
- (g) the existing transport facilities available to the public along the route(s) or between the points or in the area;
- (h) the co-ordination of all forms and modes of transport on an economically

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- sound basis and with due regard to the public interest;
- (i) the conservation and improvement of the environment;
- (j) the ability of the applicant to provide in a manner satisfactory to the public the transport to which the permit relates;
- (k) a relevant previous conviction of the applicant for an offence;
- (l) the existence of a by-law, regulation, prohibition, limitation or restriction relevant to the proposed transport;
- (m) whether the applicant and drivers employed or proposed to be employed by the applicant have attended training courses as prescribed by regulation or recommended in guidelines;
- (n) other factors which, in the opinion of the Board, may be relevant to the question whether the application should be granted or what conditions should be attached to the permit.

(2) The word "ability" in subsection (1)(j) shall include the financial ability of the applicant to provide the proposed services in a sustainable manner.

23. Validity period of a permit

(1) The Board must grant permits for an indefinite period subject to a valid certificate of fitness or roadworthy certificate as required by legislation for the motor vehicle in question, the provisions relating to reregistration under section 25 and withdrawal or suspension of the permit in terms of sections 37 to 39.

(2) If, when an existing fixed period permit expires, an application for its renewal is pending before the Board, the permit shall continue in force until the application has been disposed of.

24. Issue of permit and provisions thereof

(1) Subject to subsection (2), the Board through the relevant TPAB must issue, in the manner prescribed by regulation, a permit granted, renewed, amended or transferred by it.

(2) The Board may not issue a permit unless—

- (a) it is satisfied that every motor vehicle to which the permit relates is suitable for the type of transport for which it is to be used;
- (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) If, during the currency of a permit, the certificate of fitness or roadworthy certificate for a motor vehicle to which the permit relates, becomes invalid for any reason, the permit itself shall automatically become invalid as regards that vehicle, and the holder must submit it to the relevant TPAB within fourteen days for amendment or cancellation, as the case may be.

(4) All permits issued in terms of this section 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 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) another condition which the Board in its discretion may impose.

25. Registration and re-issuing of existing permits

(1) Subject to subsections (2) and (3), every person who holds a permit on the date of commencement of this Act, must apply to the Board through the relevant TPAB, free of charge, in the manner and within the time prescribed by regulation, for the registration

and reissuing of the permit, and produce the registration certificate and a valid certificate of fitness or roadworthy certificate issued for the motor vehicle to which the permit relates, failing which the permit will lapse and must be submitted to the relevant TPAB forthwith for cancellation: provided that the permit may be suspended for a period not exceeding one year if the applicant can prove to the Board that there are good reasons for doing so, which reasons may include but not be limited to—

- (a) illness or incapacity;
- (b) the fact that the motor vehicle is temporarily out of service due to an accident;
- (c) arrangements being made for transfer of the permit due to the death of the holder;
- (d) financial hardship due to circumstances beyond the control of the permit holder, or
- (e) the fact that the holder is prevented from operating due to a conflict situation.

(2) The Board may not reissue a permit unless the holder is a member of an association that has been registered under section 7 or is registered as a non-member under that section.

(3) All reissued permits must specify the route or network of routes on which the holder may operate except in the case of—

- (a) metered taxi services;
- (b) feeder services that are provided in a confined area around the destination point, if the area is limited and defined, and
- (c) what are regarded by the Board as exceptional circumstances.

(4) The TPAB must check particulars of permits submitted under subsection (1) and of their holders against the national Permit Administration System, and must, where necessary, correct or enter details on or into the System.

26. *Ad hoc* authorizations

(1) No person may undertake temporary minibus taxi-type transport upon a particular date or in connection with a particular occurrence, such as a sports event, funeral or wedding, except under the authority of an *ad hoc* authorization issued and completed under this section.

(2) A minibus taxi operator may apply to the Board for the issue, on payment of the prescribed fee, of a series of *ad hoc* authorizations the form of which and manner of application must be as prescribed.

(3) The Board must sequentially number *ad hoc* authorizations issued by it and keep a register of the authorizations with the name of the minibus taxi operator to whom they have been issued.

(4) Before commencing services contemplated in subsection (1), the operator concerned must complete an *ad hoc* authorization for the trip(s) in question in the manner prescribed by regulation and must keep the authorization on the relevant motor vehicle at all times when the service is undertaken and produce it on demand to an authorized official.

(5) As soon as possible, but not later than 72 hours after completion of the transport in question, the operator must submit a completed copy of the *ad hoc* authorization to the Board and to the relevant registered association(s) operating on the route(s) or network(s) in question.

(6) The Board may disqualify a person who habitually undertakes temporary transport services without completing the necessary authorizations, or who habitually abuses *ad hoc* authorizations, for example by undertaking regular services in the guise of temporary services, from being issued with *ad hoc* authorizations in the future or from the undertaking of the services.

27. Establishment, function and constitution of Provincial Transport Commission

(1) A Provincial Transport Commission shall be established for the Province.

(2) The interim function of the Commission shall be to hear appeals relating to applications for intra-provincial transport, and the MEC may allocate to it other functions by proclamation in the *Provincial Gazette*.

(3) The Commission shall consist of a departmental official and not more than four other members appointed by the MEC of whom one has at least ten years' experience in practice as an advocate or attorney, and the other must possess wide experience of or have shown ability in public passenger transport or commercial, or financial matters or

the conduct of public affairs. The MEC shall appoint one of the members to be the chairperson.

(4) Members of the Commission who are not members of the public service must be appointed for a period not exceeding five years and, subject to the other provisions of this Act, shall hold office on the conditions that the MEC may determine when making the appointments.

(5) Members of the Commission shall be eligible for reappointment and individual members may be appointed for different periods and on different conditions.

28. Disqualification of Commission members

(1) No person shall be appointed a member of the Commission—

- (a) if he or she is an unrehabilitated insolvent;
- (b) if he or she has been convicted of an offence involving dishonesty;
- (c) if he or she in his or her personal capacity, or his or her spouse, partner, immediate family, dependants, business partner or employer—
 - (i) has a financial interest in a business of road passenger transport, or
 - (ii) is engaged in an activity connected with road passenger transport,

which in the opinion of the MEC will interfere with the impartial discharge by the member of the duties of his or her office.

(2) Notwithstanding subsection (1) no act, direction or decision of the Commission shall be invalid solely by reason of the fact that a member was disqualified from serving on the Commission.

29. Vacation of and removal from office of Commission members

(1) A member of the Commission must vacate his or her office—

- (a) if he or she becomes subject to any of the disqualifications for appointment mentioned in section 28;
- (b) if he or she is removed from office under subsection (2).

(2) The MEC may remove from office a member of the Commission—

- (a) who has failed to comply with a condition of his or her appointment;
- (b) who, in the opinion of the MEC, has been guilty of improper conduct or has regularly neglected his or her duties as a member of the Commission;
- (c) who, in the opinion of the MEC, is unable to perform efficiently his or her duties as a member of the Commission;
- (d) who, in the opinion of the MEC has failed to attend three consecutive meetings without good reason.

30. Remuneration of members of the Commission

(1) The members of the Commission shall be paid the remuneration and allowances as determined by the MEC in consultation with the MEC for Finance.

(2) A member of the Commission who is a member of the public service shall not be paid remuneration in addition to his or her salary, except for travelling and out-of-pocket expenses.

31. Meetings of the Commission

(1) The first meeting of the Commission must be held at the time and place determined by the MEC, and thereafter meetings will be held at the times and places determined by the chairperson of the Commission.

(2) The chairperson or, in his or her absence, the deputy chairperson, may at any time in his or her discretion convene a special meeting of the Commission, and must convene the meeting within fourteen days of receipt of a request signed by not fewer than three members of the Commission to convene a meeting.

(3) A quorum for a meeting of the Commission shall be two members.

(4) The procedure at meetings of the Commission, including the procedure for taking decisions, shall be determined by the Commission subject to the directions of the MEC, if any.

(5) The decision of the majority of the members of the Commission present at a meeting shall constitute the decision of the Commission in respect of those proceedings and in the event of an equal number of votes, the person presiding at the meeting has a

casting (decisive) vote in addition to his or her deliberative (normal) vote.

(6) A member of the Commission may not take part in the discussion of or the making of decisions about a matter before the Commission in which he or she or his or her spouse, immediate family, partner or employer, other than the State, or the partner or employer of his or her spouse, has, directly or indirectly, a pecuniary interest.

(7) The Commission must hear appeals within 60 days of receipt of the notice of appeal and communicate decisions thereon to all relevant parties within the period determined by the MEC by regulation.

32. Appeal to Commission against act, direction or decision of Board

(1) Save as otherwise provided in this Act and subject to subsection (2), a person who—

- (a) has applied to the Board for the grant, amendment or transfer of a permit or whose permit has been withdrawn, varied or suspended by the Board;
- (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 concerned objecting to or supporting an application,

and is affected by an act, direction or decision of the Board, may, in the manner and within the time prescribed by regulation, after the said act was performed or the said direction or decision was given by the Board, appeal against the 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 be deemed to be the date on which that direction or decision was given.

(3) The Commission must receive and, subject to the provisions of this section 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 the Board's decision with 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 member thereof nominated by the chairperson may, in his or her discretion and without giving prior notice to or hearing any 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 by regulation within 42 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.

(6) This section shall apply only in respect of minibus taxi-type transport operating entirely within the area of jurisdiction of Gauteng.

33. Staff of Commission

The Head of Department must, subject to the laws governing the provincial public service, provide the staff necessary to assist the Commission in the performance of its functions.

34. Publication of reasons

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The Commission and Board must provide an interested party on request within 14 days with written reasons for a decision taken by them in terms of this Act.

35. Additional authority conveyed by a permit

A permit must, in addition to the transport expressly authorized by it, authorize also the conveyance of a person necessary in connection with the transport.

36. 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 to which the permit relates.

37. Duties of the holder of a permit

(1) The holder of a permit must—

- (a) carry the permit (or the written permission referred to in section 35) in the motor vehicle for which it was issued and produce it on demand to an authorized official;
- (b) protect and keep the permit in a condition that the 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) display the name, address and nature of business of the holder on the motor vehicle for which the permit was issued, in a conspicuous place, in the manner prescribed or in the other manner that the Board approves in writing in a particular case;
- (d) exhibit the other particulars as may be prescribed by the Board in its discretion;
- (e) affix and keep affixed in the manner prescribed by regulation, a distinguishing mark on all motor vehicles used in terms of the permit;
- (f) ensure that all drivers of motor vehicles operating in terms of the permit have the required drivers' licences or professional driving permits.

(2) A permit issued under this Act—

- (a) shall not authorize the holder to undertake transport on a public road in the area of jurisdiction of a municipality if it is unlawful under an ordinance, regulation or by-law in the area or as a result of action taken by the municipality in terms of an ordinance, regulation or by-law, to use a motor vehicle on the road or to undertake on that road transport for which the permit was issued;
- (b) shall not exempt the holder from the obligation to comply with a requirement under a law, licence or permit issued by another authority.

(3) Every holder of a permit must submit the permit to the relevant TPAB annually for registration in the manner prescribed on or before the date of expiry of the registration certificate in respect of the motor vehicle for which the permit was issued, subject to the existence of a valid certificate of fitness or roadworthy certificate as required by legislation, failing which the permit will lapse and must be submitted to the relevant TPAB forthwith for cancellation: provided that the permit may be suspended for a period not exceeding one year if the applicant can prove to the board that there are good reasons for doing so, which reasons may include but are not limited to—

- (a) illness or incapacity;
- (b) the fact that the motor vehicle is temporarily out of service due to theft thereof or an accident;
- (c) arrangements being made for transfer of the permit due to the death of the holder;

(d) financial hardship due to circumstances beyond the control of the permit holder;

(e) the fact that the holder is prevented from operating due to a conflict situation.

(4) Every holder who or whose spouse, partner, immediate family member, dependant, business partner or employer is appointed as an authorized official or as an official of the Public Service or provincial administration or of a municipal administration, must forthwith notify the Board of this fact in writing. A person who becomes aware of such a relationship must likewise notify the Board.

(5) The Board may revoke a permit where it discovers a relationship contemplated in subsection (4).

38. Withdrawal, suspension and variation of a permit for misconduct or where contract has been terminated or in case of an emergency

(1) Subject to the provisions of subsection (2) the Board may at any time withdraw or suspend a permit for the period it may deem fit—

(a) if the holder of the permit or an employee of the holder involved in the transport services authorized by the permit, has been convicted of an offence under this Act or under a law relating to motor vehicles or the regulation of traffic as prescribed by regulation; or

(b) if, in the opinion of the Board, the holder of the permit has not carried out faithfully the conditions of the permit, or

(c) if the holder is not or has ceased to be registered with the Registrar.

(2) The Board may not under subsection (1) withdraw or suspend a permit unless—

(a) at least twenty one days' written notice of its intention to do so, together with reasons therefor, has been given to the holder of the permit by registered or certified post;

(b) the holder has been given an opportunity, either personally or through his or her authorised representative, to appear before the Board and provide evidence or submit representations in regard to the proposed action, and

(c) relevant municipalities, forums, local taxi liaison committees and, where no forums or liaison committees exist, relevant taxi associations, have been given an opportunity to submit representations and make alternative arrangements.

(3) The Board may, in the case of an emergency or to combat unrest or conflict, temporarily suspend a permit for the period it deems appropriate, which shall not exceed seven days. In such a case the Board must give notice to the holders concerned, in the manner prescribed.

39. Withdrawal of unused permits

(1) Subject to subsections (2) and (3), where the minibus taxi-type transport authorized by a permit has not been undertaken for an uninterrupted period of thirty days, the holder must submit it to the relevant TPAB for cancellation.

(2) Where a holder proves to the relevant TPAB that the minibus taxi-type transport has not been undertaken for that period because of—

(a) illness or incapacity;

(b) the motor vehicle being temporarily out of service due to theft thereof or an accident;

(c) arrangements being made for transfer of the permit due to the death of the holder;

(d) financial hardship due to circumstances beyond the control of the permit holder;

(e) a situation of unrest,

the holder must be given a period not exceeding one year in which to resume the service, details of which must be endorsed on the permit.

(3) Where the executor or heirs of a deceased holder prove to the relevant TPAB that the holder is deceased, the permit shall remain valid for a period not exceeding one year to enable recommencement of the relevant services.

40. Withdrawal of surplus permits

Where the Board is satisfied that—

(a) a municipality has by virtue of the undertaking of appropriate planning

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determined that there is an oversupply of minibus taxi-type transport on a given route, routes or network;

- (b) the municipality has negotiated with the holder of a permit operating on the route, routes or networks, in consultation with the relevant forums, liaison committees and taxi associations, with a view to procuring the cancellation of excess permits by purchasing the right to the permit;
- (c) agreement has been reached with the holder in question in a fair and reasonable manner to compensate the holder for the loss of economic benefits attached to the permit, and that payment of the compensation has been made or secured,

the Board must withdraw the permit.

41. Submission of lapsed permits

A permit that has lapsed or been withdrawn or become invalid, together with the distinguishing mark that relates to the permit, must be returned by the holder thereof to the relevant TPAB within seven days after the permit has lapsed, been withdrawn or become invalid. Failure to do so will constitute an offence.

42. Regulations and guidelines

(1) The MEC may make regulations—

(a) with reference to—

- (i) the information to be submitted with an application for the grant, renewal, amendment or transfer of a permit;
- (ii) the procedure to be followed by a TPAB or the Board in dealing with the application;
- (iii) the information to be submitted with an appeal to the Commission against an act, direction or decision of the Board;
- (iv) the information to be supplied by the Board 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;
- (vi) the offences that the Board should take into account in considering permit applications under section 22;
- (vii) the numbering of routes and allocation thereof to particular associations or minibus taxi operators, and the form and issuing of distinguishing marks in that regard;
- (viii) regulating the undertaking of scholar transport by minibus taxi operators;
- (ix) regulating the provision of taxi training;
- (x) regarding conflict resolution and arbitration between associations or minibus taxi operators;
- (xi) providing for a system of grading minibus taxi operators.

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

- (i) an application for the grant, amendment or transfer of a permit, or
- (ii) an appeal to the Commission against an act, direction or decision of the Board;
- (iii) the issue by a TPAB of a permit, distinguishing mark or other document or a 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 or Commission be forfeited in whole or be refunded in whole or in part;

(c) any other matter that will promote the objects of this Act.

(2) The MEC may make guidelines regarding—

- (a) the provision of taxi training;
- (b) the transporting of scholars by minibus taxi operators;
- (c) any other matter that will promote the objects of this Act.

43. Requirements for providing information and statistics

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(1) The Department and all municipalities in the Province must provide one another or the MEC with the transport information and statistics as the MEC may require by regulation.

(2) The Department may request municipalities to supply transport information or statistics that it requires for planning purposes, whereupon the municipality must comply with the request within the prescribed time.

44. By-laws

(1) A metropolitan authority may in accordance with an applicable integrated transport plan—

- (a) regulate the size or number of minibus taxis that may enter a specified sector of its area of jurisdiction and determine the time or times when a minibus taxi may enter that sector;
- (b) regulate or prohibit the entry of a minibus taxi in a specified sector during a set period;
- (c) prohibit the picking up or setting down of passengers by minibus taxis in a specified sector during a set period, and determine the time or times when the picking up or setting down may take place.

(2) A municipality may make by-laws to further the objects of this Act that are not in conflict with this Act or regulations made thereunder, including, but not limited to—

- (a) the numbering of routes and allocation thereof to particular associations or minibus taxi operators, and the form and issuing of distinguishing marks in that regard;
- (b) the establishment and functioning of forums, local taxi liaison committees and similar bodies;
- (c) the allocation of facilities to particular minibus taxi operators or associations and the issuing of permits or licences to the operators or associations and the charging of fees in that regard;
- (d) the appointment and conduct of rank marshals;
- (e) the conduct of drivers of minibus taxis.

(3) A municipality may enter into agreements with private persons or institutions regarding the allocation or use of facilities for minibus taxi-type services situated on private property, in accordance with regulations or guidelines made by the MEC, if the allocation or use is in terms of a relevant integrated transport plan.

45. Powers of the MEC

Apart from the powers mentioned elsewhere in this Act, the MEC may—

- (a) finance research in connection with minibus taxi-type services;
- (b) finance demonstration or pilot projects in connection with minibus taxi-type services;
- (c) disseminate information in connection with minibus taxi transport by means of the press, radio, television or other media;
- (d) assist municipalities which do not have the necessary staff or capacity in the execution of the functions assigned to them under this Act;
- (e) assist in providing training for minibus taxi operators, drivers and administrators;
- (f) give guidance to associations or bodies of persons working towards the promotion of public passenger transport;
- (g) organise seminars and workshops in relation to minibus taxi-type services;
- (h) by regulation establish a demerit system for holders of permits authorizing minibus taxi-type services based on points to be recorded in respect of offences committed by the holders or employees or agents of the holders. The regulations may provide for the withdrawal or suspension of permits;
- (i) amend or withdraw a notice published under a preceding paragraph of this section, and
- (j) take other steps that may be necessary to achieve the objects of this Act.

46. Offences and prohibitions

A person who—

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- (a) undertakes minibus taxi-type transport except under the authority of a permit authorizing the transport; or
 - (b) being the holder of a permit, undertakes minibus taxi-type transport otherwise than in accordance with the provisions of the permit, or fails to comply with a condition of a permit; or
 - (c) being the holder of a permit, makes it available to another person to undertake minibus taxi-type transport not authorized by the permit or by this Act;
 - (d) with intent to deceive, makes a document 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 document; or
 - (e) knowing that a document 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 paragraph (d), utters the writing, permit or other document or uses it for the purposes of this Act; or
 - (f) except as allowed by 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 vehicle or person referred to or named in the permit or distinguishing mark; or
 - (g) not being an authorized official, by words, conduct or demeanour pretends to be an authorized official; or
 - (h) wilfully obstructs or hinders or interferes with an authorized official in the exercise of his or her powers or the performance of his or her duties; or
 - (i) without sufficient reason (the onus of proof whereof shall be upon him or her) fails or refuses to appear before the Commission or Board or member thereof after having been required to do so in terms of this Act, or 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 so required to produce; or
 - (j) makes a false statement in connection with an application, appeal, inquiry or investigation under this Act, whether orally or in writing, knowing it to be false; or
 - (k) obtains a permit from the Board knowing that a permit has already been issued to some other person in respect of the motor vehicle concerned; or
 - (l) displays a distinguishing mark on a motor vehicle used for minibus taxi services, which has not been lawfully issued under this Act or any other law, or fails to display a distinguishing mark when one has been issued under this Act; or
 - (m) fails to return a distinguishing mark to the Board or destroy it upon demand being made for its return or destruction by the Board or Department;
 - (n) contravenes another provision of this Act,
- shall be guilty of an offence.

47. Act or omission of manager, agent or employee of holder

(1) 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 a 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 condition 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 be deemed him- or herself to have done or omitted to do that act 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 such holder.

48. Penalties

A person convicted of an offence under this Act shall be liable on conviction to imprisonment for a period not exceeding three years or to a fine not exceeding R20 000, or to both a fine and imprisonment.

49. Special measures

(1) The MEC may declare an area, which may be the entire Province, by notice in the *Provincial Gazette* in which the special measures provided for in this section will apply, where he or she is of the opinion that this is necessary to normalize a situation in the area caused by violence, unrest or instability in the taxi industry, or in the interests of passengers.

(2) The Department may issue a distinguishing mark to any member of an association that has been conditionally registered under section 5(3) in the manner prescribed, and the member must affix that mark and keep it affixed in the manner prescribed on all motor vehicles concerned. Such a distinguishing mark shall not exempt the member from the obligation to obtain the requisite permit and must be handed back to the Department or destroyed within twenty-four hours of demand being made for its return or destruction.

(3) In an area declared under subsection (1), an authorized official who is reasonably satisfied that a motor vehicle is being used for unauthorized minibuss taxi-type transport, may impound the vehicle for a period not exceeding fourteen days unless the operator concerned proves to the satisfaction of the Department that he, she or it was not undertaking unauthorized road transportation or that he, she or it qualifies for conditional registration in terms of section 5(3).

(4) A vehicle impounded under subsection (3) may not be released until the Department is satisfied that the operator concerned has obtained the requisite permit to operate on the route concerned, or has obtained conditional registration under section 5(3), or that the situation in the area concerned has normalised in terms of a cessation of violence and lawlessness, and, in addition, an administration fee of R500 has been paid to the Department, which fees shall be used to defray the costs of establishing and maintaining the relevant pound or pounds and the balance, if any, shall be paid into the Provincial Revenue Fund.

(5) If a vehicle impounded under subsection (3) is again apprehended for undertaking unauthorized road transportation in the area, it may be impounded again, in which case subsections (3) and (4) above shall apply *mutatis mutandis*, except that the administration fee referred to in subsection (4) shall be R1 000 for the second impoundment and shall be doubled for each subsequent impoundment.

(6) Impoundment of a vehicle under this section shall not exempt the operator, owner or driver thereof from being prosecuted for an offence under this Act or a law relating to the regulation and control of road traffic.

(7) The MEC may make regulations providing that one or more routes or ranks shall be closed to the operation of minibuss taxi services in an area declared under subsection (1) for a period stated in the notice, and that no person may undertake the services on the route or routes or in the rank or ranks during the period. The regulations may provide that the contravention thereof will constitute an offence and prescribe penalties in respect thereof.

(8) Regulations under subsection (7) may provide for the issuing of temporary permits to operators of motor vehicles with a carrying capacity of more than sixteen persons, including the driver, to operate the closed routes for the period of their closure.

50. Effect of multiple convictions for certain offences

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

- (a) by notice in writing sent by registered or certified post, withdraw a permit held by that person or suspend any permit held by that person for the period that it may deem appropriate; and
- (b) during the period that 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.

(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 of the commission of the offence in question.

51. 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 of any person in addition to the driver of the vehicle, shall be presumed thereby to have undertaken minibus taxi-type transport, unless the contrary is proved;
- (b) if it is proved that a person was conveyed in contravention of this Act by means of a particular motor vehicle, the owner of the vehicle shall be presumed to have so conveyed the person, unless it is proved that he or she was not the driver of the vehicle at the time of the conveyance and did not authorize or permit the use of the vehicle for the conveyance;
- (c) a person in whose possession any 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 this Act is found, shall be presumed to have made the writing 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 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 the permit, as the case may be, and that every statement contained therein is correct.

(3) A document that states that a motor vehicle is lawfully 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 at the place where the vehicle is registered, shall be admissible in evidence and be *prima facie* proof of the correctness of the statements contained therein in a prosecution for an offence under this Act.

52. Registration of approved permit consultants

(1) No one shall practice as a permit consultant unless he or she has been registered in terms of this section, in the manner prescribed by regulation.

(2) In order to be registered, a permit consultant must have the qualifications and experience as prescribed by regulation, and accept and sign the Code of Conduct likewise prescribed.

(3) Practising advocates and attorneys shall be exempted from the requirements of this section.

(4) A person who practises as a permit consultant without being registered in terms of this section shall be guilty of an offence.

(5) Regulations made in terms of this section may provide for suspension or deregistration of a permit consultant who has been found guilty of prescribed offences.

53. Jurisdiction

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

54. Limitation of liability

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

55. Finance

All money received by the Board under this Act must be paid into the Provincial Urban Transport Fund established by the Urban Transport Act, 1977 (Act No. 78 of

1977) or into the provincial Land Transport Fund as its successor, and all expenditure incurred in the administration of this Act shall be defrayed from money appropriated by the MEC out of those Funds: provided that an expenditure incurred in connection with the performance of the functions of an authorized official must be defrayed by the employer of the officer.

56. Relation of Act to other laws

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

57. Inspectors

Inspectors appointed under the Road Transportation Act, 1977 (Act No. 74 of 1977) shall have the powers and functions allocated to them by that Act in respect of minibus taxi-type services.

58. Repeal and transitional provisions

(1) The provisions of the Road Transportation Act, 1977 (Act No. 74 of 1977) and all regulations made thereunder shall apply to minibus taxi-type services in the Province after the date of commencement of this Act, except insofar as amended or repealed by this Act or regulations made thereunder, either directly or indirectly.

(2) Subject to the provisions of this Act, a permit issued under the Road Transportation Act, 1977 (Act No. 74 of 1977) shall be deemed to be a permit issued under the corresponding provisions of this Act and shall be valid for the period of issue thereof.

(3) The Gauteng Road Transportation Amendment Act, 1997 (Act No. 6 of 1997) is hereby repealed.

59. Short title and commencement

(1) This Act shall be called Gauteng Interim Minibus Taxi-Type Services Act, 1997, and shall come into operation on a date to be fixed by the Premier by proclamation in the *Provincial Gazette*.

(2) Different provisions of this Act may be brought into effect on different dates, or in respect of different areas.

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

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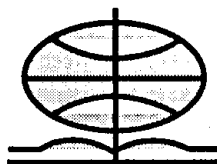
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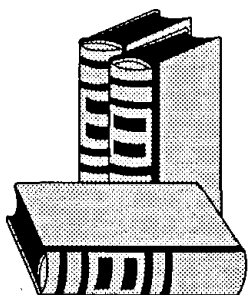
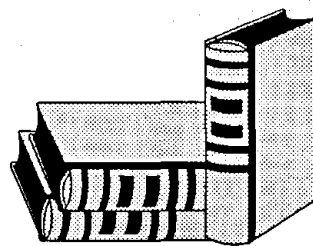
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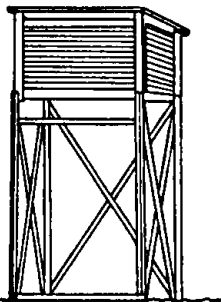
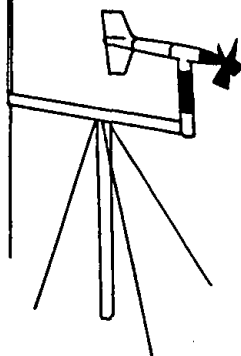
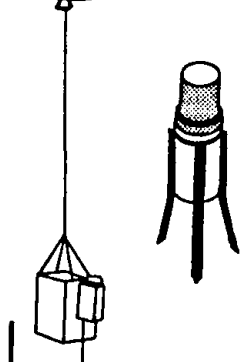
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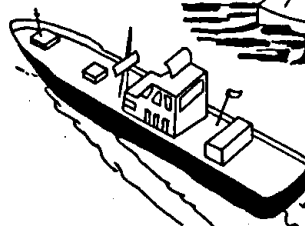
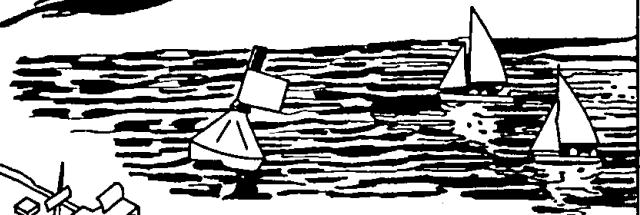
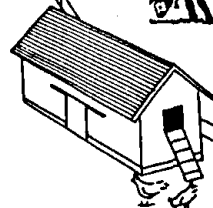
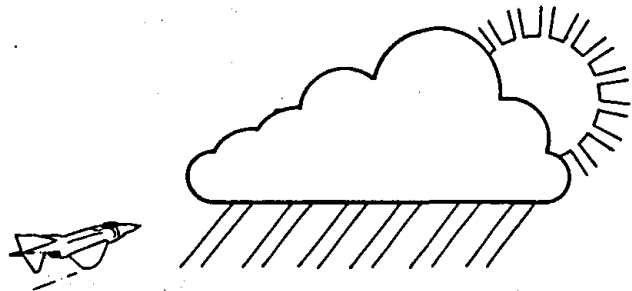
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