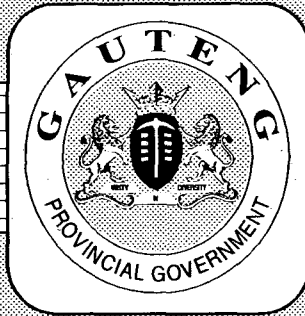


**THE PROVINCE OF
GAUTENG**



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Provincial Gazette Extraordinary Buitengewone Provinsiale Koerant

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Other countries • Buitelands: **R3,25**

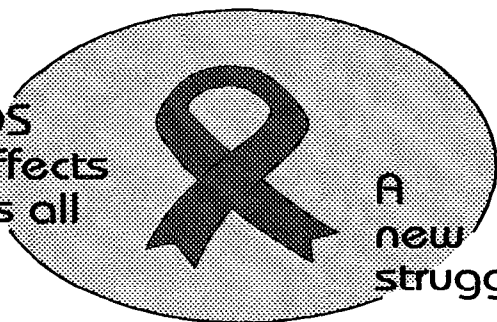
Vol. 6

PRETORIA, 17 OCTOBER 2000
OKTOBER

No. 159

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

**AIDS
HELPUNE**

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DEPARTMENT OF HEALTH

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GENERAL NOTICE

NOTICE 7075 OF 2000

GAUTENG PUBLIC PASSENGER ROAD TRANSPORT BILL

The proposed Gauteng Public Passenger Road Transport Bill, 2000, is hereby published for general information and comment. Any person or organisation wishing to comment on the Bill may lodge written comments within 30 days of date of publication hereof by faxing or posting them, or handing them in, at the following addresses/numbers:

The Office of the Head of Department
Department of Transport and Public Works, Gauteng
11 th Floor, North Tower
Sage Life Towers
41 Simmonds Street
JOHANNESBURG

Postal address: Private Bag X83, MARSHALLTOWN, 2107

Fax no. (011) 355 7163

Contact person: Mr E Kgamedi

Tel no. (011) 355 7155 or 082 602 1903

BILL

To change the law governing public passenger road transport in Gauteng, and for that purpose—

To provide for a public passenger road transport system as part of an integrated system of land transport for Gauteng, compatible with the national land transport system and the land transport systems of the other provinces;

To provide for the planning of public passenger road transport operations and infrastructure integrated with land use planning;

To provide for the regulation and control of public passenger road transport by provincial and local government;

To establish institutional structures to achieve these objectives;

To repeal the Gauteng Interim Road Transport Act, 1998 (Act No. 2 of 1998) and the Gauteng Interim Minibus Taxi-Type Services Act, 1997 (Act No. 11 of 1997);

To bring provincial public passenger road transport legislation into line with Chapter 2 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000) and to replace Chapter 3 of that Act as regards provincial public passenger road transport matters; and

To provide for matters connected therewith.

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

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PART 1: INTRODUCTORY PROVISIONS

1. Purpose of this Act

- (1) The purpose of this Act is to promote and provide for an effective public passenger road transport system for Gauteng. This can be achieved by fulfilling the primary objects of the Act, which are—
- (a) to implement provincial and national government policy relating to public passenger road transport services and facilities;
 - (b) to integrate and co-ordinate public passenger transport modes and transport planning with land use and development planning to improve mobility through an efficient public passenger road transport system;
 - (c) to control and regulate public passenger road transport services through issuing operating licences to operators of those services, and excluding persons without valid and specific operating licences from operating public passenger road transport services;
 - (d) to permit motor vehicles to be used for public passenger road transport services only in relation to the types of services offered;
 - (e) to provide for the registration of operators providing public passenger road transport services and associations of those operators;
 - (f) to promote the safety and interests of passengers using public passenger road transport services;
 - (g) to establish institutional structures to support the objectives of this Act;
 - (h) to promote effective and efficient enforcement of laws relating to public passenger road transport, including road traffic and road safety laws;
 - (i) to promote professional operating practices by the operators of public passenger road transport services;
 - (j) to promote the co-ordinated provision of adequate and accessible public passenger transport infrastructure (excluding roads);
 - (k) to promote a "user pays" system, except where subsidies are needed to enable affordable transport and effective land use, provide for the transport needs of special categories of passengers or other sound policy reasons, and to ensure that services are subsidised only in those circumstances;
 - (l) to provide for competitive tendering for subsidised public passenger road transport services;
 - (m) to provide for effective and integrated data bases and management information systems for public passenger road transport operations;
 - (n) to provide for a demerit system for operators of public passenger road transport services;
 - (o) to promote small, medium and micro enterprises and operators previously disadvantaged by unfair discrimination.
- (2) This Act is designed to be a replacing provincial law for the Province as contemplated in section 3(b)(i) of the National Act with regard to all matters dealt with in this Act, and will thus replace Chapter 3 of the National Act with regard to such matters.

2. Definitions

In this Act, unless the context indicates otherwise—

"adapted light delivery vehicle" means a light delivery vehicle where the vehicle and any of its conversion components have been manufactured or adapted for the conveyance of persons by a registered manufacturer according to prescribed standards and has been approved by the Board for that purpose;

"ad hoc authorization" means an authorization to undertake public passenger road transport services on an ad hoc basis as provided for in section 52;

"ambulance" means a motor vehicle specially constructed or adapted for the purpose of conveying sick or injured persons to or from a place for medical treatment and which is registered as an ambulance in terms of relevant road traffic legislation;

"Appeal Board" means the Gauteng Public Passenger Appeal Board contemplated in section 54;

"association" means a grouping of persons operating public passenger road transport services and—

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

"authorized officer" means—

- (a) an inspector;
- (b) a member of the South African Police Service, including a member of a municipal police service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995);
- (c) a person in the service of the Department or a municipality, whose duty is to inspect motor vehicles or licences for motor vehicles or to control traffic;
- (d) a road transport inspector contemplated in section 39 of the Cross Border Road Transport Act, 1998 (Act No. 4 of 1998);

"Board" means the Gauteng Transport Operating Licence Board established by section 29;

"bus-train" means a motor vehicle which—

- (a) consists of two sections connected to form a unit;
- (b) can swivel in a horizontal plane at the connection between such sections;
- (c) has a continuous passageway over its length;
- (d) is designed or adapted solely or principally with a capacity of 93 to 110 passengers;

"bus-type service" means a scheduled public passenger road transport service for more than eight passengers, operating on specified routes or networks according to published tariffs which must be approved in the case of services subsidised by government, as contemplated in section 10;

"capacity" means the lawful number of passengers that may be conveyed by a vehicle, excluding the driver, as indicated on a roadworthy certificate or certificate of fitness issued in respect of the vehicle;

"charter service" means a public passenger road transport service involving the hire of a

vehicle and a driver for a journey at a charge arranged beforehand with the operator, where—

- (a) neither the operator nor the driver charges the passengers individual fares;
- (b) the person hiring the service has the right to decide the route, date and time of travel; and
- (c) the passengers are conveyed to a common destination;

"coach" means a luxuriously appointed motor vehicle with air conditioning facilities, a public address system and other attributes that may be prescribed by regulation or by the Board;

"coach-type service" means a scheduled public passenger road transport service undertaken using a coach operating on pre-determined routes and set tariffs as contemplated in section 16;

"contract" means a subsidized service contract, unsubsidised service contract, current tendered contract or interim contract;

"contracting authority" means—

- (a) the National Department of Transport;
- (b) the Department;
- (c) a transport authority;
- (d) a municipality or core city,

bound to a contract or concession agreement concluded with an operator;

"core city" means a municipality designated under section 4 of the Urban Transport Act, 1977 (Act No. 78 of 1977), as the core city of a metropolitan transport authority, and includes any municipality which, after the commencement of this Act, is so designated;

"courtesy service" means a transport service for customers or clients provided by an organisation which is not an operator where the organisation provides its own vehicle or a vehicle provided by an operator in terms of a contract with that organisation;

"cross-border road transport" means international cross-border transport as defined in the Cross Border Road Transport Act, 1998 (Act No. 4 of 1998);

"current tendered contract" means a contract concluded before the commencement of the National Act for the operation of a public passenger road transport service between the National Department of Transport and the Province on the one hand and an operator on the other hand to whom the tender for the provision of a service was awarded by the State Tender Board or the Gauteng Tender Board established in terms of the Gauteng Tender Board Act, 1994 (Act No. 2 of 1994) in accordance with law, and which is still binding between them, the term of which expires only after the commencement of this Act, and includes a contract which is binding between the—

- (a) operator and the Province due to such National Department assigning its rights and obligations to the Province irrespective of whether the assignment occurred before or after the commencement of the National Act ; or
- (b) operator and a transport authority, municipality or core city to which the Province, after the commencement of the National Act—
 - (i) may have assigned its rights and obligations; or

- (ii) as the case may be, may have further assigned the rights and obligations assigned to it by the National Department in terms of paragraph (a);

"Department" means the Department of Transport and Public Works of the Gauteng Provincial Government;

"double decker bus" means a motor vehicle with two decks with a capacity of not more than 95 passengers;

"education service" means a public passenger road transport service restricted to the scheduled conveyance of learners, students, pre-school children, and supervisors between their places of residence and education and on unscheduled trips from and to their educational institution, that are concerned exclusively with education-related activities, as contemplated in section 11;

"holder" means the holder of a valid permit or operating licence;

"inspector" means an inspector designated under section 96;

"integrated transport plan" means an integrated transport plan contemplated in section 27 of the National Act;

"interim contract" means a contract, not being a current tendered contract, for the operation of a subsidised scheduled service the term of which expires after the commencement of the National Act, and which—

- (a) was concluded before that date between the Province and the National Department of Transport on the one hand and the operator who is to operate that service on the other hand, and is still binding between them or only binding between the Province and that operator; or
- (b) is binding between that operator and any transport authority, core city or municipality due to the assignment to it, after the commencement of this Act, of the rights and obligations of the Province under the contract contemplated in paragraph (a);

"interprovincial transport" means a public passenger road transport service operating between two or more provinces;

"intraprovincial transport" means a public passenger road transport service operated within the boundaries of a province;

"limousine" means a luxuriously appointed motor vehicle with a capacity of four to eight passengers that is approved by the Board as a limousine;

"long distance service" means a scheduled or unscheduled public passenger road transport service other than a service for commuting, that is provided beyond the boundary of the area covered by a transport plan, where passengers are charged fares individually;

"metered-taxi service" means a public passenger road transport service operated by means of a motor vehicle which is designed, or lawfully adapted in compliance with the National

Road Traffic Act, 1996 (Act No. 93 of 1996), to carry fewer than nine seated persons, including the driver, where that vehicle—

- (a) is available for hire by hailing, by telephone or otherwise;
- (b) may stand for hire at a rank; and
- (c) is equipped with a sealed meter, in good working order, for the purpose of determining the fare payable;

"metropolitan authority" means and includes a metropolitan municipality or district municipality, as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"midibus" means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1989 (Act No. 29 of 1989), to carry from 19 to 35 seated persons, excluding the driver;

"minibus" means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act No. 93 of 1996), to carry from nine to 18 seated persons, excluding the driver;

"minibus taxi-type service" means an unscheduled public passenger road transport service operated on a specific route or routes, or where applicable, within a particular area, by means of a motor-car, minibus or midibus;

"motor car" means a motor vehicle, other than a motor cycle, motor tricycle or motor quadrucycle as those vehicles are defined in the National Road Traffic Act, 1996, (Act No. 93 of 1996), designed or lawfully adapted by a registered manufacturer to carry not more than eight persons, excluding the driver;

"motor vehicle" and **"vehicle"** means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"municipality" includes all municipalities contemplated in section 155(6) of the Constitution, and in the case of a category C municipality contemplated in section 155(1)(c) thereof, also includes the Category B municipalities contemplated in section 155(1)(b) in its area;

"National Act" means the National Land Transport Transition Act, 2000 (Act No. 22 of 2000);

"non-contracted service" means a public passenger road transport service other than one operated in terms of a commercial service contract, subsidised service contract, current tendered contract, interim contract or concession agreement;

"open double decker bus" means a double decker bus specially adapted for tourist or charter services;

"operating licence" means a public transport operating licence required by section 33 of the National Act and granted and issued in accordance with Part 6;

"operator" means a public transport operator as defined in the National Act, being a

person carrying on the business of operating a public passenger road transport service;

"organ of state" means an organ of state as defined in section 239 of the Constitution;

"permit" means a public road carrier permit or similar authority issued under a previous law, as defined in the National Act, and which is in force at the commencement of this Act in terms of section 78 of the National Act;

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

"Province" means the Province of Gauteng;

"Provincial Public Passenger Transport Forum" means the Provincial Public Passenger Transport Forum established by section 85;

"public passenger road transport", subject to section 4, means a service for the carriage of passengers by road, whether the service is subject to a contract or not, and where the service is provided for a fare or other consideration or reward, including any service that is—

- (a) a tuk-tuk service;
- (b) a metered taxi service;
- (c) a minibus taxi-type service;
- (d) a bus-type service;
- (e) an education service;
- (f) a tourist service;
- (g) a charter service;
- (h) a staff service;
- (i) a courtesy service;
- (j) a coach-type scheduled service;
- (k) a shuttle service;

"registered manufacturer" means a manufacturer of motor vehicles registered under section 5 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"Registrar" means the Gauteng Transport Registrar appointed under section 59;

"scheduled service" means a public passenger road transport service operated on a particular route or routes in accordance with a timetable;

"services" means public passenger road transport services;

"shuttle service" means a public passenger road transport service provided in a limited area or on fixed routes which may be scheduled on demand or unscheduled, as contemplated in section 17;

"staff service" means a public passenger road transport service provided by means of a vehicle owned by an employer or a vehicle provided by an operator in terms of a contract with the employer, when used exclusively for the conveyance of the employer's employees;

"standard bus" means a motor vehicle with a capacity of 36 to 70 passengers;

"this Act" includes regulations made thereunder;

"tourist service" means a public passenger road transport service for the carriage of tourists to or from tourist attractions, where the tourists are accompanied by a tour guide registered under section 21 of the Tourism Act, 1993 (Act No. 72 of 1993);

"transport operating licence administrative body" means a transport operating licence administrative body contemplated in section 34;

"transport authority" means an authority contemplated in section 10(1) of the National Act;

"transport plan" means a plan provided for in section 19 of the National Act;

"tuk-tuk" means a three-wheeled motor vehicle with a capacity of less than five passengers;

"tuk-tuk service" means an unscheduled public passenger road transport service for not more than three passengers, operating on prescribed urban routes or networks within confined areas, at speeds less than 45 kilometres per hour as contemplated in section 7;

"unauthorized public passenger road transport" means public passenger road transport not authorized by an operating licence or permit and includes such transport undertaken by the holder of an operating licence or permit otherwise than in accordance with the provisions of the operating licence or permit;

"unscheduled service" means a public passenger road transport service operated on a particular route or routes, or, where applicable, within a particular area, without a time table, where passengers are charged fares individually.

"unsubsidised service contract" means a commercial service contract as contemplated in the National Act, being an agreement concluded between a contracting authority and an operator, in terms of which the—

- (a) operator is to operate a public passenger road transport service, provided for in a transport plan;
- (b) operator's consideration consists of fares payable by the passengers that are carried and, where passengers pay concessionary fares, also of the reimbursement made by the contracting authority to that operator; and
- (c) operator does not receive any subsidy or other financial support from any organ in any sphere of government and for the purposes of this paragraph, reimbursements made to the operator in respect of concessionary fares will not be regarded as a subsidy or other form of financial support.

PART 2: PUBLIC PASSENGER ROAD TRANSPORT SERVICES

3. Principles for specifying public passenger road transport services in transport plans

- (1) Strategies must be promoted to achieve integration of modes, transport that is

- accessible for persons with disabilities, transformation and development of small business enterprises and persons previously disadvantaged by unfair discrimination.
- (2) Each transport authority, core city and municipality must determine and specify the public passenger road transport services that will be provided in its transport plans in terms of—
 - (a) subsidised service contracts for scheduled services;
 - (b) unsubsidised service contracts for—
 - (i) scheduled services;
 - (ii) unscheduled services;
 - (iii) area services;
 - (c) non-contracted services for—
 - (i) scheduled services;
 - (ii) unscheduled services;
 - (iii) area services;
 operating without subsidy.
 - (3) No person may undertake a public passenger road transport service except under the authority of the necessary operating licence or permit required by this Act and unless that person is registered under this Act.
 - (4) No association may be the holder of an operating licence or permit.
 - (5) No more than one operating licence may be issued for any motor vehicle.

4. Exemptions

For the purposes of this Act, the definition of "public passenger road transport" shall be deemed to exclude the following—

- (a) the conveyance by means of an ambulance of a patient to or from a place where he or she is to receive medical treatment;
- (b) the conveyance of persons by a motor car as part of a lift club, being a club of which every member has a turn to convey or cause to be conveyed the other members or persons designated by those other members to or from a specified place for a specified purpose, where no direct or indirect payment is made for the conveyance.

5. Provisions relating to drivers and vehicles

- (1) The MEC may prescribe codes of conduct for drivers of vehicles used for the various types of public passenger road transport services and such drivers must at all times while those services are undertaken—
 - (a) be clean and neatly dressed;
 - (b) not smoke;
 - (c) have a good knowledge of the area in which the services are operated.
- (2) Subsection (1) shall not apply to staff services in cases that are clearly inappropriate.
- (3) The MEC may impose requirements that drivers of vehicles used for public passenger road transport services must attend training courses, for example to familiarise them with the areas in which the services are operated and the features and attractions of those areas, or for other purposes, and may provide in the requirements that drivers may not drive such vehicles unless they attend the courses or impose other sanctions in that regard.
- (4) The Board must approve the type and condition of vehicles to be used for particular

public passenger road transport services, and the Board or an authorised officer may require an applicant for an operating licence to resubmit a vehicle for retesting where it suspects that the vehicle is not roadworthy, notwithstanding that a valid certificate of fitness or roadworthy certificate has been issued in respect of the vehicle. The Board may refuse to issue an operating licence if a vehicle is, in its opinion, not roadworthy

- (5) Vehicles used for public passenger road transport services must be clean when they leave a depot, both inside and out, in accordance with prescribed guidelines, if any, or, in the case of a contract, guidelines stipulated in the contract.
- (6) In addition to the requirements of the National Road Traffic Act, 1996 (Act No. 93 of 1996), vehicles used for public passenger road transport services and the seats in those vehicles must be kept in a good condition.
- (7) Each vehicle used for public passenger road transport services must be equipped with at least one fire extinguisher in working condition and a first aid box containing the articles as prescribed. The fire extinguisher and first aid box must be placed or fixed in the prescribed manner and place on the vehicle, and fire extinguishers must be replaced at prescribed intervals.

6. Categories of services

- (1) Operating licences for public passenger road transport services are issued in respect of the following services:
 - (a) a tuk-tuk service contemplated in section 7;
 - (b) a metered taxi service contemplated in section 8;
 - (c) a minibus taxi-type service contemplated in section 9;
 - (d) a bus-type service contemplated in section 10;
 - (e) an education service contemplated in section 11;
 - (f) a tourist service contemplated in section 12;
 - (g) a charter service contemplated in section 13;
 - (h) a staff service contemplated in section 14;
 - (i) a courtesy service contemplated in section 15;
 - (j) a coach-type scheduled service contemplated in section 16;
 - (k) a shuttle service contemplated in section 17.
- (2) The MEC may add services to, alter or remove services from the list provided in subsection (1) by notice in the *Gazette* after consultation with the Provincial Transport Forum.
- (3) The categories of service listed in subsection (1) in relation to the principles referred to in section 3 for the future are shown in Schedule B, and those for the transitional period are shown in Schedule C.

7. Tuk-tuk services

- (1) A tuk-tuk service may not carry more than three passengers.
- (2) A tuk-tuk service may be provided only by a tuk-tuk vehicle, where the Board prescribes in the relevant operating licence—
 - (a) an urban route or road network on which and area within which it may operate;
 - (b) a maximum speed of operation of 45 kilometres per hour.

8. Metered taxi services

- (1) A metered taxi service may be provided only by a motor car or minibus, provided that—
 - (a) the vehicle must be equipped with a sealed meter in good working order that complies with prescribed requirements, to measure the cost of the trip;
 - (b) in the case of a minibus, the type and capacity of the vehicle has been approved by the Board after consultation with the metered taxi associations operating in the area;
 - (c) the Board must prescribe the maximum number of passengers that may be carried, which must be less than nine, and which may be less than the capacity of the vehicle;
 - (d) the Board may prescribe defined areas for picking-up passengers;
 - (e) where more than four persons are carried, the vehicle must have a shared meter facility;
 - (f) the vehicle must be marked in the prescribed manner.
- (2) The Board may determine minimum or maximum fares for metered taxi service which must be published in the *Provincial Gazette*.
- (3) The MEC may prescribe a grading system for metered taxi services and determine special markings to be displayed by the various grades of metered taxis. Where such a determination is made, it must be stated in the relevant operating licence.
- (4) Metered taxis may leave their defined areas of operation if, on the return journey, they carry the same passengers as on the outward journey or the taxi returns empty or if they are required to do so in terms of a contract approved by the Board.
- (5) Notwithstanding subsection (1), a metered taxi may be operated at a fare not determined by the meter if the fare for the particular journey is agreed before the journey begins.

9. Minibus taxi-type services

- (1) Minibus taxi-type services may be provided only by motor cars, minibuses, midibuses or adapted light delivery vehicles.
- (2) The operating licence granted for a minibus taxi-type service must stipulate that the service is route or network based, except in the exceptional cases allowed by this Act.
- (3) Minibus taxi-type services are non-scheduled public passenger road transport services for not more than 35 passengers that are not subject to restrictions in respect of fares and time tables.

10. Bus-type services

- (1) Bus-type services may be provided only by minibuses, midibuses, standard buses, semi-trailers, double decker buses or bus-trains.
- (2) In the case of a double decker bus or bus-train the Board must restrict the service in the operating licence to specified areas or road networks.
- (3) Bus-type services must be scheduled services operating on specified routes or networks according to published tariffs which, in the case of subsidised services, must be approved by the authority paying the subsidy.

11. Education services

- (1) Education services must be scheduled for the conveyance of learners, students, pre-school children, and supervisors between their places of residence and education, but may include unscheduled trips from and to the educational institution in question if these are concerned exclusively with education-related activities.
- (2) Education services may be provided by motor cars, minibuses, midibuses, standard buses, double decker buses, bus trains or adapted light delivery vehicles.
- (3) Before considering an application for the granting, renewal, amendment or transfer of an operating licence for education services, the Board must submit the application to the relevant school or other educational institution for comments and recommendations, and must consider any such comments and recommendation that are received.

12. Tourist services

- (1) Tourist services must be pre-booked services catering for leisure travel.
- (2) No operating licence authorising tourist services may be granted unless the Board has obtained and considered recommendations from the Gauteng Tourism Authority (GTA) established in terms of the Gauteng Tourism Act, 1998 (Act No. 18 of 1998), provided that the Board may proceed without such recommendations where the GTA has not supplied them in the time specified in the Board's request.
- (3) In granting an operating licence for tourist services the Board may impose conditions that the vehicle must be equipped with a sound system, air conditioning, kitchen equipment or other equipment determined by the Board, or a toilet where sections of journeys will exceed 200 kilometres, or other conditions.
- (4) The Board may prescribe a maximum number of passengers that may be carried by a vehicle used for tourist services, notwithstanding that the capacity of the vehicle is greater.
- (5) Where appropriate, the Board may prescribe defined areas or routes for the operation of a tourist service.
- (6) The driver of a vehicle used for tourist services must at all times while such services are undertaken comply with requirements imposed by tourism legislation and the GTA.
- (7) Tourist services may not be provided by tuk-tuks or bus trains.
- (8) Adapted light delivery vehicles may not be used for tourist services except adventure tours.

13. Charter services

- (1) Charter services are unscheduled services and may only be provided where passengers are conveyed to a common destination where the destination, date and time of departure are pre-determined by the person or organisation booking the trip.
- (2) Charter services may not be provided by tuk-tuks.
- (3) Adapted light delivery vehicles may not be used for charter services except adventure tours.
- (4) An operating licence for a charter service may only be granted to the holder of an operating licence authorising another type of public passenger road transport service.

14. Staff services

- (1) Staff services are provided by an employer free of direct charges to the relevant employees for conveying them between their places of residence and work, or for work-related trips.
- (2) Staff services may be provided using vehicles approved by the Board, but excluding a tuk-tuk, provided that the operating licence granted for the staff service stipulates that the service is route or network based or area bound.

15. Courtesy services

- (1) Courtesy services are provided by an organisation using its own vehicle, complementary to the broader service to its customers, with no direct charge to the passengers for the transport service.
- (2) Courtesy services may not be provided by a double decker bus or a bus train, and may only be provided by an organisation using a vehicle that it owns, complementary to the broader service to its customers, with no direct charge to the passengers for the transport service.

16. Coach-type services

- (1) A coach-type service may be provided only by means of a coach provided that—
 - (a) seats must be provided for all passengers;
 - (b) the vehicle is equipped with a toilet where passengers will be conveyed for sections of journeys exceeding 200 kilometres;
 - (c) the service operates on a scheduled basis on pre-determined routes with tariffs set by the Board.
- (2) The Board may prescribe additional attributes for coaches.

17. Shuttle services

- (1) A shuttle service may be provided only by means of a limousine, motor car, minibus, midibus, standard bus, double decker bus or coach.
- (2) The Board may prescribe a maximum number of passengers that may be carried by a vehicle used for a shuttle service, notwithstanding that the capacity of the vehicle is greater.
- (3) The Board must prescribe for a shuttle service—
 - (a) a limited area or fixed routes for the operation of a shuttle service, and
 - (b) whether the service is unscheduled on demand or a scheduled service.
- (4) In granting an operating licence for a shuttle service the Board may impose conditions that the vehicle must be equipped with air conditioning or other equipment determined by the Board.

18. Categories of vehicles

- (1) The following types of motor vehicles may be used for public passenger road transport services, only to the extent and in the manner indicated in Schedule A or as otherwise provided in sections 7 to 17:
 - (a) tuk-tuks;
 - (b) limousines;

- (c) motor cars;
 - (d) minibuses;
 - (e) midibuses;
 - (f) standard buses;
 - (g) double decker buses;
 - (h) bus-trains;
 - (i) adapted light delivery vehicles;
 - (j) semi-trailers;
 - (k) coaches.
- (2) The MEC may add vehicles to, alter or remove vehicles from the list provided in subsection (1) by notice in the *Provincial Gazette*, after consultation with the Provincial Transport Forum.
- (3) The categories of motor vehicles in relation to types of services are shown in Schedule A.
- (4) A light delivery vehicle may be used for public passenger road transport services only if it is an adapted light delivery vehicle.

PART 3: POWERS AND DUTIES OF THE MEC AND MUNICIPALITIES

19. Powers of the MEC

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

- (a) finance research in connection with public passenger road transport services;
- (b) finance demonstration or pilot projects in connection with such services;
- (c) disseminate information in connection with such services 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) finance training for operators, drivers and administrators of such services;
- (f) give guidance to associations or bodies of persons working towards the promotion of public passenger transport;
- (g) conclude agreements with other provinces regarding the interprovincial movement of vehicles used for public passenger road transport services and related matters;
- (h) conclude agreements and make arrangements with the Gauteng Tourism Authority established by section 3 of the Gauteng Tourism Act, 1998 (Act No. 18 of 1998).

20. Duties of the MEC

The MEC must—

- (a) monitor the implementation of provincial public passenger transport policy, conduct investigations into issues arising from the implementation of the policy and make necessary policy adjustments;
- (b) promote and facilitate the increased utilisation of public passenger road transport in the Province;
- (c) take the necessary steps to promote co-ordination between transport authorities and other planning authorities in the province, or between such authorities and the Province, with a view to avoiding duplication of effort;
- (d) encourage efficient and commercial conduct on the part of operators in their

- provision of public passenger road transport services, and encourage competitive tendering for contracts and concessions;
- (e) where this Act requires public consultation and participation before taking any decision or performing any official act, prescribe the procedures to be followed in this regard;
 - (f) strive to ensure that funding provided by the Province and transport authorities for public passenger road transport is applied in an efficient, cost effective, equitable and transparent way;
 - (g) promote the development of passenger transport in a way that—
 - (i) takes into account national and international benchmarks and best practice;
 - (ii) furthers, within overall land transport objectives, the safety of passengers;
 - (iii) encourages efficient, competitive and commercial behaviour in the provision of public passenger road transport;
 - (iv) furthers a strategic and integrated approach to the provision of public passenger road transport through the integration of public passenger transport facilities, infrastructure and services;
 - (v) furthers energy efficiency and reduces adverse environmental impact;
 - (h) promote public passenger road transport so as to achieve—
 - (i) effectiveness in meeting demand;
 - (ii) efficiency in the use of resources;
 - (iii) the highest quality and accessibility of service, and effective infrastructure consistent with reasonable cost; and
 - (iv) operational safety of passengers and other road users;
 - (i) facilitate co-ordination and integration within and between public passenger road transport modes to promote accessibility and convenience and reduce travel times.

21. Regulations

- (1) The MEC may make regulations prescribing—
 - (a) the information to be submitted with an application for the grant, renewal, amendment or transfer of an operating licence;
 - (b) the manner and form in which applications for operating licences must be made;
 - (c) the procedure to be followed by a transport operating licence administrative body or the Board in dealing with an application;
 - (d) the information to be submitted with an appeal to the Appeal Board against an act, direction or decision of the Board;
 - (e) the information to be supplied by the Board to the Appeal Board or the appellant in connection with an appeal, and the manner in which and time within which the information must be supplied;
 - (f) the procedure to be followed by the Appeal Board in dealing with an appeal;
 - (g) the offences that the Board should take into account in considering applications for operating licences under section 38;
 - (h) the numbering of routes and allocation thereof to particular associations or holders, and the form and issuing of distinguishing marks in that regard;
 - (i) rules for undertaking education services;
 - (j) conflict resolution and arbitration procedures between associations or operators;
 - (k) a grading system for operators or drivers involved in public passenger road transport services;

- (l) norms and standards for public passenger road transport in the Province;
- (m) the preparation, revision, updating and implementation of transport plans, in addition to regulations and requirements prescribed under the National Act;
- (n) the provision and regulation of the use of public passenger road transport facilities in the Province;
- (o) requirements in respect of-
 - (i) public passenger road transport information;
 - (ii) public hearings and public participation in passenger transport planning and policy formulation;
 - (iii) performance auditing of the progress of transport authorities, core cities and municipalities in implementing public passenger transport policy; and
- (p) the effect of non-compliance with a time limit prescribed under this Act;
- (q) specifications and requirements to which a motor vehicle used in public passenger road transport must conform, in addition to those prescribed by road traffic legislation;
- (r) records to be kept by a person engaged in public passenger road transport and returns and information to be submitted by such person to the Board or another person or institution;
- (s) fees or allowances payable to a person who has been required to appear before a Board to give evidence or to produce a book, plan or other document or article;
- (t) rules concerning the safety and comfort of passengers on public passenger transport vehicles and related matters;
- (u) the nature and form of a distinguishing mark, identification, operating licence, notice or other document issued or required in terms of this Act, including the form, shape, size and colour of, and the information to be contained in, such documents, or empowering the Board to prescribe the form thereof;
- (v) the manner in which a distinguishing mark, identification, operating licence, notice or other document or writing which is required to be displayed or carried on or in a motor vehicle in terms of this Act or a condition imposed thereunder, must be displayed or carried, and the position thereof on or in the motor vehicle;
- (w) rules for operational safety of vehicles used in public passenger road transport;
- (x) the form of registration certificates for operators and their associations;
- (y) types of vehicles that may be used for the various types of public passenger road transport.
- (z) the minimum number of members associations must have in order to be eligible for registration;
- (aa) the minimum period for which associations must have existed in order to be eligible for registration;
- (bb) other additional requirements with which an association must comply in order to qualify for registration;
- (cc) determining the method of inquiry into allegations of improper conduct by registered associations, members or non-members;
- (dd) the manner in which an association or non-member must apply for registration, the form in which such applications must be made, 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;
- (ee) the provision of training for drivers or operators undertaking public passenger road transport services;
- (ff) the transporting of scholars and students;
- (gg) the membership and functioning of local taxi liaison committees contemplated in section 91 or local liaison forums contemplated in section 92, and procedures for and frequency of their meetings;
- (hh) requirements and standards for meters to be installed in metered taxis;
- (ii) annual fees payable by holders of operating licences that are valid for longer than one year;
- (jj) any other matter that will promote the objects of this Act.
- (2) The MEC may make regulations requiring the payment of fees in connection with—
 - (a) an application for the grant, amendment or transfer of an operating licence, or
 - (b) an appeal to the Appeal Board against an act, direction or decision of the Board;
 - (c) the issue by a Transport operating licence administrative body of a 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 Appeal Board be forfeited in whole or be refunded in whole or in part.
- (3) 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.
- (4) Different regulations made under this section may apply to different areas in Gauteng and for new associations as opposed to established ones.
- (5) Regulations contemplated by this section or any other section of this Act may provide that a person who contravenes a provision thereof or fails to comply therewith is guilty of an offence and liable on conviction to a fine or imprisonment not exceeding six months.

22. By-laws

- (1) A metropolitan authority may in accordance with an applicable integrated transport plan—
 - (a) regulate the size or number of motor vehicles used for public passenger road transport services that may enter a specified sector of its area of jurisdiction and determine the time or times when such a vehicle may enter that sector;
 - (b) regulate or prohibit the entry of such a motor vehicle in a specified sector during a set period;
 - (c) prohibit the picking up or setting down of passengers by such a vehicle 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 operators undertaking minibus taxi-type services, and the form and issuing of distinguishing marks in that regard;
 - (b) the allocation of facilities to particular operators or associations and the issuing of permits or licences to the operators or associations and the charging of fees in that regard;
 - (c) the appointment and conduct of rank marshals;
 - (d) the conduct of drivers of vehicles used for public passenger road transport services, which may include prohibiting touting or hooting to attract passengers.
- (3) A municipality may enter into agreements with persons or institutions regarding the allocation or use of facilities for public passenger road transport 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.

23. Information requirements and reporting system

- (1) The MEC must develop and maintain an information and reporting system for public passenger road transport in collaboration with municipalities and transport authorities to accumulate information relevant to the objects of this Act or of national or provincial land transport policy.
- (2) From a date determined by the MEC, he or she may withhold from a municipality or transport authority appropriations or grants unless the authority is complying with the reporting requirements contemplated in subsection (1).
- (3) The MEC must publish requirements or regulations prescribing the system contemplated in subsection (1) in the *Provincial Gazette*.
- (4) The MEC must undertake the collection of information in connection with passenger transport and make it available to interested persons and disseminate information in connection with public passenger road transport by means of the press, radio, television or other media.

24. Delegation

The MEC may delegate or assign a power or duty conferred or imposed upon him or her to an officer in the Department, except the power to make regulations, and may withdraw such a delegation or assignment at any time.

PART 4: PUBLIC PASSENGER TRANSPORT PLANNING

25. Principles for public passenger transport planning

The following principles shall apply to public passenger transport planning endeavours in the Province:

- (a) Integrated, comprehensive planning must occur within a broader developmental vision that integrates transport and spatial planning.
- (b) Transport plans must identify modal options.
- (c) Although transport authorities will not be providers of rail services in the short and

medium term, rail aspects must be fully integrated into integrated transport plans in consultation and agreement with providers of rail services.

- (d) Through-ticketing and similar methods must be used to reduce travel times and enhance convenience for passengers.
- (e) Appropriate transport plans must indicate what special measures have or will be taken to cater for passengers with special needs, such as persons with disabilities.

26. Public transport plans

- (1) When preparing a public transport plan in terms of section 26 of the National Act the following, among other things, must be considered:
 - (a) all relevant contracts;
 - (b) routes on which both subsidised and unsubsidised services are undertaken.
- (2) Such plans must be based on the following, among other things:
 - (a) routes shown in detail as following specified roads or streets, as opposed to point-to-point routes;
 - (b) time tables for scheduled services;
 - (c) existing capacity determined on such routes;
 - (d) passenger demand on such routes;

and must include the types of services listed in section 6 as may be prescribed.
- (3) Such plans must contain the information prescribed by regulation or by other national or provincial legislation.
- (4) Such plans must contain sufficient information and must be set out so as to enable the transport authority to determine the supply of and demand for services on each route on which public passenger road transport services are provided.
- (5) In the process of preparing such plans, transport authorities must undertake the prescribed public consultation procedures and must allow interested persons reasonable time to comment and make representations on matters in plans that may affect their interests.

27. Duties of transport authorities, core cities and municipalities related to planning

- (1) Each transport authority must enter into contracts with operators of services on routes within its area of jurisdiction for services contemplated in provincial and national policy.
- (2) Where there is a need for additional services on a route that have not been and will not be provided in terms of a contract, the authority must invite applications to the Board for operating licences for such services based on its transport plans in accordance with section 38.
- (3) Transport authorities, core cities and municipalities must ensure, insofar as possible, by appropriate recommendations to the Board, that the granting of operating licences takes place in such a manner that passengers on the relevant routes are supplied with transport, subject to the availability of funds, and that an oversupply of services is avoided.
- (4) Where a transport plan shows an oversupply of services on a route, the transport authority must not invite applications for new operating licences on that route, and must request the Board in writing not to issue any new operating licences for services on that route, or to amend any operating licence to authorise additional services on the route, and must take active steps by law enforcement measures or by withdrawing excess operating licences in terms of section 51 of the National

Act read with this Act, or by other prescribed means to bring the oversupply into line with demand on the route.

- (5) In planning contracted services, authorities must consider routes as a whole, i.e. take subsidised and unsubsidised services into account and must where appropriate award contracts that are a combination of subsidised and unsubsidised services.

28. Transitional matters related to planning

- (1) A transport plan approved under section 6(1) of the Urban Transport Act, 1977 (Act No. 78 of 1977) and any regional passenger transport plan drawn up by a regional services council in terms of the Regional Services Councils Act, 1985 (Act No. 109 of 1985) shall remain in force until amended or replaced by relevant transport plans under the National Act.
- (2) Any public transport record prepared in terms of section 3 of the National Land Transport Interim Arrangements Act, 1998 (Act 45 of 1998) shall be deemed to be such a record required by section 23 of the National Act.
- (3) For the purposes of practical arrangements arising from subsection (1), the MEC may allocate responsibilities to particular transport authorities or municipalities by notice in the *Provincial Gazette*.
- (4) Where at the commencement of this Act, the Province has been undertaking planning of public transport, other than of services contemplated in section 20(4) of the National Act, which in terms of the Constitution should be undertaken by municipalities, the MEC and the planning authorities concerned must make arrangements for the transfer of the planning functions to the planning authorities concerned.

PART 5: THE GAUTENG TRANSPORT OPERATING LICENCE BOARD

29. Establishment and constitution of Gauteng Transport Operating Licence Board

- (1) The name of the Gauteng Transport Permit Board established under section 2 of the Gauteng Interim Road Transport Act, 1998 (Act No. 2 of 1998) is hereby changed to the Gauteng Transport Operating Licence Board and is deemed to be the board contemplated in section 30(1) of the National Act.
- (2) The Board must consist of a chairperson and the number of other members determined by the MEC, who shall be persons who possess wide experience of, and have shown ability in, public passenger transport, industrial, commercial, financial or legal matters or in the conduct of public affairs.
- (3) The members of the Gauteng Transport Permit Board appointed before the commencement of this Act shall continue in office as members of the Board until their period of appointment expires, unless the MEC terminates their appointment earlier.
- (4)
 - (a) Before appointing members of the Board, the MEC must publish a notice of intention to do so, and invite applications for membership, in at least one newspaper circulating in the Province, in English and at least one other official language widely spoken in the Province.
 - (b) Before appointing any such member, the MEC must publish, in the same manner, the names of the persons he or she proposes to appoint to the Board, and invite comment and representations in that regard.

- (c) The MEC must give due consideration to any comments and representations so received.
- (5) No one may be appointed as a member of the Board if he or she—
 - (a) or his or her spouse or partner, immediate family, dependants, business partner or employer, has a financial interest in a business of public passenger 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;
 - (b) is subject to any legal disability;
 - (c) is an unrehabilitated insolvent; or
 - (d) has been convicted of an offence involving dishonesty or has been removed from public office due to misconduct.
- (6) When the appointment of any person as a member of the Board is considered, that person must disclose to the MEC, in writing, any interests which he or she may have in any part of the public passenger transport industry, and failure to do so will constitute an offence.
- (7) The chairperson of the Board must be appointed for a period not exceeding three years, and other members of the Board for periods not exceeding two years, and, subject to the provisions of this Act, hold office on conditions as to remuneration and otherwise as the MEC may determine when they are appointed.
- (8) When the office of chairperson of the Board or a Board member is to or has become vacant, the MEC must take immediate steps to fill the vacancy by the appointment, in accordance with this section of a fit and proper person who is not subject to a disqualification mentioned in subsection (5).
- (9) A person whose period of office as a member of the Board has expired, shall be eligible for re-appointment.
- (10) The Head of Department must, subject to the laws governing the public service, provide the staff necessary to assist the Board in the performance of its functions.

30. Resignation, vacation of and removal from office of Board members

- (1) A Board member may resign on two months' written notice to the MEC.
- (2) The MEC may remove from office a member of the Board—
 - (a) who has failed to comply with a condition of his or her appointment;
 - (b) who has been guilty of improper conduct or has regularly neglected his or her duties as a member of the Board or failed to discharge those duties fairly and impartially;
 - (c) who is unable to perform efficiently his or her duties as a member of the Board;
 - (d) who has failed to attend three consecutive meetings of the Board without good reason.
- (3) A member of the Board must vacate his or her office if the member—
 - (a) becomes subject to any of the disqualifications for appointment mentioned in section 29(5);
 - (b) is removed from office under subsection (2).

31. Powers of the Board

- (1) Apart from the other powers conferred by this Act, the Board may—
 - (a) investigate a matter falling within the scope of this Act, and submit

- recommendations thereon to the MEC;
- (b) consider and give a decision on, or otherwise deal with, in accordance with the provisions of this Act, an application made to it thereunder—
 - (i) for the granting of an operating licence authorising public passenger road transport within Gauteng;
 - (ii) for the granting of an operating licence authorising such transport which commences in Gauteng and also takes place in another province in agreement with the board of the other province;
 - (iii) for the renewal, amendment or transfer of an operating licence granted by it;
 - (c) issue, in accordance with the provisions of this Act, an operating licence granted, renewed, amended or transferred by it.
 - (d) for the purpose of dealing with a matter before it in terms of this Act—
 - (i) in its discretion allow a person affected by or interested in the matter, or the duly authorized representative of that person, to appear before it and—
 - (aa) give evidence or make oral representations relevant to the matter; or
 - (bb) call witnesses and lead evidence on a question relevant to the matter; or
 - (cc) question a person who testified as a witness in the matter;
 - (ii) by written notice as prescribed and served in the manner prescribed, require a person to appear before it to give evidence or to hand over a book, plan or other document or article in his or her possession or under his or her control;
 - (iii) call upon a person present in or at the place where the Board deals with the matter, to appear before it to give evidence or to hand over a book, plan or other document or article which the person has in their possession;
 - (iv) question a person appearing before it as a witness;
 - (v) refuse to hear a person appearing before it as a witness who refuses to be sworn in or to be affirmed.
- (2) The person presiding at a meeting of the Board at which a person appears as a witness as contemplated in subsection (1), may administer an oath or affirmation to the person so appearing.
- (3) The Board must provide interested parties on request with written reasons for a decision it has taken.

32. Meetings and decisions of the Board

- (1) Meetings of the Board must be held according to the prescribed procedures and at the prescribed times and places.
- (2) The chairperson and at least two other members of the Board will form a quorum for meetings of the Board.
- (3) The decision of the majority of the members of the Board present at a meeting shall constitute the decision of the Board 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.
- (4) If the chairperson of the Board is unable to attend a meeting of the Board, the chairperson may designate another member of the Board to act as chairperson at

that meeting.

- (5) No act, direction or decision of the Board may be held to be invalid by reason only of the fact that, when the act was performed or the direction or decision was given, a vacancy existed on the Board or a person was a member of the Board who was disqualified under section 29(5) from being a member, whether or not that person's concurrence was necessary to the performance of that act or the giving of that direction or decision.

33. Establishment of advisory panel to the Board

- (1) The MEC may, if requested by the Board, establish an advisory panel to advise the Board to be called the Gauteng Operating Licence Board Advisory Panel.
- (2) The Panel must advise the Board on policy matters and must not participate in individual decisions of the Board unless specifically requested by the Board, and, if so requested, must provide only advice of a general and policy nature.
- (3) The Panel shall consist of the following members, who must be nominated by their respective organizations, if the organisation is either registered in terms of this Act or recognised by the MEC, 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 established in terms of section 22 of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989);
 - (h) one representative each from other types of public passenger road transport services defined in this Act, if so decided by the MEC;
 - (i) not more than three persons capable, in the opinion of the MEC, of representing the interests of passengers, each representing passengers from a different category of service;
 - (j) not more than three representatives from organised labour relating to the public transport industry, each representing workers from a different category of service.
- (4) The chairperson of the Board will be the chairperson of the Panel.
- (5) The Panel must designate one of its members to act as chairperson when the chairperson is unable to attend a meeting of the Panel.
- (6) The Panel members shall be called together on an *ad hoc* basis as required by the Board, but must hold at least two meetings per year.
- (7) 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 hourly 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.

34. Establishment of transport operating licence 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 transport operating licence administrative body must receive completed application forms for operating licences 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 transport operating licence administrative body 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 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 transport operating licence administrative body 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 transport operating licence administrative body 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 Transport operating licence administrative body, the first transport operating licence administrative body must submit the application to the other transport operating licence administrative body, which must take the steps contemplated in subsections (3) to (6) and return the application with applicable recommendations to the first transport operating licence administrative body.
 - (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 transport operating licence administrative body for the latter to obtain the comments and recommendations contemplated in subsection (3).

PART 6: OPERATING LICENCES

35. Conversion of permits to operating licences

- (1) Subject to this section, permits shall remain valid until a date determined by the MEC by notice in the *Provincial Gazette*.
- (2) Permits must be converted to operating licences issued under the corresponding provisions of this Act by the date mentioned in subsection (1), failing which they will lapse.
- (3) Permits that have not been in use for the period determined by the MEC by notice in the *Provincial Gazette* shall not be converted to operating licences and shall lapse on the date of such notice.
- (4) In the case of a permit issued for a definite period, the operating licence shall be

valid for the unexpired portion of the validity period of the permit.

- (5) In the case of a permit issued for an indefinite period, the operating licence shall be valid for an indefinite period, subject to the provisions of this Act relating to withdrawal and lapsing of permits.
- (6) A permit may not be converted to an operating licence unless a valid certificate of fitness or roadworthy certificate is presented for the vehicle concerned, and section 5(4) shall also apply in this regard.
- (7) Permits for scheduled services that authorise operation within a defined area must be converted to operating licences that specify each route in detail and the timetables for such routes. Timetables and routes for such services must be detailed and specific: the Board may not attach vague conditions such as "as and when required" and "including surrounding areas".
- (8) Permits for scheduled services provided in terms of interim contracts and current tendered contracts must be converted to operating licences specific to such contracts.
- (9) Permits for unscheduled services, excluding metered-taxi services and tuk-tuk services that authorise operation within a defined area or radius must be converted to operating licences that specify the route or routes in detail, except that a defined area may be authorised in exceptional circumstances, such as informal settlements where there are no defined roads.
- (10) Permits for metered taxi services must be converted to operating licences that specify a defined area of operation for picking up passengers, subject to section 8.
- (11) The procedure for and manner of lodging applications to be made under subsection (2) will be as prescribed.

36. Contracts for services

- (1) A contracting authority may not enter into a subsidised service contract otherwise than by accepting a tender in accordance with regulations made by the MEC, subject to the requirements of the Gauteng Tender Board established in terms of the Gauteng Tender Board Act, 1994 (Act No. 2 of 1994).
- (2) Subsection (1) shall likewise apply to unsubsidised service contracts, unless the MEC exempts specified services or types of contracts from this requirement by notice in the *Provincial Gazette*.
- (3) Contracts must be awarded by the relevant transport authority in accordance with its transport plan.
- (4) Where a contract is terminated for any reason, a new contract may not be awarded until the holder has surrendered to the Board all operating licences to operate the services under the terminated contract.

37. Lapsing and cancellation of operating licences and permits in relation to contracts

- (1) When any contract terminates, all operating licences or permits in terms of which the services were provided under the contract shall lapse on the date of termination and must be surrendered to the Board within seven days of so lapsing.
- (2) Where tenders are invited for a subsidised service contract—
 - (a) no operator of public passenger road transport may tender for such a contract unless the operator surrenders to the Board for cancellation all operating licences and permits held by such operator authorising services

- on the routes involved in such services;
- (b) the Board, at the request of the contracting authority, must withdraw any permit or operating licence authorising services on the routes involved in such contract, provided that the holder is compensated in accordance with the guidelines contemplated in section 51(4) of the National Act.
- (3) No compensation is payable in respect of the cancellation of an operating licence or permit under paragraph (a) of subsection (2).

38. Applications concerning operating licences

- (1) Where a plan shows a need for additional services on a route the transport authority may invite applications for operating licences to provide public passenger road transport services on that route that are not subject to a contract.
- (2) A person or body wishing to undertake a public passenger road transport service other than a service contemplated in section 52(1), must apply to the Board for the granting of the appropriate operating licence.
- (3) A holder may apply to the Board for the renewal or amendment of an operating licence.
- (4) A person or body wishing to take transfer of an operating licence may apply to the Board with the written consent of the holder for transfer of the operating licence.
- (5) Applications under subsections (1), (2), (3) or (4) must—
 - (a) be made on the basis of one application per vehicle;
 - (b) be made in the prescribed manner;
 - (c) be made on the prescribed form;
 - (d) be accompanied by the prescribed fee and the costs of publishing the application under section 42, as estimated by the Board (provided that no fee shall be payable where the operating licence will be based on a contract), and
 - (e) specify the vehicle to be used for providing the services concerned;
 - (f) in the case of an adapted light delivery vehicle, be accompanied by details of the specifications of the vehicle, as prescribed.
 - (g) 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;
 - (h) be lodged with the transport operating licence administrative body established for the relevant metropolitan area.
- (6) The application form in respect of applications contemplated in subsections (1), (2) and (3) in respect of minibus taxi-type services 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 or that the applicant is a registered non-member.
- (7) Applicants must state on the application form under oath or affirmation 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) The Board must submit applications in respect of minibus taxi-type services to the relevant metropolitan taxi forum or forums mentioned in section 89 for

recommendations, before disposing of the application.

- (9) The Board may issue an interim operating licence 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 an operating licence is pending; or
 - (c) a contract has been awarded to the applicant by an organ of state and the relevant operating licence contemplated in section 39(1) has not yet been issued by the date of commencement of the contract.

39. Disposing of an application for an operating licence

- (1) A tenderer who has been awarded a contract will be entitled to be issued with an operating licence for every vehicle that will operate the services authorised by the contract and must apply to the Board in the prescribed manner for such an operating licence for the period of the contract. No application fee will be payable in respect of such an application.
- (2) An official of the Board designated for the purpose by the Board shall be entitled to issue operating licences under subsection (1), notwithstanding contrary provisions elsewhere in this Act.
- (3) The Board may not grant a new operating licence or amend an operating licence so as to increase the services provided thereunder, unless the relevant transport plans show a need for the service on the route concerned.
- (4) Where a relevant plan shows a need for the service applied for, the Board must grant the application, subject to any conditions imposed in terms of the plan, unless it is of the opinion, with regard to the matters listed in paragraphs (a) to (d) of subsection (7), that the applicant or vehicle is unsuitable or unfit to provide the service.
- (5) Where plans have not been prepared or finalised, the Board must have regard to the matters listed in paragraphs (a) to (j) of subsection (7) in deciding whether to grant or refuse an application.
- (6) Where more applications for operating licences are received than the Board may grant in terms of a relevant plan, preference must be given to applicants for renewal of their operating licences, and, if the plan can accommodate additional services, regard must be had to the matters listed in paragraphs (a) to (j) of subsection (7) in evaluating the applications.
- (7) In deciding whether to grant or refuse an application for the granting, renewal or amendment of an operating licence to operate a non-contracted service and in determining conditions to be attached to the operating licence, the Board must, subject to this section, have due regard to and act in accordance with the requirements of the transport authority in respect of its transport plans, if any, and its recommendations in this regard, if any, and must consider—
 - (a) whether the vehicle to which the operating licence relates is suitable for the service which it is to operate in terms of the make, model, year of manufacture, condition, capacity and acceptability;
 - (b) the ability of the applicant to provide in a manner satisfactory to the public the service for which the operating licence is sought according to the Board's discretion or criteria, if any, prescribed by regulation;
 - (c) all representations duly submitted in respect of the application;
 - (d) relevant previous convictions for offences committed by the applicant

- according to the Board's discretion or criteria, if any, prescribed by regulation;
- (e) the size of the business operated by the applicant, preference being given, in the Board's discretion after evaluating all relevant criteria, to small business enterprises;
 - (f) the fact that the applicant has been previously advantaged, preference being given, in the Board's discretion after evaluating all relevant criteria, to previously disadvantaged persons;
 - (g) the number of permits or operating licences already held by the applicant preference being given, in the Board's discretion after evaluating all relevant criteria, to holders with no or few permits or operating licences;
 - (h) the length of time that the holder has been a provider of services, preference being given, in the Board's discretion after evaluating all relevant criteria, to holders who have provided services the longest;
 - (i) if the Board so decides, a stand licence or similar authority issued under municipal by-laws authorising the use of a rank or stand, or a recommendation from relevant municipalities that ranking space is available;
 - (j) other factors which, in the opinion of the Board, may affect the desirability of granting or refusing the application.
- (8) The Board may not consider an application for an operating licence from an employee of the transport authority or a law enforcement agency or a firm responsible for monitoring public passenger road transport services in the area. The application form must include a question to establish whether this is the case.
- (9) Notwithstanding other provisions of this Act, applications to substitute a different vehicle with the same or less seating capacity in terms of an operating licence may be granted by an official of the Board, provided that the vehicle is of a category that may be used for the service in question in terms of Schedule A, after considering only whether the new vehicle is suitable for the services authorised by the operating licence and that a valid roadworthy certificate has been issued for it, subject to section 5(4), and ensuring that the applicant has supplied the prescribed information. Such an application does not need to be published under section 42.
- (10) The Board may refuse to consider an application for the grant, renewal, amendment or transfer of an operating licence 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, that was received within six months preceding the date on which the first-mentioned application was received.
- (11) The Board may in granting an application, in its discretion impose conditions which may not be inconsistent with this Act.

40. Interprovincial transport

- (1) Applicants for interprovincial transport must apply to the Board if the services in question commence in Gauteng, or in Gauteng as well as in another province.
- (2) For the purposes of this section services 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 services commence, the applicant must apply in the province where the motor vehicle in question is registered.
- (4) The Board may not grant an application for an operating licence authorizing services which commence in another province, or for the renewal or transfer of the

operating licence, or for an amendment of the operating licence affecting the conducting of services within the other province, except with the agreement of the operating licence issuing authority established for the other province.

- (5) Where the Board is unable to obtain the necessary responses from the operating licence issuing authority 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 Transport Appeal Tribunal established by the Transport Appeal Tribunal Act, 1998 (Act No. 39 of 1998) in the manner prescribed by that Act.
- (6) Appeals concerning interprovincial services must be made to the Transport Appeal Tribunal as required by the Transport Appeal Tribunal Act, 1998 in the manner prescribed by that Act or by regulation.
- (7) In the case of interprovincial 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, in the case of minibus taxi-type services, the relevant associations operating on the route(s) have agreed to the contrary.

41. Cross-border road transport

Applications for cross-border road transport (international services) must be made to the Regulatory Committee in terms of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998) in the manner prescribed by that Act.

42. Publication of an application in respect of an operating licence

- (1) Subject to subsection (2), the Board must before considering an application for the granting, renewal, amendment or transfer of an operating licence, cause to be published in the national *Government Gazette* and also in the prescribed manner, such particulars of the application as may be prescribed and post a notice of such application on a notice board at its offices for the prescribed period.
- (2) An application need not be published under subsection (1) where it is an application—
 - (a) to amend the particulars of a vehicle; or
 - (b) based on a contract contemplated in section 39(1).
- (3) An interested person who wishes to submit representations to the Board objecting to or supporting an application published under subsection (1), must do so in the manner and within the time prescribed, and the Board—
 - (a) must allow a person who, within the time prescribed, submits representations objecting to an application, to inspect the applicant's application form and related documents at the office of the Board on payment of the prescribed fee; and
 - (b) may, at the request of such a person, provide him or her with copies thereof on payment of the prescribed fee.
- (4) The Board must likewise allow the applicant to inspect free of charge at its offices, and to make copies on payment of the prescribed fee, representations objecting to or supporting the application.

43. Period and renewal of an operating licence

- (1) Operating licences for vehicles to operate services in terms of contracts must be granted for no longer than the duration and subject to the terms and conditions of the contract. On termination of the contract, the operating licences relevant thereto must be returned to the Board within seven days.
- (2) Where a contract has terminated and a contract to replace it has not been concluded or the arrangements in regard to the latter contract have not been finalised to enable the holder to commence the relevant services timeously, the Board may, at the request of the contracting authority, extend the validity period of the relevant operating licences for the period requested by such authority.
- (3) Subject to section 35(4), operating licences for vehicles to operate non-contracted services must be for a fixed period of not more than five years on the recommendation of the transport authority which must have regard to—
 - (a) current and envisaged trends in demand along the route or routes or in the defined area;
 - (b) the efficiency of the proposed services in meeting the demand;
 - (c) the existence of a contract for services that might be affected by the service applied for;
 - (d) the likelihood that the operating licence applied for may cease to be required in terms of relevant transport plans;
 - (e) the likelihood that the service applied for may be submitted to tender.
- (4) Renewal of an operating licence for a non-contracted service shall not be granted unless the relevant transport authority recommends such renewal on the basis of the relevant transport plans.

44. Issue of an operating licence and provisions thereof

- (1) Subject to subsection (2), the Board must issue, through the relevant transport operating licence administrative body and in the manner prescribed, an operating licence granted, renewed, amended or transferred by it in terms of this Act, which must be issued, in the case of an application for a new operating licence, for the vehicle specified in the application form.
- (2) The Board may not issue an operating licence unless a valid roadworthy certificate issued for the relevant vehicle on or after a date determined in the manner prescribed has been submitted to it, subject to section 5(4).
- (3) Operating licences must specify—
 - (a) the holder's name and identity number or its registration number in the case of a company, close corporation, trust or similar body;
 - (b) the registration number, make, vehicle identification number, year of manufacture, type and passenger capacity of the vehicle for which the operating licence was granted;
 - (c) the types of services for which they were granted;
 - (d) the period for which they were granted;
 - (e) in the case of an operating licence granted for a vehicle to operate under a contract—
 - (i) the type of contract;
 - (ii) the contract reference number;
 - (iii) the names and addresses of the parties to the contract;
 - (f) in the case of an operating licence granted for a vehicle to operate

scheduled services—

- (i) the points between and a detailed description of the route or routes or the defined area for which it is granted by the specification of street names, road numbers, beacons or land marks for each suburb, town, city, village or settlement;
- (ii) the relevant time tables;
- (g) in the case of an operating licence granted for a vehicle to operate minibus taxi-type services—
 - (i) the points between and a detailed description of the route or routes or the defined area for which it is granted by the specification of street names, road numbers, beacons or land marks for each suburb, town, city, village or settlement;
 - (ii) the authorised picking up and setting down points where applicable;
- (h) other conditions which the Board imposes under section 39(9), and
- (i) other prescribed particulars.
- (4) All operating licences issued by the Board must be signed by its chairperson or a person designated in writing by the chairperson.
- (5) An operating licence may not be hired out except where the vehicle is operated under a sub-contracting arrangement in terms of an unsubsidised service contract or subsidised service contract.

45. Records of operating licences

The Board must keep at its place of business a duplicate original of every operating licence issued by it and amendments thereto, and must enter prescribed particulars thereof and of the holder of the operating licence and relevant vehicles on the prescribed computerised information system.

46. Temporary replacement of a vehicle to which an operating licence or permit relates

- (1) Where a vehicle used under an operating licence or permit has become defective or is not being used temporarily because of a collision, the Board or a member thereof designated by the chairperson, may grant written operating licence 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 of a category that may be used for the service in question in terms of Schedule A.
- (3) The replacing vehicle may be used for a fixed period not exceeding 42 days as the Board or member determines, which period may be extended at the Board's discretion on further application.
- (4) The replacing vehicle shall, during the period of replacement, be deemed to be the vehicle for which the operating licence or permit was issued.

47. Duties of the holder of an operating licence

The holder of an operating licence must—

- (a) operate the service authorised by the operating licence in terms of its conditions and the applicable transport plans;
- (b) carry a duplicate original of the operating licence or the written permission referred to in section 47, and the holder's registration certificate issued in terms of section 65, on the motor vehicle and produce them on demand to an authorised officer;

- (c) keep the operating licence and duplicate originals thereof in such a condition that the letters and figures on them are clearly legible and, if the operating licence is damaged or ceases to be clearly legible, apply for a duplicate in the manner prescribed;
- (d) cause the name, address and nature of business of the holder to be borne on the motor vehicle to which the operating licence relates, in a conspicuous place, in the manner prescribed or in such other manner as the Board may approve in writing in a particular case;
- (e) exhibit the other particulars prescribed by the Board;
- (f) affix and keep affixed in the manner prescribed on the vehicle, all distinguishing marks issued in terms of this Act;
- (g) apply not later than 30 days before expiry of the operating licence for renewal thereof if he or she wishes to renew it;
- (h) ensure that all information contained in the operating licence is kept up to date by appropriate applications for amendments;
- (i) return to the Board within 14 days an operating licence that has been cancelled or withdrawn, or has lapsed;
- (j) in the case of a long distance service, keep in the vehicle concerned a passenger list in respect of the passengers being carried, in the manner and form as prescribed.

48. Authority conveyed by an operating licence

An operating licence issued under this Act—

- (a) shall not authorise the holder to undertake transport over a public road in the area of jurisdiction of a municipality if it is unlawful to do so under an ordinance, regulation or by-law of such municipality;
- (b) shall not exempt the holder from the obligation to comply with a requirement imposed under a law, licence or permit issued by another authority.

49. Withdrawal, suspension or variation of an operating licence

- (1) Where an operating licence has been granted on the basis of a contract, the authority that has granted the contract may request the Board to withdraw the operating licence where the contract has been terminated for any reason, whereupon the Board must do so.
- (2) Subject to subsection (3), in the case of an operating licence that has not been granted on the basis of a contract, the Board may at any time withdraw, suspend or amend for such period as it may deem fit, the operating licence—
 - (a) if the holder of the operating licence or employee of the holder has been convicted of an offence under this Act or under a law relating to motor vehicles or the regulation of traffic or occupational safety or labour relations; or
 - (b) if, in the opinion of the Board, the holder of the operating licence has not carried out faithfully the conditions of the operating licence; or
 - (c) if the holder of the operating licence has failed to initiate the service authorised by the operating licence or any part thereof within 90 days of the issuing of the operating licence; or
 - (d) if the holder of the operating licence has ceased to operate the service or any part thereof for 180 consecutive days.

- (3) The Board may not under subsection (1) or (2) withdraw or suspend an operating licence unless—
 - (a) at least 21 days' written notice of its intention to do so, with reasons, has been given to the holder of the operating licence by registered or certified post;
 - (b) the holder has been given an opportunity, either personally or through a representative, to appear before the Board and provide evidence or submit representations in regard to the proposed action; and
 - (c) the transport authority, or where no transport authority has been designated, the relevant municipality has been given an opportunity to submit representations and make alternative arrangements.

50 Cancellation of operating licences not brought into use

- (1) Where it comes to the notice of the Board that an operating licence converted from a permit or a new operating licence issued has not been brought into use within 90 days after it was issued, the Board must, by notice in writing, call on the holder to advance good reasons, to the satisfaction of the Board and within the period stated in the notice, for not having commenced operating the public passenger transport service to which that operating licence relates, and, accordingly, why the Board should not cancel that operating licence.
- (2) Where the Board is satisfied with the reasons advanced, the holder of that operating licence must be allowed a further period specified by the Board, but not more than 30 days, to commence the operation of that service, and the holder must be informed in writing accordingly.
- (3) If not so satisfied, or where the holder has failed to advance reasons within the time allowed therefor in the notice, the Board must cancel the operating licence and in writing inform the holder accordingly and direct the holder to surrender that operating licence, together with the distinguishing marks with regard thereto, to the Board within seven days after the date of the notice.

51. Withdrawal of surplus operating licences or permits

Where the Board is satisfied that—

- (a) a transport authority has through its plan determined that there is an oversupply of services on a given route, routes or network;
- (b) the transport authority has negotiated with a holder operating on the route, routes or networks, in consultation with the relevant transport forums, with a view to procuring the cancellation of excess operating licences;

the Board must withdraw the relevant operating licence or permit in terms of section 51 of the National Act, provided that agreement has been reached with the holder in a fair and reasonable manner to compensate the holder for the loss of economic benefits attached to the operating licence or permit, and that payment of the compensation has been made or secured,

52. *Ad hoc* authorizations

- (1) No one may undertake public passenger road transport services 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 holder may apply to the Board for the issue, on payment of the prescribed fee, of a series of *ad hoc* authorizations.
- (3) The Board must sequentially number *ad hoc* authorizations issued by it and keep a register of the authorizations with the name of the holder to whom they have been issued.
- (4) Before commencing services contemplated in subsection (1), the holder concerned must complete an *ad hoc* authorization for the trip(s) in question in the manner prescribed and must keep the authorization in the relevant motor vehicle at all times when the service is undertaken and produce it on demand to an authorized officer.
- (5) As soon as possible, but not later than 72 hours after completion of the services in question, the holder must submit a completed copy of the *ad hoc* authorization to the Board and, in the case of a minibus taxi-type service, also to the association to which he or she belongs, if the holder is a member of an association, and the relevant registered association(s) operating on the route(s) or network(s) in question.
- (6) The Board may disqualify a holder 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.
- (7) *Ad hoc* authorisations must be in the prescribed form.
- (8) *Ad hoc* authorisations may only be used to transport passengers for once-off events and, while they are being used—
 - (a) Passengers may not be picked up or set down *en route*;
 - (b) the holder must return from the *ad hoc* journey with the same passengers;
 - (c) the holder may not undertake minibus taxi-type services locally while waiting for passengers.

53. Special circumstance operating licences

- (1) Where the MEC has acted under section 93(2) to close routes, the MEC may instruct the Board to invite applications for special circumstance operating licences to operate services on those routes.
- (2) Applications under subsection (1) must be made in the prescribed manner and on payment of the prescribed fee.
- (3) The Board must consider an application made under subsection (1) and may in its discretion grant the application in full or in part, in either case subject to such conditions as the Board may impose, or refuse the application.
- (4) Special circumstance operating licences must be issued for a fixed period not exceeding 21 days.
- (5) The Board may delegate its powers under this section to an official of the Board.

PART 7: GAUTENG PUBLIC PASSENGER APPEAL BOARD

54. Establishment, constitution and functions of Gauteng Public Passenger Appeal Board

- (1) The name of the Provincial Transport Commission established by section 27 of the

Gauteng Interim Minibus Taxi-Type Services Act, 1997 (Act No. 11 of 1997) is hereby changed to the Gauteng Public Passenger Appeal Board and is deemed to be a provincial transport appeal body contemplated in section 128(1) of the National Act.

- (2) The Appeal Board shall consist of a chairperson and at least one other member appointed by the MEC, at least one of whom has not less than ten years' experience in practice as an advocate or attorney, and the other or others must possess wide experience of or have shown ability in public passenger transport.
- (3) The members of such Commission appointed before the commencement of this Act shall continue in office as members of the Appeal Board until their period of appointment expires unless the MEC terminates their appointment earlier.
- (4)
 - (a) Before appointing members of the Appeal Board the MEC must publish a notice of intention to do so and invite applications for membership, in at least one newspaper circulating in the Province, in English and at least one other official language widely spoken in the Province.
 - (b) Before appointing any member, the MEC must publish, in the same manner, the names of the persons he or she proposes to appoint to the Appeal Board and invite comment and representations in that regard.
 - (c) The MEC must give due consideration to any comments and representations so received.
- (5) No one may be appointed as a member of the Appeal Board if he or she—
 - (a) or his or her spouse or partner, immediate family, dependants, business partner or employer, has a financial interest in a business of public passenger 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;
 - (b) is subject to any legal disability;
 - (c) is an unrehabilitated insolvent; or
 - (d) has been convicted of an offence involving dishonesty or has been removed from public office due to misconduct.
- (6) When the appointment of any person as a member of the Appeal Board is considered, that person must disclose to the MEC, in writing, any interests which he or she may have in any part of the public passenger transport industry, and failure to do so will constitute an offence.
- (7) The chairperson of the Appeal Board must be appointed for a period not exceeding three years, and other members of that Board for periods not exceeding two years, and, subject to the provisions of this Act, hold office on conditions as to remuneration and otherwise as the MEC may determine when they are appointed.
- (8) When the office of the chairperson or a member of the Appeal Board is to or has become vacant, the MEC must take immediate steps to fill the vacancy by the appointment, in accordance with this section of a fit and proper person who is not subject to a disqualification mentioned in subsection (5).
- (9) A person whose period of office as a member of the Appeal Board has expired, shall be eligible for re-appointment.
- (10) The Head of Department must, subject to the laws governing the public service, provide the staff necessary to assist the Appeal Board in the performance of its functions.
- (11) The function of the Appeal Board shall be to hear appeals relating to applications for intraprovincial transport.

55. Resignation, vacation of and removal from office of Appeal Board members

- (1) A member of the Appeal Board may resign on two months' written notice to the MEC.
- (2) The MEC may remove from office a member of the Appeal Board —
 - (a) who has failed to comply with a condition of his or her appointment;
 - (b) who has been guilty of improper conduct or has regularly neglected his or her duties as a member of that Board or failed to discharge those duties fairly and impartially;
 - (c) who is unable to perform efficiently his or her duties as a member of that Board;
 - (d) who has failed to attend three consecutive meetings of that Board without good reason.
- (3) A member of the Appeal Board must vacate his or her office if the member —
 - (a) becomes subject to any of the disqualifications for appointment mentioned in section 54(5);
 - (b) is removed from office under subsection (2).

56. Powers of the Appeal Board

- (1) Apart from the other powers conferred by this Act, the Appeal Board may for the purpose of dealing with a matter before it in terms of this Act —
 - (a) in its discretion allow a person affected by or interested in the matter, or the duly authorized representative of that person, to appear before it and —
 - (i) give evidence or make oral representations relevant to the appeal; or
 - (ii) call witnesses and lead evidence on a question relevant to the appeal; or
 - (iii) question a person who testified at the appeal;
 - (b) by written notice as prescribed and served in the manner prescribed, require a person to appear before it to give evidence or to hand over a book, plan or other document or article in his or her possession or under his or her control;
 - (c) call upon a person present in or at the place where the Appeal Board deals with the matter, to appear before it to give evidence or to hand over a book, plan or other document or article which the person has in their possession;
 - (d) question a person appearing before it as a witness;
 - (e) refuse to hear a person appearing before it as a witness who refuses to be sworn in or to be affirmed.
- (2) The person presiding at a meeting of the Appeal Board at which a person appears as a witness as contemplated in subsection (1), may administer an oath or affirmation to the person so appearing.
- (3) The Appeal Board must provide interested parties on request with written reasons for a decision it has taken.

57. Meetings and decisions of the Appeal Board

- (1) Meetings of the Appeal Board must be held according to the prescribed procedures and at the prescribed times and places.
- (2) The chairperson and at least one other member of the Appeal Board will form a

quorum for meetings of that Board.

- (3) If the chairperson of the Appeal Board is unable to attend a meeting of that Board, the chairperson may designate another member of that Board to act as chairperson at that meeting.
- (4) The decision of the majority of the members of the Appeal Board present at a meeting shall constitute the decision of that Board 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.
- (5) No act, direction or decision of the Appeal Board may be held to be invalid by reason only of the fact that, when the act was performed or the direction or decision was given, a vacancy existed on that Board or a person was a member of that Board who was disqualified under section 54(5) from being a member, whether or not that person's concurrence was necessary to the performance of that act or the giving of that direction or decision.
- (6) The Appeal Board must hear appeals within 60 days of receipt of the notice of appeal and communicate decisions thereon to all relevant parties within the prescribed period.

58. Appeal to Appeal Board against 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 granting, amendment or transfer of an operating licence or whose operating licence has been withdrawn, varied or suspended by the Board; or
 - (b) is the holder of an operating licence or permit issued by the Board; or
 - (c) in the manner and within the time prescribed, submitted representations to the Board concerned,
 and is affected by a decision of the Board, may, in the manner and within the time prescribed, appeal to the Appeal Board.
- (2) Where the Board notifies a person in writing of a decision contemplated in subsection (1), the date of that written notification shall be deemed to be the date on which that decision was given.
- (3) The Appeal Board must consider an appeal properly lodged with it and may, in its discretion—
 - (a) reject the appeal and confirm the decision; or
 - (b) uphold the appeal, set aside the decision, and—
 - (i) substitute the Board's decision with another decision which the Board could have made; or
 - (ii) remit the matter to the Board for reconsideration; or
 - (iii) suspend the operation of the Board's decision;
 - (c) uphold the appeal partially and vary the decision.

PART 8: GAUTENG TRANSPORT REGISTRAR AND REGISTRATION OF ASSOCIATIONS AND OPERATORS

59. Appointment of Gauteng Transport Registrar and panel of assessors

- (1) The Provincial Registrar appointed under section 4 of the Gauteng Interim Minibus

- Taxi-Type Services Act, 1997 (Act No. 11 of 1997) is deemed to be the Gauteng Transport Registrar, being the Registrar contemplated in section 53(1) of the National Act.
- (2) The MEC may appoint a panel of assessors consisting of the number of such assessors determined by the MEC, to advise and assist the Registrar with the Registrar's functions, who shall be persons who possess wide experience of, and have shown ability in, public passenger transport.
 - (3) The assessors appointed before the commencement of this Act in terms of section 9 of the Gauteng Interim Minibus Taxi-Type Services Act, 1997 (Act No. 11 of 1997) shall continue in office as assessors until their period of appointment expires unless the MEC terminates their appointment earlier.
 - (4)
 - (a) Before appointing the Registrar or an assessor, the MEC must publish a notice of intention to do so, and invite applications for membership, in at least one newspaper circulating in the Province, in English and at least one other official language widely spoken in the Province.
 - (b) Before appointing the Registrar or any such assessor, the MEC must publish, in the same manner, the names of the persons he or she proposes to appoint and invite comment and representations in that regard.
 - (c) The MEC must give due consideration to any comments and representations so received.
 - (5) No one may be appointed as Registrar or assessor if he or she—
 - (a) or his or her spouse or partner, immediate family, dependants, business partner or employer, has a financial interest in a business of public passenger 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;
 - (b) if subject to any legal disability;
 - (c) is an unrehabilitated insolvent; or
 - (d) has been convicted of an offence involving dishonesty or has been removed from public office due to misconduct.
 - (6) When the appointment of any person as Registrar or assessor is considered, that person must disclose to the MEC, in writing, any interests which he or she may have in any part of the public passenger transport industry, and failure to do so will constitute an offence.
 - (7) The Registrar and assessors must be appointed for a period not exceeding three years and, subject to the provisions of this Act, hold office on conditions as to remuneration and otherwise as the MEC may determine when they are appointed.
 - (8) When the office of Registrar is to or has become vacant, the MEC must appoint a new 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 the Registrar under this Act.
 - (9) When the office of an assessor is to or has become vacant, the MEC must appoint a new assessor who shall be a person who possess wide experience of, and have shown ability in, public passenger transport.
 - (10) A person whose period of office as Registrar or assessor has expired, shall be eligible for re-appointment.
 - (11) The Head of Department must, subject to the laws governing the public service, provide the staff necessary to assist the Registrar in the performance of his or her functions.

60. Resignation, vacation of and removal from office of Registrar and assessors

- (1) The Registrar or an assessor may resign on two months' written notice to the MEC.
- (2) The MEC may remove from office the Registrar or an assessor—
 - (a) who has failed to comply with a condition of his or her appointment;
 - (b) who has been guilty of improper conduct or has regularly neglected his or her duties as such or failed to discharge those duties fairly and impartially;
 - (c) who is unable to perform efficiently his or her duties as such;
 - (d) who, in the case of an assessor, has failed to attend three consecutive meetings of the assessors without good reason.
- (3) The Registrar or an assessor must vacate his or her office if he or she—
 - (a) becomes subject to any of the disqualifications for appointment mentioned in section 59(5);
 - (b) is removed from office under subsection (2).

61. Duties of the Registrar

- (1) The Registrar must—
 - (a) consider and decide upon applications for registration of associations, members and non-members in terms of this Act and grant registration to those who qualify;
 - (b) establish and keep up to date a register of registered associations, their members, and non-members in the prescribed manner;
 - (c) adhere to the prescribed forms of the register and certificates to be kept, maintained or issued under this Act;
 - (d) monitor compliance by registered associations and their members with the provisions of the prescribed standard minimum constitution, or in the case of a non-member, with the prescribed code of conduct;
 - (e) supply the MEC on request with information regarding the Registrar's functions;
 - (f) provide advice and assistance to applicants for registration;
 - (g) for every calendar year submit to the MEC an annual report on progress made in carrying out the Registrar's functions;
 - (h) on written request and on payment of the prescribed fee, provide anyone with statistical information from the register, unless such information, potentially, is commercially sensitive and may harm the business or commercial interests or viability of any particular person, organisation or entity, or may lead, directly or indirectly, to the identification of that person, organisation or entity;
 - (i) consider and decide on the suspension or cancellation of the registration of an association or any member thereof or of any non-member.
- (2) For the purposes of this section, any reference to "registration" and "registered" must be construed as including a reference to "provisional registration" and "provisionally registered", respectively.

62. Powers of the Registrar

- (1) In dealing with any matter contemplated in section 61(a) or (i), the Registrar may—
 - (a) allow a person affected by or interested in the matter, or the duly

authorised representative of such a person, to appear before the Registrar and—

- (i) give evidence or make oral representations relevant to the matter;
 - (ii) call witnesses and lead evidence on any question concerning a matter relevant to the proceedings before the Registrar;
 - (iii) question a person who testifies as a witness in those proceedings;
- (b) issue a subpoena in the prescribed form requiring a person to appear before the Registrar to give evidence or to produce any book, plan, document or other record, or any article, item or object, in the possession or under the control of the person, and have it served in the manner so prescribed;
- (c) order any person present in or at the place where the proceedings are conducted, to appear before the Registrar to give evidence or to produce any book, plan, document or other record, or any article, item or object, which is in the physical possession of the person in or at that place;
- (d) question any person appearing as a witness;
- (e) require that any oral evidence be given under oath or affirmation and, for that purpose, administer an oath to or take down an affirmation from any witness;
- (f) refuse to hear any oral evidence or representations from any person unless the person has been sworn in or has made an affirmation as a witness.
- (2) The Registrar may administer an oath or affirmation to the person appearing before the Registrar as a witness.
- (3) The Registrar must provide interested parties on request with written reasons for a decision he or she has taken.

63. Meetings and decisions of the Registrar and assessors

- (1) Meetings of the Registrar and assessors must be held according to the prescribed procedures and at the prescribed times and places.
- (2) The Registrar and at least two assessors will form a quorum for meetings.
- (3) Decisions at such meetings shall be taken by consensus, with the Registrar having the final say in the absence of consensus.
- (4) No decision taken at such a meeting may be held to be invalid by reason only of the fact that, when the decision was taken, a vacancy existed among the assessors or a person was an assessor who was disqualified under section 59(5).

64. Application for registration

- (1) An association, member or a non-member who desires to be registered must lodge with the Registrar, in the manner and on the form prescribed, an application for registration accompanied by the prescribed application fee, if any, and the information required by this Act and by the Registrar.
- (2) If after considering the application and verifying the information submitted, the Registrar is satisfied that the applicant has complied with the necessary requirements, the Registrar must register the applicant.
- (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 that have not been met, and may provide the applicant with advice and assistance to enable the applicant to meet the requirements.

65. Issuing of certificates and distinguishing marks upon registration or provisional registration

- (1) Where an association or member is provisionally or fully registered, and where a non-member is registered, the Registrar must enter the prescribed particulars thereof in the provincial transport register and must issue to the association, member or non-member a registration number, and a registration certificate in the prescribed form.
- (2) The Registrar must in addition issue, in the manner and form prescribed, a distinguishing mark for each vehicle of the registered member or non-member that is used under the authority of an appropriate operating licence.

66. Associations, members and non-members undertaking interprovincial transport

- (1) Upon registration of an association, a member or a non-member that undertake interprovincial transport, the Registrar must forward a copy of the certificate of registration and all registered details to the registrar or department responsible for transport affairs in each province to or from which the members of the association, or the non-member, operate.
- (2) Where the Registrar is notified by the registrar of another province that an association, member or non-member has been registered in that other province, the Registrar must note the fact in his or her records, as well as the particulars thereof as supplied by the other registrar.

67. Reservation of privileges for registered associations and operators

- (1) Assistance by the Gauteng Provincial Government to associations and operators may be provided only to those that have been registered under this Act.
- (2) No operator or representative of an association may have representation on a taxi forum or similar representative body established by this Act, unless registered in terms thereof.

68. Regulations

- (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 registered associations or operators must conduct their affairs.
- (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 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 or operators;
 - (c) prescribing the manner in which an association, member or non-member must apply for registration, the fees payable to the Registrar in respect of

an application and annual fees which an association, member or non-member must pay to the Registrar.

- (3) Regulations made under a law repealed by this Act shall continue to apply, in appropriate cases, until repealed or replaced in terms of this Act.

PART 9: REGISTRATION OF MINIBUS TAXI ASSOCIATIONS AND OPERATORS

69. Compulsory registration of associations, members and non-members in respect of minibus taxi-type services

After a date to be determined by the MEC by notice in the *Provincial Gazette*, no operator may undertake minibus taxi-type services, and no association may conduct business as such, without being registered under this Act.

70. Associations and operators registered under Act 11 of 1997

- (1) An association which has been fully registered in terms of section 7 of the Gauteng Interim Minibus Taxi-Type Services Act, 1997 (Act No. 11 of 1997), will be deemed to have been registered under this Act.
- (2) A person who has been fully registered as a member of a registered association, or as a non-member, in terms of section 7 of the Gauteng Interim Minibus Taxi-Type Services Act, 1997 (Act No. 11 of 1997), will be deemed to have been registered as such under this Act.

71. Elections and referendums

- (1) The MEC may instruct an association by written notice to hold elections for the executive committee of the association or referendums on issues causing conflict or tension within the association or between the association and another association or associations, within a time stated in the notice, and direct in the notice that the election or referendum be independently monitored by—
- (a) a person or persons appointed and paid for by the MEC; or
- (b) a person or persons appointed and paid for by the association at its cost.
- (2) The Registrar may suspend or cancel the registration of an association that fails to comply with an instruction issued under subsection (1).

72. Registration of associations

The Registrar must grant registration to an association which upon application satisfies the Registrar—

- (a) that it has been in existence for a period not less than the minimum prescribed period;
- (b) that the number of members meets the prescribed minimum;
- (c) that the constitution and code of conduct submitted by the association has been signed and accepted by each of its members;
- (d) that the said constitution and code of conduct are consistent with and comply with the prescribed requirements;
- (e) that the association enjoys the support of relevant municipalities;
- (f) that each member of the association holds a valid permit or operating licence for

each motor vehicle that he or she operates and that his or her operations are within the authority thereof;

- (g) that each member of the association has furnished proof to the satisfaction of the Registrar that the member is registered as a tax payer under the Income Tax Act, 1962 (Act No. 58 of 1962), or, in terms of that Act, is not required so to register, and
- (h) that all of the information required by the Registrar in terms of this Act or otherwise has been provided and this information has been verified in the manner prescribed.

73. Registration of members of registered associations

Where an association has been registered, the Registrar must register every member thereof in respect of whom the required information has been provided in the relevant application form, as a member of that association.

74. New members of registered associations

- (1) Where a registered association has admitted a new member to membership who holds an appropriate operating licence or permit for the route or routes in question, it must within 14 days of such admission, notify the Registrar in writing and supply to the Registrar the prescribed particulars in respect of such new member, whereupon the Registrar must register that person as a member of that association.
- (2) Where an association has provisionally admitted an operator to membership who does not hold an appropriate operating licence or permit for the route or routes in question, it must within 14 days of such admission, notify the Board in writing of such admission and supply to the Board the prescribed particulars.
- (3) An operator contemplated in subsection (2) must apply for the appropriate operating licence within 14 days of being admitted to such provisional membership, and submit proof of such application to the Registrar.
- (4) The fact that an operator who has been provisionally admitted as contemplated in subsection (2), or that such an operator has applied for an operating licence as contemplated in subsection (3), does not entitle the operator to operate a public passenger road transport service.
- (5) Should the Board issue an appropriate operating licence to such a provisionally admitted member, the Board must notify the Registrar within 14 days and supply to the Registrar a copy of the operating licence as well as the particulars relating to the member supplied to the Board by the relevant association.
- (6) On receipt of such copy and particulars, the Registrar must register the person as a member of the association.
- (7) Should such a provisionally admitted operator fail to apply for the necessary operating licence within the time required by subsection (3), or should the Board notify the operator that such application has been unsuccessful, the association must terminate the admission of that operator within seven days after expiry of the period mentioned in subsection (3), or after such notification, as the case may be.

75. Registration of non-members

- (1) A non-member qualifies for registration and, upon having applied therefor, must be

registered, where the non-member—

- (a) has subscribed to the prescribed code of conduct; and
 - (b) holds an appropriate operating licence or permit for each vehicle by means of which the non-member operates a public passenger road transport service; and
 - (c) operates the public passenger road transport service to which such an operating licence relates, in compliance with the terms of, and conditions attached to, the operating licence; and
 - (d) has furnished proof to the satisfaction of the Registrar that the non-member is registered as a tax payer under the Income Tax Act, 1962 (Act No. 58 of 1962), or, in terms of that Act, is not required so to register; and
 - (e) has applied for registration as a non member due to the following causes:
 - (i) There is no registered association with regard to the route or routes or, if applicable, in the area where the applicant's public passenger road transport service is operated; or
 - (ii) where there is such a registered association, if—
 - (aa) the applicant has been refused membership of the association; or
 - (bb) the association's requirements for admission to membership are unfair; or
 - (cc) in view of the prevailing circumstances, the applicant reasonably cannot be expected to become a member of the association; or
 - (dd) there is a reasonable suspicion that the applicant, if admitted to membership of the association, will be subjected to unfair discrimination.
- (2) Where a non-member wishes to apply for an operating licence, the non-member must first apply to the Registrar in the prescribed manner and form for registration as a non-member.
 - (3) The Registrar must establish whether an applicant applying under subsection (2) complies with the requirements of subsection (1), and if so issue to the applicant a certificate to this effect for submission to the Board.
 - (4) Should the Board grant and issue an appropriate operating licence to such a non-member, the Board must notify the Registrar within 14 days and supply to the Registrar a copy of the operating licence.
 - (5) On receipt of such particulars, the Registrar must register the non-member as such.

76. Disciplinary measures

- (1) The Registrar may suspend or withdraw the registration of an association or operator for failure to comply with this Act or with the rules set out in the standard minimum constitution or code of conduct for non-members, as the case may be, or for other conduct that has been prescribed as improper conduct.
- (2) On receipt of a complaint, accusation or allegation or on the ground of information which has come to his or her notice, the Registrar may conduct an inquiry in the manner prescribed.
- (3) Before conducting an inquiry, the Registrar must address a written warning to the association or operator requiring it to remedy the failure within the time stated in the warning, which may not be less than 21 days.
- (4) If the inquiry reveals that there was such a failure or conduct, 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.
- (5) 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 the Board and to a senior official in a government department or institution providing benefits or assistance to that association or its members or that operator.
- (6) 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, and on payment of the prescribed fee.

PART 10: REGISTRATION OF METERED TAXI ASSOCIATIONS AND OPERATORS

77. Registration of metered taxi associations, members and non-members

Sections 69, 73, 74 and 76 shall apply, with the necessary changes, to the registration of metered taxi associations, members and non-members, reading in those sections "metered taxi services" for the expression "minibus taxi-type services".

78. Registration of metered taxi associations

The Registrar must grant registration to a metered taxi association which upon application satisfies the Registrar—

- (a) that it has been in existence for a period not less than the minimum prescribed period;
- (b) that the constitution and code of conduct submitted by the association has been signed and accepted by each of its members;
- (c) that the said constitution and code of conduct are consistent with and comply with the prescribed requirements;
- (d) that the association enjoys the support of relevant municipalities;
- (e) that each member of the association holds a valid operating licence or permit for each motor vehicle that he or she operates and that his or her operations are within the authority thereof;
- (f) that each member of the association is in possession of a valid radio frequency licence;
- (g) that each member of the association has furnished proof to the satisfaction of the Registrar that the member is registered as a tax payer under the Income Tax Act, 1962 (Act No. 58 of 1962), or, in terms of that Act, is not required so to register, and
- (h) that all of the information required by the Registrar in terms of this Act or otherwise has been provided and this information has been verified in the prescribed manner.

79. Registration of non-members operating metered taxi services

- (1) A non-member operating or wishing to operate metered taxi services qualifies for registration and, upon having applied therefor, must be registered, where the non-

member—

- (a) has subscribed to the prescribed code of conduct; and
 - (b) holds an appropriate operating licence or permit for each vehicle by means of which the non-member operates a metered taxi service; and
 - (c) operates the metered taxi service to which such an operating licence relates, in compliance with the terms of, and conditions attached to, the operating licence; and
 - (d) is in possession of a valid radio frequency licence; and
 - (e) has furnished proof to the satisfaction of the Registrar that the non-member is registered as a tax payer under the Income Tax Act, 1962 (Act No. 58 of 1962), or, in terms of that Act, is not required so to register, and
 - (f) has supplied all of the information required by the Registrar in terms of this Act or otherwise and this information has been verified in the prescribed manner.
- (2) Where a non-member wishes to apply for an operating licence, the non-member must first apply to the Registrar in the prescribed manner and form for registration as a non-member.
 - (3) The Registrar must establish whether an applicant applying under subsection (2) complies with the requirements of subsection (1), and if so issue to the applicant a certificate to this effect for submission to the Board.
 - (4) Should the Board grant and issue an appropriate operating licence to such non-member, the Board must notify the Registrar within 14 days and supply to the Registrar a copy of the operating licence.
 - (5) On receipt of such particulars, the Registrar must register the non-member as such.

80. Special requirements for drivers of vehicles engaged in metered taxi services

- (1) As from a date determined by the MEC by notice in the *Provincial Gazette*, no one may drive a motor vehicle providing metered taxi services, unless that driver has passed the prescribed tests in the prescribed manner, and has been issued by the MEC or by a municipality with a certificate to that effect, in the prescribed manner and form.
- (2) The requirements of subsection (1) shall be in addition to, and not in substitution of, the requirements of the National Road Traffic Act, 1996 (Act No. 93 of 1996).

PART 11: REGISTRATION OF BUS-TYPE AND COACH-TYPE ASSOCIATIONS AND OPERATORS

81. Registration of associations, members and non-members operating bus-type and coach-type services

Sections 69, 73, 74 and 76 shall apply to the registration of associations operating bus-type and coach-type services, their members, and non-members operating such services, reading in those sections "bus-type services" or "coach-type services", as the case may be, for the expression "minibus taxi-type services".

82. Registration of associations of operators of bus-type and coach-type services

The Registrar must grant registration to an association of operators of bus-type and coach-

type services which upon application satisfies the Registrar—

- (a) that it has been in existence for a period not less than the minimum prescribed period;
- (b) that the number of members meets the prescribed minimum;
- (c) that the constitution and code of conduct submitted by the association has been signed and accepted by each of its members;
- (d) that the said constitution and code of conduct are consistent with and comply with the prescribed requirements;
- (e) that the association enjoys the support of relevant municipalities;
- (f) that each member of the association holds a valid operating licence or permit for each motor vehicle that he or she operates and that his or her operations are within the authority thereof;
- (g) that each member of the association has furnished proof to the satisfaction of the Registrar that the member is registered as a tax payer under the Income Tax Act, 1962 (Act No. 58 of 1962), or, in terms of that Act, is not required so to register, and
- (h) that all of the information required by the Registrar in terms of this Act or otherwise has been provided and this information has been verified in the manner prescribed.

83. Registration of non-members operating bus-type and coach-types services

- (1) A non-member operating or wishing to operate bus-type or coach-type services qualifies for registration and, upon having applied therefor, must be registered, where the non-member—
 - (a) has subscribed to the prescribed code of conduct;
 - (b) holds an appropriate operating licence or permit for each vehicle by means of which the non-member operates the bus-type or coach-type service; and
 - (c) operates the services to which such an operating licence relates, in compliance with the terms of, and conditions attached to, the operating licence, and
 - (d) has furnished proof to the satisfaction of the Registrar that the non-member is registered as a tax payer under the Income Tax Act, 1962 (Act No. 58 of 1962), or, in terms of that Act, is not required so to register.
- (2) Where a non-member wishes to apply for an operating licence, the non-member must first apply to the Registrar in the prescribed manner and form for registration as a non-member.
- (3) The Registrar must establish whether an applicant applying under subsection (2) complies with the requirements of subsection (1), and if so issue to the applicant a certificate to this effect for submission to the Board.
- (4) Should the Board grant and issue an appropriate operating licence to such non-member, the Board must notify the Registrar within 14 days and supply to the Registrar a copy of the operating licence.
- (5) On receipt of such particulars, the Registrar must register the non-member as such.

PART 12: TRANSPORT FORUMS

84. General provisions

- (1) The MEC may recognise groupings of users or operators of public passenger road

transport services, or drivers of vehicles used for such services, such as metropolitan taxi councils, for the purposes of this Part, as being representative of those users, operators or drivers.

- (2) In addition to the forums and committees established by this Part, the MEC may prescribe the establishing of other similar structures, either to represent a particular public passenger road transport mode, or a group of such modes.

85. Provincial Public Passenger Transport Forum

- (1) The MEC must establish a Provincial Public Passenger Transport Forum (PPPTF) and appoint to it members of whom, in the prescribed manner, not more than—
- (a) three must represent the Department;
 - (b) one must represent each metropolitan authority in the Province;
 - (c) two must represent the communities using the transport system;
 - (d) two must represent the minibus taxi industry and each be a member of a metropolitan taxi forum or council;
 - (e) two must represent the metered taxi industry and be a member of a metropolitan transport forum;
 - (f) two must represent the bus industry and each be a member of a metropolitan transport or bus forum;
 - (g) one must represent the rail commuter industry and be a member of a metropolitan transport forum;
 - (h) one must represent each of the following services if the MEC is of the opinion that the volume of such services in the Province warrants it:
 - (i) tuk-tuk services;
 - (ii) education services;
 - (iii) tourist services;
 - (iv) charter services;
 - (v) staff services;
 - (vi) courtesy services;
 - (vii) coach-type scheduled services;
 - (viii) shuttle services;
 - (i) one must be a member of the Board;
 - (j) two must be recognized experts in the public passenger transport industry or be persons who have wide experience of or have shown ability in matters related to transport or environmental or financial matters.
- (2) Before appointing the members of the PPPTF, the MEC must invite nominations from relevant bodies or organisations by sending or publishing a notice in the manner that the MEC determines.
- (3) Where nominations are not received within the time stipulated in the notice, the MEC may, subject to this section, appoint persons as members of the PPPTF that the MEC deems fit.
- (4) The PPPTF must be chaired by an official of the Department. Members must select one of their number as deputy chairperson, who must fulfil the functions of the chairperson whenever the latter is not available.
- (5) The PPPTF must determine procedures at and the frequency of its meetings, provided that it must meet not less than once per quarter.
- (6) A member of the PPPTF must vacate his or her office if he or she is removed from office under subsection (7) or resigns by notice in writing addressed to the MEC.
- (7) The MEC may remove from office a member of the PPPTF who—

- (a) has been guilty of improper conduct or has regularly neglected his or her duties as a member of the PPPTF; or
- (b) is unable to perform efficiently his or her duties as a member of the PPPTF; or
- (c) has failed to attend three consecutive meetings of the PPPTF without a reason that is acceptable to the MEC; or
- (d) is incapacitated to the extent of not being able to perform his or her duties; or
- (e) no longer represents the organisation or industry that he or she was appointed to represent.

86. Functions of the Provincial Public Passenger Transport Forum

The functions of the PPPTF will be to advise the MEC at the MEC's request on the following matters in the Province:

- (a) the effectiveness of public passenger transport policy and the further development of that policy;
- (b) the way that public passenger transport policy is being implemented;
- (c) the co-ordination of transport;
- (d) the necessity for additional or amending legislation to enable public passenger transport policy to be realised;
- (e) affirmative action, transformation and change management in institutions involved in public passenger transport;
- (f) the collection and display of public passenger transport information;
- (g) communication and integration between public passenger transport modes;
- (h) through-ticketing;
- (i) liaison with passengers and groupings or institutions representing passengers, and dealing with complaints and concerns of passengers.

87. Metropolitan transport forums

- (1) Each metropolitan authority in the Province must establish a metropolitan transport forum (MTF) for its area of jurisdiction.
- (2) Of the members of the MTF, not more than—
 - (a) three must represent the metropolitan authority concerned, preferably from the departments of the authority responsible for transport affairs and planning;
 - (b) one must represent the Department;
 - (c) two must represent the communities using the transport system in the area;
 - (d) two must represent the minibuss taxi industry and be members of the relevant metropolitan taxi council or forum;
 - (e) two must represent the metered taxi industry;
 - (f) two must represent the bus industry;
 - (g) two must represent the rail commuter industry;
 - (h) two must represent driver unions;
 - (i) two must be recognized experts in the public passenger transport industry or be persons who have wide experience of or have shown ability in matters related to transport or environmental or financial matters.
- (3) Before appointing the members of the MTF, the metropolitan authority must invite nominations from relevant bodies or organisations by sending or publishing a notice

- in the prescribed manner.
- (4) Where nominations are not received within the time stipulated in the notice, the metropolitan authority may, subject to this section, appoint persons as members of the MTF that it deems fit.
 - (5) The metropolitan authority must appoint one of its representatives as chairperson. Members must select one of their number as deputy chairperson, who must fulfil the functions of the chairperson whenever the latter is not available.
 - (6) The MTF must meet at times and in the manner and according to procedures prescribed. However, it must meet not less than once per quarter.
 - (7) A member of the MTF must vacate his or her office if he or she is removed from office under subsection (8) or resigns by notice in writing addressed to the municipality or transport authority concerned.
 - (8) The metropolitan authority may remove from office any member of the MTF who—
 - (a) has failed to comply with a condition of his or her appointment; or
 - (b) has been guilty of improper conduct or has regularly neglected his or her duties as a member of the MTF; or
 - (c) is unable to perform efficiently his or her duties as a member of the MTF; or
 - (d) has failed to attend three consecutive meetings of the MTF without an acceptable reason; or
 - (e) is incapacitated to the extent of not being able to perform his or her duties; or
 - (f) no longer represents the organisation or industry that he or she was appointed to represent.

88. Functions of metropolitan transport forums

Metropolitan transport forums must—

- (a) act as a means of liaison between the relevant metropolitan authority, and the public passenger transport industry;
- (b) act as a means of liaison between public passenger transport associations and operators of different services;
- (c) act as a means of resolving problems and issues in the public passenger transport industry and facilitating conflict resolution in the area concerned;
- (d) disseminate information on new developments and other matters affecting the public passenger transport 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 and working conditions;
 - (vi) modal integration;
 - (vii) information and data banks;
 - (viii) ranks, stands, terminals and other facilities and their development, and
 - (ix) safety issues;
- (f) provide input to public passenger transport planning authorities, the Board and other authorities, and
- (g) undertake other functions prescribed by the MEC or in municipal by-laws, or recommended in guidelines published by the MEC or metropolitan authority.

89. Metropolitan taxi forums

- (1) Each metropolitan authority must establish a metropolitan taxi forum.
- (2) The following bodies must be represented on the metropolitan taxi forum in the manner prescribed:
 - (a) the relevant metropolitan authority;
 - (b) all local taxi liaison committees in the area;
 - (c) if there is a taxi council or similar body, a representative thereof, and if there is no such council or body, all registered taxi associations operating in the area of jurisdiction of such authority;
 - (d) representatives of organisations such as driver unions;
 - (e) representatives of relevant passenger associations or groups;
 - (f) other persons and bodies as prescribed.
- (3) The metropolitan taxi forum must elect one of its members as chairperson.
- (4) Metropolitan taxi forums must meet at times and in the manner and according to procedures prescribed.

90. Functions of metropolitan taxi forums

Metropolitan taxi forums must—

- (a) act as a means of liaison between local government and the taxi industry in the area of the metropolitan authority;
- (b) act as a means of liaison between taxi associations;
- (c) act as a means of resolving problems and issues in the taxi industry, and facilitating conflict resolution, and actively promoting peace in the industry;
- (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 and working conditions;
 - (vi) modal integration;
 - (vii) information and data banks;
 - (viii) ranks and other facilities and their development, and
 - (ix) safety issues;
- (f) provide input to public passenger road transport planning authorities and other authorities;
- (g) ensure that associations are disseminating relevant information to their members;
- (h) ensure that all associations are represented on the forum and on relevant local taxi liaison committees;
- (i) provide recommendations to the Board regarding applications for operating licences;
- (j) make representations to provincial and national government through the Provincial Public Passenger Transport Forum with regard to existing or proposed public passenger policy and legislation, and the matters referred to in paragraph (e);
- (k) consider methods to improve profitability and economy in taxi operations;
- (l) undertake other functions prescribed in municipal by-laws or recommended in

guidelines.

91. Local taxi liaison committees

- (1) Every municipality other than a metropolitan authority must establish a local taxi liaison committee in respect of its area of jurisdiction or for a defined area within that area, and a metropolitan authority may do so.
- (2) The functions of a local taxi liaison committee shall be to provide input to the relevant metropolitan taxi forum regarding the matters set out in section 90.
- (3) The MEC may make regulations prescribing the membership and functioning of such liaison committees, and procedures for and frequency of their meetings, subject to subsection (4).
- (4) Membership of local taxi liaison committees shall be restricted to registered locally based, primary associations and registered non-members.

92. Establishment and functioning of other metropolitan or local liaison forums

Any municipality may establish a metropolitan or local liaison forum, as the case may be, for other public passenger road transport services or modes in respect of its area of jurisdiction.

PART 13: LAW ENFORCEMENT

93. Special emergency measures

- (1) The MEC may declare an area 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 the situation in the area where this is characterised by violence, unrest or instability.
- (2) The MEC may make regulations providing that one or more routes or ranks as specified, or that all of the routes and ranks, without specification, shall be closed to the operation of public passenger road transport services in an area declared under subsection (1) for a period stated in the notice, and that no person may undertake specified services on the affected route or routes or in the affected rank or ranks during the period. The regulations may provide that the contravention thereof will constitute an offence and prescribe penalties in respect thereof.

94. Offences

- (1) A person is guilty of an offence—
 - (a) who operates a public passenger road transport service in contravention of section 3(2);
 - (b) who operates or undertakes a public passenger road transport service contrary to the terms and conditions of an operating licence or permit;
 - (c) who contravenes any other provision of this Act;
 - (d) if, being the holder of an operating licence or permit or the agent or employee of such a holder, the person allows someone else to use that operating licence or permit for a vehicle other than the vehicle specified in the operating licence or permit;

- (e) if the person applies for or obtains an operating licence knowing that a current operating licence has already been issued for the same vehicle;
 - (f) if the person, with the intent to deceive, forges, alters, defaces, damages or adds to any operating licence, permit or other official document issued under this Act;
 - (g) if, knowing that a document is not an operating licence or permit, or such another official document or that it has been altered, defaced, damaged or added to, utters or uses the document;
 - (h) if the person furnishes or gives false information with regard to any application made to the Board or the Registrar or in the course of appearing in any proceedings, investigation or inquiry before the Board or Registrar;
 - (i) if the person impersonates an authorised officer;
 - (j) if the person wilfully obstructs or hinders an authorised officer who is discharging the duties attached to the office concerned;
 - (k) if the person refuses or fails to comply with the lawful order of an authorised officer;
 - (l) if the person fails to return a registration certificate or a distinguishing mark to the Registrar if required to do so by this Act;
 - (m) if the person, without good reason—
 - (i) refuses or fails to appear before the Board or Registrar in compliance with an order or subpoena issued under this Act; or
 - (ii) refuses or fails to answer to the best of the person's knowledge and ability, any question lawfully put to the person by any member of the Board or by the Registrar (as the case may be); or
 - (iii) refuses or fails to produce any book, document, plan, record or article in compliance with such an order or subpoena;
 - (n) if, where the person is conveyed as a passenger on a vehicle in the course of the operation of a public passenger road transport service, the person—
 - (i) fails to pay the fare due for the journey when payment is requested by the driver or conductor of the vehicle concerned; or
 - (ii) smokes on that vehicle in contravention of a notice on the vehicle which forbids smoking, or
 - (iii) wilfully acts in a manner that inconveniences a fellow passenger; or
 - (iv) disobeys a reasonable instruction issued by the driver or conductor of that vehicle for the purpose of maintaining order or ending a disturbance or controlling any emergency arising or existing on that vehicle; or
 - (v) wilfully performs any act in or on that vehicle that could cause injury to or endanger the life of any person or cause damage to any property;
 - (o) if the person, being the holder of an operating licence or permit or the driver of a vehicle to which that operating licence or permit relates, fails to comply with any duty or obligation imposed on such a holder or driver by or in terms of this Act.
- (3) Whenever a manager, agent or employee of the holder of an operating licence or permit performs or omits to perform any act which, if the holder of an operating licence or permit had performed or omitted to perform that act personally, would have constituted an offence in terms of subsection (1), that holder will be guilty of that offence if—
- (a) the holder—

- (i) connived at or knowingly permitted the act or omission concerned; or
 - (ii) did not take all reasonable measures to prevent that act or omission; and
- (b) an act or omission of the nature of the act or omission charged, whether legal or illegal, fell within the scope of the authority or the course of the employment of the manager, agent or employee.

95. Penalties

A person convicted of an offence under this Act shall be liable on conviction to imprisonment for a period not exceeding one year or to a fine for an amount not exceeding R100 000, or to both such fine and imprisonment.

96. Designation of inspectors

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

97. Impounding of vehicles

- (1) An authorised officer who is satisfied on reasonable grounds that a vehicle is being used by any person for the operation of public passenger road transport without the necessary operating licence or permit or contrary to the conditions imposed with regard thereto, may impound the vehicle pending the investigation and prosecution of that person for an offence mentioned in section 94(1)(a) or (b).
- (2) A vehicle impounded under subsection (1) must be delivered to the head of the depot contemplated in subsection (4), who must retain the vehicle in the depot and release it to the person concerned only—
 - (a) when the charges against the person have been withdrawn or the person has been acquitted of the offence charged; or
 - (b) in the case where the person is convicted of the offence charged, and unless the court has ordered otherwise, on payment to the head of the depot of the amount determined by the MEC.
- (3) Upon the second or subsequent impounding of a vehicle which has been previously impounded, subsection (2) applies, except that the impounding fee will be increased in accordance with the scale determined by the MEC.
- (4)
 - (a) The MEC or a municipality by notice in the *Provincial Gazette* may designate any place defined in the notice to be a depot for the purposes of this section, and may in the same manner amend or withdraw such a notice at any time.
 - (b) The MEC or, where applicable, the relevant municipality, must appoint any inspector or an authorised officer in the service of the municipality as the person in charge of the depot.

98. Other powers of authorized officers

- (1) An authorized officer may seize by order of the Board, a permit that has expired or has been withdrawn or suspended in terms of this Act.
- (2) Apart from the duties and powers referred to in this Act, an authorized officer may

in relation to public passenger road transport —

- (a) cause a motor vehicle to be stopped by means of —
 - (i) a stop sign of the prescribed design;
 - (ii) a klaxon which is mounted on the authorized officer's vehicle; or
 - (iii) a lamp emitting an intermittently flashing blue light in any direction and which is mounted on the authorized officer's vehicle,
 and enter the vehicle and examine it as well as the documentation authorising the transport in order to establish whether that vehicle is being used for public passenger road transport or in order to exercise a power or perform a duty or authorized act;
- (b) require the driver of a motor vehicle to furnish his or her name and address and documentary evidence in support thereof and the name and address of the owner of the vehicle, as well as the particulars of the business in connection with which the vehicle is being used;
- (c) require that the driver or other person in charge of a motor vehicle forthwith produce for inspection documents or other records in or on the vehicle or in his or her possession that in any way relate to the persons being conveyed by means of that vehicle;
- (d) require that a person in a motor vehicle believed to be used for road transportation, or a person believed to have been in the vehicle recently, furnish their full name and address and documentary evidence in support thereof and that they state whether they have paid or have to pay a fee for the conveyance in the vehicle, and that they furnish the name and address of the person to whom they had or have to make the payment;
- (e) require that the records to be kept in terms of this Act be produced by the driver of a motor vehicle or by the conductor, if any, for inspection;
- (f) enter premises at a reasonable time to conduct an investigation within the ambit of his or her duties as authorized officer, and may, while he or she is on or in the premises or at another reasonable time, question a person who, in his or her opinion, may be able to furnish information required by him or her; and he or she may require that a person forthwith, or at the time and place he or she may determine, hand over to him or her all books and documents which, in his or her opinion, may serve as proof of the commission of an offence or an alleged offence in terms of the Act. He or she may examine the book or document and make extracts therefrom or copies thereof, and demand an explanation of entries therein: provided that a person thus questioned or required to furnish an explanation is entitled to all the privileges to which a person testifying before a court of law would be entitled;
- (g) require that the driver or other person in charge of a motor vehicle used for public passenger road transport produce documents which have been issued by the Board in respect of that vehicle or the transport for which it is being used and which are required by law to be kept on that vehicle;
- (h) require that the driver or other person in charge of a motor vehicle which is used for public passenger road transport and which is so defective as to be a possible danger to persons and property, forthwith hand over the current operating licence or permit, as well as the distinguishing mark relating to the vehicle, and that he or she ceases his or her activities until the defect has been remedied;
- (i) upon the order of the Board impound every operating licence or permit

specified in the order and hand it over to the Board.

99. Demerit system

- (1) Subject to this section, the MEC may by regulation provide for a points demerit system with regard to persons who contravene this Act, in respect of offences not contemplated in the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998), and whereby provision is made—
 - (a) for recording a specified number of demerit points against the name of the offender for each occasion on which the offender is convicted for such contraventions;
 - (b) for imposing a specified penalty or sanction mentioned in subsection (2)(b) on offenders whose demerit points equal or exceed a specified number.
- (2)
 - (a) Without limiting the MEC's powers under subsection (1) with regard to the recording of demerit points against offenders, provision may be made that the number of demerit points that may be recorded per occasion may be increased in accordance with a specified sliding scale or formula—
 - (i) for second and subsequent cases of contravention;
 - (ii) according to the seriousness of the offence, so that the more serious the offence, the higher the number of demerit points recorded.
 - (b) Imprisonment or a fine may be imposed on offenders in appropriate circumstances, or as an alternative—
 - (i) a reprimand and a warning issued in writing; or
 - (ii) suspension of an operating licence or permit held by the offender. The suspension will be for a period prescribed and specified in the written notice of suspension to the offender; or
 - (iii) withdrawal of the operating licence or permit; or
 - (iv) a prescribed sanction that is lesser than that provided for in subparagraph (ii) or (iii).
- (3) The MEC must give notice of the proposed introduction of the points demerit system, and in the notice—
 - (a) broadly outline the proposed system; and
 - (b) invite interested persons to comment on the proposed system and, in particular, the penalties and other sanctions proposed, and invite them to furnish written comments and representations not later than 30 days after the date of the notice.
- (4) The provisions of a points demerit system must be published in the prescribed manner, and will take effect and become enforceable and binding 30 days after publication.
- (5) A penalty or other sanction may not be imposed in terms of subsection (2)(b) unless the rules of natural justice have been applied with regard to the offender.

100. Forfeiture of vehicles

- (1) The court convicting a person of an offence under section 94(1)(a) or (b) may, and must after a third or subsequent such conviction, declare the motor vehicle used to commit the offence or the convicted person's rights in the vehicle, to be forfeited to the Province, subject to subsection (2).
- (2) A declaration under subsection (1) shall not affect any rights which a person other than the convicted person may have to that motor vehicle if it is proved that the

other person did not know that the motor vehicle was being or would be used to provide such unauthorized public transport or that he or she could not prevent its use.

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

PART 9: GENERAL

101. Compulsory insurance for operators

- (1) The MEC may make regulations providing that holders of operating licences for specified types of public passenger road transport services must provide for public liability insurance for passengers or other types of insurance stipulated in the regulations, in the amounts that the MEC may specify in the regulations, with insurers so specified.
- (2) The Board may impose conditions on operating licences regarding requirements for insurance contemplated in subsection (1) that are not inconsistent with such regulations. The regulations may also provide that proof of such insurance must be submitted to the Board or other persons specified in the regulations, within the times so specified.
- (3) The insurance mentioned in subsection (1) must, among other things, provide cover in respect of loss or damage suffered through damage to property or death of or injury to any person resulting from an intentional or negligent act or omission by the operator or agents or servants of the operator in connection with the provision of public passenger road transport services.
- (4) The MEC must make regulations under subsection (1) in respect of tourist services within 180 days of the commencement of this Act.

102. Measures to support public passenger transport

- (1) The MEC may make regulations setting aside dedicated lanes on roads under the jurisdiction of the Province for the exclusive use of vehicles used for public passenger road transport services, notwithstanding the provisions of the National Road Traffic Act, 1996 (Act No. 93 of 1996).
- (2) The MEC may provide financial assistance to transport authorities or municipalities for—
 - (a) instituting park and ride schemes and planning, constructing and maintaining the necessary infrastructure for such schemes;
 - (b) setting aside dedicated lanes on roads under their jurisdiction for the exclusive use of vehicles used for public passenger road transport services;
 - (c) planning, constructing and maintaining infrastructure for enhancing the efficiency and convenience of public passenger road transport services.

103. Charges and contributions

- (1) Notwithstanding the provisions of other laws, the MEC may, in agreement with the MEC for Finance and the relevant transport authorities and municipalities, impose user charges, which may differ from case to case, on—

- (a) specified types of motor vehicles entering specified areas at specified times;
 - (b) land, buildings or other developments that generate traffic, including land or buildings of which the State is the owner;
 - (c) the parking of motor vehicles in a building or on land in specified areas;
 - (d) parking places for, or the use of ranks, stops and terminals by, motor vehicles in specified areas.
- (2) The MEC may, in agreement with the MEC responsible for Finance, impose charges on or require contributions from developers of property where, in the opinion of the MEC, the development will increase road traffic or the need for public passenger road transport.

104. Transitional provisions

- (1) Where, at any time before the commencement of this Act—
- (a) a person was convicted, in terms of any law repealed by section 105, of an offence which is an offence in terms of this Act, the person is, where relevant for the purposes of this Act, regarded and treated as a person who had committed a corresponding offence provided for in this Act; and
 - (b) any distinguishing mark issued in terms of any such repealed law for a vehicle in relation to which a permit relates is regarded and treated for the purposes of this Act until such time as that permit lapses, is converted to an operating licence, or is withdrawn or cancelled in terms of this Act, as a distinguishing mark issued under this Act.
- (2) An appointment, designation, regulation, notice or document made, published or issued, or another thing done, under an Act repealed by section 105, shall be deemed to have been declared, established, made, published, issued or done under the corresponding provisions of this Act.
- (3) For the purposes of subsection (2) an application for the issue or grant of a permit which has not been disposed of at the commencement of this Act, shall be deemed to be an application under this Act for the grant of the appropriate operating licence.

105. Repeal of laws and exclusions

- (1) The following laws are hereby repealed:
- (a) The Gauteng Interim Minibus Taxi-Type Services Act, 1997 (Act No. 11 of 1997);
 - (b) The Gauteng Interim Road Transport Act, 1998 (Act No. 2 of 1998).
- (2) The Road Transportation Act, 1977 (Act No. 74 of 1977) is hereby excluded from operation in Gauteng.

106. Short title and commencement

- (1) This Act shall be called the Gauteng Public Passenger Road Transport Act, 2000, and shall come into effect on a date determined by the Premier by Proclamation in the *Provincial Gazette*.
- (2) Different parts or sections of this Act may be brought into effect on different dates, or in respect of different areas.

SCHEDULE A

CATEGORIES OF VEHICLES/TYPES OF PASSENGER SERVICES

CATEGORY OF VEHICLE	TYPE OF SERVICE											
	tuk-tuk type of service	metered-taxi service	minibus-taxi-type service	bus-type service	education service	tourist service	charter service	staff service	shuttle service	Accessible transport service	courtesy service	Coach-type scheduled service
less than 4* eg tuk-tuk	A B C	no	no	no	no	no	no	no	no	no	A B C D	no
limousine	no	no	no	no	no	yes	yes	G/C	yes	yes	yes	no
4 to 8* eg motor car	no	yes	G H	no	yes	yes	N	G/C	yes	yes	yes	no
9 to 18* minibus	no	E F M	G H	yes	yes	yes	N	G/C	yes	yes	yes	no
19 to 35* midibus	no	no	P Q R	yes	yes	yes	N	G/C	yes	yes	yes	no
36 to 70* standard bus	no	no	no	yes	yes	yes	N	G/C	yes	yes	yes	no
double decker	no	no	no	L K	yes	yes	N	G/C	yes	yes	no	no
bus train	no	no	no	L K	yes	no	N	G/C	no	yes	no	no
bakkie	no	no	J	no	J	I J	I J	J	no	no	J	no
semi-trailer	no	no	no	yes	yes	yes	yes	yes	no	yes	yes	no
coach	no	no	no	no	no	yes	yes	G/C	no	yes	yes	yes
adapted LDV	no	no	yes	no	no	O	O	yes	no	no	no	no

* including driver

SCHEDULE B CATEGORIES OF PASSENGER SERVICE IN RELATION TO PRINCIPLES OF PLANNING (FUTURE)

PRINCIPLE		TYPE OF SERVICE											
		tuk-tuk	metered-taxi	minibus-taxi	bus-type	education	tourist	charter	staff	Accessible transport service	Shuttle	courtesy	coach-type
Subsidised service contracts	scheduled service	No	No	No	Yes	Yes in principle	No	No	No	Yes	Yes	No	No
Non-subsidised service contracts	scheduled service	Yes in principle	No	No	Yes	Yes	No	No	No	Yes	Yes	No	No
	unscheduled service	Yes in principle	No	Yes	No	Yes	No	No	No	Yes	Yes	No	No
	area service	Yes in principle	Yes in principle	No	No	Yes	No	No	No	Yes	Yes	No	No
Non-contracted services	scheduled service	Yes	No	No	Yes	Yes	No	No	No	Yes	Yes	No	Yes
	unscheduled service	Yes	No	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes	No
	area service	Yes	Yes	No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	No

SCHEDULE C CATEGORIES OF PASSENGER SERVICE IN RELATION TO PRINCIPLES OF PLANNING (TRANSITION)

PRINCIPLE		TYPE OF SERVICE											
		tuk-tuk	metered-taxi	minibus-taxi	bus-type	education	tourist	charter	staff	Accessible transport service	Shuttle	courtesy	coach-type
Subsidised service contracts	scheduled service	No	No	To be discussed	Yes	Yes in principle	No	No	No	Yes	Yes	No	No
	Non-subsidised service contracts	Yes in principle	No	No	Yes	Yes	No	No	No	Yes	Yes	No	No
	unscheduled service	Yes in principle	No	Yes	No	Yes	No	No	No	Yes	Yes	No	No
Non-contracted services	area service	Yes in principle	Yes in principle	Yes	No	Yes	No	No	No	Yes	Yes	No	No
	scheduled service	Yes	No	No	Yes	Yes	No	No	No	Yes	Yes	No	Yes
	unscheduled service	Yes	No	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes	No
	area service	Yes	Yes	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	No

KEY TO SCHEDULE A

- A vehicle only allowed on prescribed urban road network
- B vehicle to operate under specified maximum speed
- C area bound service
- D "courteous entity" must own the vehicle
- E vehicle must be equipped with shared-meter facility
- F category of vehicle must have metered taxi industry recommendation
- G route based service unless area allowed in exceptional circumstances
- H service to conform with Interim Taxi Bill
- I restricted to adventure tours
- J the vehicle and any conversion components to be manufactured or converted by a registered manufacturer or converted in accordance with prescribed standards
- K to be restricted from operating in specified areas or road network
- L service to adhere to current traffic regulations
- M number of passengers to be limited by the operating licence (eg to 7 for minibuses)
- N holder to possess public passenger permit for vehicle already (ie minibus taxi-type, bus-type, scholar, coach-type or tourist service)
- O vehicle may only be used for adventure tours
- P services must be provided for in relevant transport plans
- Q appropriate ranking facilities must be available
- R relevant associations must consent

MEMORANDUM ON THE OBJECTS OF THE GAUTENG PUBLIC PASSENGER ROAD TRANSPORT BILL, 2000

1. Background

The Gauteng Public Passenger Road Transport Bill, 2000 (the Bill) is intended to provide for the planning, promotion and regulation of public passenger road transport in Gauteng in a comprehensive manner.

2. Objectives of the Bill

The reason for the Bill is to provide comprehensively for public passenger road transport services in Gauteng, and to promote public transport, in line with the recommendations of the Gauteng Strategic Management Team, the Gauteng Taxi Initiative, the National Taxi Task Team and latest provincial policy, as set out in the *Gauteng White Paper on Transport Policy, 1997* and other documents.

The Bill is designed to be a "replacing provincial law" for Gauteng as contemplated in section 3(b)(i) of the National Land Transport Transition Act 22 of 2000 (the National Act) with regard to all matters dealt with in the Bill, and will thus replace Chapter 3 of the National Act with regard to such matters. The National Act is structured mainly into Chapter 2, which deals with matters of national concern, and Chapter 3 on matters of provincial concern. Chapter 2 of the National Act caters for matters contemplated in section 146(2) of the Constitution, and will take precedence over provincial legislation. Chapter 3 thereof may be replaced by provincial laws, and the Bill will replace it as regards public passenger road transport issues, mainly for the following reason, as well as other reasons that appear below:

Of necessity, Chapter 3 of the National Act is general in nature, as it must cater for the needs of all nine provinces. It is intended as a stop-gap measure for provinces that do not have their own legislation on land transport issues, and provides issues of provincial concern that the provinces may change if they wish to do so. In this regard, the Bill contains considerably more detail and is designed to tailor the issues to the unique features of Gauteng, for example the fact that it is mainly an urban province covered by metropolitan municipalities, or district municipalities that are mainly metropolitan in nature.

Legislation that currently applies in Gauteng regarding road transport is:

- The Gauteng Interim Minibus Taxi-Type Services Act 11 of 1997
- The Gauteng Interim Road Transport Act 2 of 1998.

The Road Transportation Act, 1977 and the Gauteng Road Transportation Amendment Act, 1997, have been excluded from operation in Gauteng, or repealed, as the case may be, by the abovementioned pieces of legislation. They in turn will be replaced by the Bill. The existing legislation, as reflected in the names of the Acts, is interim in nature.

Fundamental to the approach adopted in drafting the Bill is to take a fresh look at what is required. The approach in the past to drafting legislation on public passenger transport has been to base it on what was written before. Previous Acts dealing with the topic have thus generally only been amended to suit new circumstances as they arise. The Bill was naturally informed by the content of other legislation, but was approached "ab initio". It is based on a new system of approaching the organisation of public passenger transport.

The new system recognises the need both for regulation and flexibility in the interests of creating an economic and institutional environment conducive for operators to provide services, while at the same time protecting the rights and safety of passengers. The system recognises that there is a wide variety of public passenger transport services, that different vehicles are used for different services and that in practice sometimes a wide variety of vehicles is used for the same services. Some of these vehicles may be suitable and some not, and some under prescribed circumstances and conditions. The system therefore allows for the use of various vehicles for different purposes, with sufficient flexibility to cater for market fluctuations in the interest of operators. Where a vehicle is patently unsuitable for a service, the system will not allow it to be used to provide the service.

The Bill is founded on certain principles, that include the following:

- All public passenger road transport operations must be undertaken in terms of a valid and specific operating licence;
- all public passenger road transport operators must be registered with the Gauteng Transport Registrar;
- protection of passengers;
- professional operating practices;
- supportive and appropriate institutional structures;
- efficient and effective law enforcement;
- integration both of modes and of land use and transport planning, to improve passenger mobility and the efficiency of the system;
- the need to subsidise public passenger transport only insofar as such assistance meets the needs of improved affordability, mobility and land use, and
- a demerit system for operators.

The Bill thus involves many innovations and modifications to existing legislation, for example in linking service and vehicle types as indicated above. The Bill takes into account the provisions of the new local Government legislation and proposed legislation.

3. Contents of the Bill

The Bill is divided into 14 parts, as follows:

- Part 1: Introductory provisions
- Part 2: Public passenger road transport services
- Part 3: Powers and duties of the MEC and municipalities
- Part 4: Public transport planning
- Part 5: The Gauteng Transport Operating Licence Board
- Part 6: Operating licences
- Part 7: Gauteng Public Passenger Appeal Board
- Part 8: Gauteng Transport Registrar and registration of associations and operators
- Part 9: Registration of minibus taxi associations and operators
- Part 10: Registration of metered taxi associations and operators
- Part 11: Registration of bus-type and coach-type associations and operators
- Part 12: Transport forums
- Part 13: Law enforcement
- Part 14: General.

Part 1: Introductory provisions

Clause 1 explains the purpose of the Bill. It outlines provincial policy on public passenger road transport, and the principles to be applied in interpreting and implementing the Bill. This clause will be helpful to set the scene for the Bill and to assist those who will have to deal with the Bill. The National Act does not have such a section.

Clause 2 of the Bill provides for definitions.

Clause 3 provides that transport authorities, core cities and municipalities, which will be the three metropolitan councils, and the three district municipalities envisaged by the new demarcation process, must determine and specify public passenger transport services in their transport plans. No one may undertake public transport without having the necessary operating licence or permit and that only one operating licence may be issued per vehicle

Clause 4 provides for exemptions from the definition of "public transport", namely patients being conveyed in ambulances and persons being conveyed as a lift club. The National Act leaves this aspect to be dealt with by the 1977 Road Transportation Act or replacing provincial legislation.

Clause 5 provides for matters to regulate drivers and vehicles. The MEC may prescribe a code of conduct for drivers of public transport vehicles and that they must attend training courses. This may include regulations providing that drivers of metered taxis

must undergo topographical testing. The clause also provides for prescriptions for public transport vehicles, to ensure that they are clean, etc.

Clause 6 provides for categories of services. The clause provides for more services than are envisaged in the National Act, for example tuk-tuk services, coach-type services and shuttle services. Categories of services are listed in clause 6 and defined in clause 2. The National Act covers these services in a more general way, e.g. as scheduled or unscheduled services. The Bill then goes on to link the various types of services with vehicle types in a more structured way than does the National Act (see Schedules A, B and C of the Bill in this regard). This is in keeping with the purpose of provincial legislation to give detailed form to the provisions in Chapter 2 of the National Act.

Cause 7 prescribes the parameters for tuk-tuk services.

Clause 8 prescribes the parameters for metered taxi services.

Clause 9 prescribes the parameters for minibus taxi-type services.

Cause 10 prescribes the parameters for bus-type services.

Clause 11 prescribes the parameters for education services.

Clause 12 prescribes the parameters for tour services.

Clause 13 prescribes the parameters for charter services.

Clause 14 prescribes the parameters for staff services.

Cause 15 prescribes the parameters for courtesy services.

Clause 16 prescribes the parameters for coach-type services.

Clause 17 prescribes the parameters for shuttle services.

Clause 18 prescribes the types of motor vehicles that may be used for public passenger road transport services. The Bill recognises additional types of vehicles than the National Act, i.e. adapted light delivery vehicles, coaches, bus-trains, double-decker buses, limousines, open double decker buses, standard buses and tuk-tuks. This is necessary to tie the relevant vehicles in with the types of services. These vehicles are listed in clause 18 and defined in clause 2.

Part 3: Powers and duties of the MEC and municipalities

Clause 19 provides for the powers of the MEC under the Bill.

Clause 20 prescribes the duties of the MEC under the Bill.

Clause 21 provides for regulations that the MEC may make under the Bill.

Clause 22 provides for by-laws that metropolitan authorities and municipalities may make under the Bill. It also provides for agreements between municipalities and private persons or institutions regarding the allocation or use of facilities for public passenger transport services on private property. The National Act does not contain such powers, which are considered necessary for the proper implementation of the Bill.

Clause 23 provides that the MEC must establish and maintain an information and reporting system for public passenger road transport. This will be done in collaboration with municipalities and transport authorities.

Clause 24 provides for delegation of the powers of the MEC.

Part 4: Public passenger road transport planning

Clause 25 prescribes out the principles for public passenger road transport planning. These include the requirement of integrated and comprehensive planning for public passenger road transport and that through-ticketing and similar methods must be used to reduce travel times and make for the convenience of passengers.

Clause 26 provides for additional requirements where public transport plans are prepared in terms of the National Act by transport authorities, core cities and municipalities. These plans will correspond to the public transport plans required by the National Act and will contain detailed routes, time-tables, existing capacity on routes, etc.

Clause 27 prescribes the duties of authorities related to planning. They will have to ensure, among other things, that passengers are supplied with services, subject to availability of funds, and that oversupply of services is avoided.

Clause 28 provides for transitional issues relating to planning.

Part 5: The Gauteng Transport Operating Licence Board

Clause 29 provides for the establishment and constitution of the Gauteng Transport Operating Licence Board. This Board is essentially the same body as the current Gauteng Transport Permit Board. Board members will have to be impartial and will not be allowed to have a financial interest in public passenger road transport.

Clause 30 provides for resignation, vacation of and removal from office of members of the Gauteng Transport Operating Licence Board.

Clause 31 prescribes the powers of the Gauteng Transport Operating Licence Board.

Clause 32 prescribes the procedures for meetings and decisions of the Gauteng Transport Operating Licence Board.

Clause 33 provides for the establishment of an advisory panel to the Gauteng Transport Operating Licence Board. This panel will have broad representation from various sectors of the public passenger transport industry, as set out in detail in the clause.

Clause 34 provides for the establishment of Transport Operating Licence Administrative Bodies. These bodies will serve as administrative "branch offices" of the Board. They will only be responsible for receiving and processing applications related to operating licences, and will not have powers to decide on applications.

Part 6: Operating Licences

Clause 35 provides for the conversion of permits to operating licences. This will have to be completed by a date determined by the MEC by notice in the *Provincial Gazette*. Every holder of a permit will have to apply for conversion thereof to an operating licence, by that date. Operating licences will grant the same authority as that contained in the current permit.

Clause 36 prescribes the parameters for contracts for services.

Clause 37 provides that where a contracted service terminates, all operating licences or permits that authorised the service must be submitted to the Board for cancellation. It also provides that operators may not tender for subsidised service contracts unless they surrender all their operating licences or permits for the routes covered by the services in respect of the contract.

Clause 38 provides for applications for operating licences. The clause provides for the procedure for such applications and that they must be made on the basis of a separate application for each motor vehicle.

Clause 39 provides for the disposal of applications for operating licences.

Clause 40 provides for applications for interprovincial transport and their disposal.

Clause 41 provides for applications for cross-border transport. This refers to international transport, which is regulated by the Cross-Border Road Transport Act, 1998.

Clause 42 provides for the publication of applications for operating licences. At present these applications are published in the *Provincial Gazette*, but, as agreed at MINCOM and provided in section 37 of the National Act, publication will now be in the national *Government Gazette*.

Clause 43 prescribes the period of operating licences and their renewal.

Clause 44 provides for the issue of operating licences and for minimum matters that must be specified in operating licences.

Clause 45 provides for duplicate originals and related records of issued operating licences.

Clause 46 provides for the temporary replacement of a vehicle to which an operating licence relates. This may be done for a maximum of 21 days where the vehicle to which an operating licence relates has become defective.

Clause 47 prescribes the duties of the holder of an operating licence.

Clause 48 prescribes the conditions and limitations of the authority conveyed by an operating licence.

Clause 49 provides for the withdrawal, suspension or variation of an operating licence in the case of misconduct or where the holder has failed to comply with the conditions thereof. Notice must be given to the holder of the intention to withdraw the operating licence, and the holder is given an opportunity to appear before the Board and give reasons why it should not be withdrawn.

Clause 50 prescribes that where an operating licence has not been brought into use within 180 days after its conversion, the Board may cancel it if the holder is not able to supply good reasons for the failure to bring it into use.

Clause 51 provides for the withdrawal of surplus operating licences or permits where there is an oversupply of services on a particular route. The holder must be offered alternative services, and if this is not possible, must be compensated in accordance with guidelines to be published by the National Minister.

Clause 52 provides for *ad hoc* authorisations. These will be issued for special once-off trips. The authorisation will be completed by the operator and submitted to the Board within a prescribed time.

Clause 53 provides for operating licences for special circumstances where routes have been closed by the MEC in circumstances of unrest or violence

Part 7: Gauteng Public Passenger Appeal Board

Clause 54 provides for the establishment, constitution and functions of the Gauteng Public Passenger Appeal Board. The function of the Appeal Board will be to hear appeals related to applications for operating licences in respect of intraprovincial services.

Clause 55 provides for resignation, vacation of and removal from office of members of the Appeal Board.

Clause 56 provides for powers of the Appeal Board.

Clause 57 provides for meetings and decisions of the Appeal Board.

Clause 58 provides for appeals to the Appeal Board against decisions of the Gauteng Transport Operating Licence Board.

Part 8: Gauteng Transport Registrar and registration of associations and operators

Clause 59 provides for the appointment of the Gauteng Transport Registrar and a panel of assessors to advise and assist the Registrar. The Registrar must be impartial and have no financial interest in the public passenger transport industry

Clause 60 provides for vacation of and removal from office of the Registrar and assessors.

Clause 61 provides for the duties of the Registrar. These duties are mainly to register public passenger transport associations, their members, and non-members.

Clause 62 prescribes the powers of the Registrar.

Clause 63 provides for meetings and decisions of the Registrar and panel of assessors.

Clause 64 provides for applications for registration.

Clause 65 provides for the issuing of registration certificates and distinguishing marks.

Clause 66 prescribes additional requirements relating to registration for interprovincial transport.

Clause 67 provides for the reservation of certain privileges for registered associations and operators.

Clause 68 provides for regulations relating to registration that the MEC may make under the Bill.

Part 9: Registration of minibus taxi associations and operators

Clause 69 prescribes the compulsory registration of taxi associations, members and non-members in respect of minibus taxi-type services. After a date determined by the MEC, not earlier than 180 days after commencement of the section, no one may undertake minibus taxi-type services and no taxi association may conduct business unless registered.

Clause 70 provides for the continued registration of taxi associations and operators registered under Act 11 of 1997.

Clause 71 provides that the MEC may instruct an association to hold an election of its executive council, or a referendum, within a stated time. Failure to do so may lead to suspension or cancellation of its registration.

Clause 72 provides for the registration of taxi associations.

Clause 73 provides for the registration of members of registered taxi associations.

Clause 74 provides for the registration of new members of registered taxi associations.

Clause 75 provides for the registration of non-members of taxi associations.

Clause 76 provides for disciplinary measures against registered associations, members and non-members.

Part 10: Registration of metered taxi associations and operators

Clause 77 provides for the application of clauses 69, 73, 74 and 76 which apply to the registration of minibus taxi-type services, to metered taxi services

Clause 78 provides for the registration of metered taxi associations.

Clause 79 provides for the registration of non-members of metered taxi associations.

Clause 80 prescribes special requirements for persons driving vehicles used to provide metered taxi services.

Part 10: Registration of bus-type and coach-type associations and operators

Clause 81 provides for the application of clauses 69, 73, 74 and 76 which apply to the registration of minibus taxi-type services, to bus and coach-type services.

Clause 82 provides for the registration of associations of bus-type and coach-type services.

Clause 83 provides for the registration of non-members of associations 86 of bus or coach-type services.

Part 12: Transport Forums

Clause 84 provides for the establishment of forums, committees and such bodies representative of users, operators and drivers of public passenger transport services.

Clause 85 provides for the establishment of the Provincial Public Passenger Transport Forum.

Clause 86 prescribes the functions of the Provincial Public Passenger Transport Forum.

Clause 87 provides for the establishment of Metropolitan Public Passenger Transport Forums.

Clause 88 prescribes the functions of the Metropolitan Public Passenger Transport Forum.

Clause 89 provides for the establishment of Metropolitan Taxi Forums.

Clause 90 prescribes the functions of the Metropolitan Taxi Forums.

Clause 91 provides for the establishment of local taxi liaison committees.

Clause 92 provides for the establishment of other metropolitan or local liaison forums.

Part 13: Law enforcement

Clause 93 provides for special emergency measures by the MEC. The MEC is empowered to declare emergency areas in the case of unrest or violence, and close routes and ranks in such an area for a specified period.

Clause 94 lists the offences created in terms of the Bill.

Clause 95 prescribes the maximum penalties for persons convicted of offences under this Act.

Clause 96 provides for the designation of officers or employees of the Department as transport inspectors.

Clause 97 provides for the impoundment of vehicles used for unauthorised public passenger road transport services.

Clause 98 prescribes additional powers of authorized officers.

Clause 99 provides for an operator demerit system. This system will be for offences under the Bill, and not for road traffic offences dealt with by the Administrative Adjudication of Road Traffic Offences Act, 1998 (the AARTO Act).

Clause 100 provides for the forfeiture of vehicles used for unauthorised public passenger road transport services.

Part 14: General

Clause 101 provides for compulsory insurance for operators of public passenger road transport if and when the MEC makes regulations in that regard.

Clause 102 provides for other measures to support public passenger road transport.

Clause 103 provides for user charges and contributions.

Clause 104 provides for transitional matters.

Clause 105 repeals and excludes previous laws.

Clause 106 provides for the short title and commencement of the Bill and provides that different provisions of the Bill may be brought into effect at different times.
